



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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November 8, 2023

MEMORANDUM

To: The Commission

Through: Alec Palmer *AP*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Zuzana O. Pacious *ZOP*
Acting Assistant Staff Director
Audit Division

By: William A. Antosz *WAA*
Lead Auditor

Subject: Proposed Final Audit Report on Citizens for Waters (A21-01)

AGENDA DOCUMENT NO. 23-25-A
AGENDA ITEM
For the meeting of November 16, 2023

Attached for your approval is the subject report. The report has been written in accordance with Directive 70. Documents related to this audit report can be viewed in the Voting Ballot Matters folder.

This report is being circulated on a 72-hour no objection basis. Should an objection be received, it is recommended that the report be considered at the next regularly scheduled open session.

If you have any questions, please contact Zuzana Pacious (x 1347) or Bill Antosz at (x 1182).

Attachment:
Proposed Final Audit Report on Citizens for Waters



Proposed Final Audit Report on Citizens for Waters

(January 1, 2019 - December 31, 2020)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Campaign (p. 2)

Citizens for Waters is the principal campaign committee for Maxine Waters, Democratic candidate for the United States House of Representatives from the state of California, 43rd Congressional District, and is headquartered in Norwalk, California.² For more information, see the Campaign Organization chart, p.2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 616,178
○ Contributions from Political Committees	918,592
○ Offsets to Operating Expenditures	18,258
○ Other Receipts	573,000
Total Receipts	\$ 2,126,028
• Disbursements	
○ Operating Expenditures	\$ 2,066,627
○ Contribution Refunds	8,397
○ Other Disbursements	108,628
Total Disbursements	\$ 2,183,652

Commission Findings (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)
- Cash Disbursements (Finding 3)

¹ 52 U.S.C. §30111(b).

² During the 2019 – 2020 audit period, Citizens for Waters was headquartered in Long Beach, CA. It filed an amended Statement of Organization on April 1, 2022, changing its address to Norwalk, CA.



Proposed Final Audit Report on Citizens for Waters

(January 1, 2019 - December 31, 2020)

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Part I

Background

Authority for Audit

This report is based on an audit of the Citizens for Waters (CFW), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the receipt of excessive contributions;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the evaluation of a daily cash analysis;
6. the review of disbursements for personal use of funds;
7. the review of political party contribution discrepancies;
8. the consistency between reported figures and bank records;
9. the completeness of records; and
10. other committee operations necessary to the review.

Audit Hearing

CFW declined the opportunity for a hearing before the Commission on the matters presented in this report.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	May 23, 1983
• Audit Coverage	January 1, 2019 - December 31, 2020
Headquarters	Norwalk, California
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking
Treasurer	
• Treasurer When Audit Was Conducted	David Gould
• Treasurer During Period Covered by Audit	David Gould
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Treasurer

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2019	\$ 414,778
Receipts	
○ Contributions from Individuals	616,178
○ Contributions from Political Committees	918,592
○ Offsets to Operating Expenditures	18,258
○ Other Receipts	573,000
Total Receipts	\$ 2,126,028
Disbursements	
○ Operating Expenditures	2,066,627
○ Contribution Refunds	8,397
○ Other Disbursements	108,628
Total Disbursements	\$ 2,183,652
Cash on hand @ December 31, 2020	\$ 357,154

Part III

Summaries

Commission Findings

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of CFW's reported financial activity with its bank records revealed a misstatement of the beginning cash on hand, disbursements, and the ending cash on hand for calendar year 2019, as well as a misstatement of the beginning cash on hand, receipts, disbursements, and the ending cash on hand for calendar year 2020. Specifically, for 2019, CFW understated the beginning cash on hand by \$19,245, overstated disbursements by \$19,643, and understated the ending cash on hand by \$19,215. For 2020, CFW understated the beginning cash on hand, receipts, disbursements, and the ending cash on hand by \$19,215, \$262,391, \$256,164, and \$36,287, respectively. In response to the Interim Audit Report recommendation, the CFW representative stated that many of the misstatements were attributable to software technical issues, and that CFW was in the process of filing amendments to accurately reflect its financial activity. Subsequent to the February 7, 2023, due date of its response to the Interim Audit Report, CFW filed amended disclosure reports to address this finding.³ The amended reports materially corrected its financial activity for 2019 and 2020.

The Commission approved a finding that CFW understated its reported beginning cash on hand balance by \$19,197,⁴ overstated disbursements by \$19,691, and understated the ending cash on hand by \$19,215 in calendar year 2019; and understated the beginning cash on hand, receipts, disbursements, and the ending cash on hand balance by \$19,215, \$262,391, \$256,164, and \$36,287, respectively, in calendar year 2020. (For more detail, see p. 5.)

Finding 2. Receipt of Contributions in Excess of the Limit

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that CFW received apparent excessive contributions totaling \$19,000. These errors occurred as a result of CFW not resolving the excessive portion of contributions by obtaining signed reattribution letters from its contributors or issuing refunds of the excessive portion of contributions in a timely manner. In response to the Interim Audit Report recommendation, CFW provided copies of the front of refund checks issued totaling

³ CFW filed amended disclosure reports from March 3 through March 23, 2023, to address Finding 1, Misstatement of Financial Activity. Since these amendments were filed after the required due date, they were examined in full during the next phase of the audit process.

⁴ In its response to the Interim Audit Report, CFW demonstrated that a \$48 disbursement was a 2018 disbursement negotiated in 2019. Therefore, the Audit staff reduced the 2019 bank beginning cash on hand balance and disbursements accordingly.

\$19,000, but did not provide cancelled checks to the contributors or an acceptable alternative.

In response to the Draft Final Audit Report, CFW provided documentation to demonstrate that \$8,400 of the \$19,000 in refund checks issued for excessive contributions have been negotiated by the contributors. Additionally, CFW provided documentation that the remaining excessive amount totaling \$10,900, was disgorged to the U.S. Treasury. As such, CFW resolved, albeit untimely, the excessive contributions.

The Commission approved a finding that CFW received excessive contributions from individuals totaling \$19,000.

(For more detail, see p. 9.)

Finding 3. Cash Disbursements

During audit fieldwork, the Audit staff determined that CFW made three cash disbursements and issued one check payable to cash, which exceeded the cash disbursement limit by \$7,000. The Act requires political committees to make all disbursements, except those from a petty cash fund, by check or similar draft drawn on a committee account, not to exceed \$100. In response to the Interim Audit Report recommendation, the CFW representative stated that circumstances related to the COVID-19 pandemic made it difficult for canvassers to cash checks; therefore, CFW issued cash to its canvassers rather than checks. Further, the representative stated the campaign manager made best efforts to track all cash expenditures and was willing to make a declaration that the cash paid to canvassers furthered the canvassing program.

In response to the Draft Final Audit Report, CFW provided a letter signed by its Campaign Manager stating that all cash was used for the canvassing program. CFW stated that it “made its best efforts to comply with the Federal Election Campaign Act during the COVID-19 pandemic while also navigating challenges presented to the canvass workers in cashing checks.”

The Commission approved a finding that CFW made excessive cash disbursements totaling \$7,000.

(For more detail, see p. 12.)

Part IV

Commission Findings

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of CFW's reported financial activity with its bank records revealed a misstatement of the beginning cash on hand, disbursements, and the ending cash on hand for calendar year 2019, as well as a misstatement of the beginning cash on hand, receipts, disbursements, and the ending cash on hand for calendar year 2020. Specifically, for 2019, CFW understated the beginning cash on hand by \$19,245, overstated disbursements by \$19,643, and understated the ending cash on hand by \$19,215. For 2020, CFW understated the beginning cash on hand, receipts, disbursements, and the ending cash on hand by \$19,215, \$262,391, \$256,164, and \$36,287, respectively. In response to the Interim Audit Report recommendation, the CFW representative stated that many of the misstatements were attributable to software technical issues, and that CFW was in the process of filing amendments to accurately reflect its financial activity. Subsequent to the February 7, 2023, due date of its response to the Interim Audit Report, CFW filed amended disclosure reports to address this finding.⁵ The amended reports materially corrected its financial activity for 2019 and 2020.

The Commission approved a finding that CFW understated its reported beginning cash on hand balance by \$19,197,⁶ overstated disbursements by \$19,691, and understated the ending cash on hand by \$19,215 in calendar year 2019; and understated the beginning cash on hand, receipts, disbursements, and the ending cash on hand balance by \$19,215, \$262,391, \$256,164, and \$36,287, respectively, in calendar year 2020.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104(b)(1), (2), (3), (4), and (5).

⁵ See *Supra* footnote 3.

⁶ See *Supra* footnote 4.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled CFW's reported financial activity with its bank records for calendar years 2019 and 2020. The reconciliation identified that CFW misstated the beginning cash on hand, disbursements, and the ending cash on hand for 2019, as well as the beginning cash on hand, receipts, disbursements, and the ending cash on hand for 2020. The following charts detail the discrepancies between CFW's disclosure reports and its bank activity. The succeeding paragraphs explain why the discrepancies occurred.

2019 Campaign Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash on hand @ January 1, 2019	\$395,533	\$414,778	\$19,245 Understated
Receipts	\$788,943	\$775,747	\$13,196 Overstated
Disbursements	\$585,307	\$565,664	\$19,643 Overstated
Ending Cash on hand @ December 31, 2019	\$605,646 ⁷	\$624,861	\$19,215 Understated

The beginning cash on hand was understated by \$19,245 and the reporting discrepancy is unexplained, but likely resulted from prior period discrepancies.

The overstatement of receipts resulted from the following:

- Receipt reported that did not clear the bank (\$13,000)
 - Unexplained differences (196)
- (\$13,196)**

The overstatement of disbursements resulted from the following:

- Disbursements reported that did not clear the bank \$19,326
 - Unexplained differences 317
- \$19,643**

The \$19,215 understatement of the ending cash on hand was a result of the reporting discrepancies described above, as well as overstating the ending cash on hand by \$6,477 on CFW's 2019 July Quarterly Report.

⁷ The reported 2019 ending cash on hand does not equal the 2019 beginning cash on hand plus reported receipts minus reported disbursements. This was due to a mathematical discrepancy on the 2019 July Quarterly Report in which the ending cash on hand was overstated by \$6,477.

2020 Campaign Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash on hand @ January 1, 2020	\$605,646	\$624,861	\$19,215 Understated
Receipts	\$1,087,889	\$1,350,280	\$262,391 Understated
Disbursements	\$1,361,823	\$1,617,987	\$256,164 Understated
Ending Cash on hand @ December 31, 2020	\$320,867 ⁸	\$357,154	\$36,287 Understated

The understatement of receipts resulted from the following:

• Receipts not reported ⁹	\$262,248
• Unexplained differences	<u>143</u>
Understatement of Receipts	<u>\$262,391</u>

The net understatement of disbursements resulted from the following:

• Disbursements not reported ¹⁰	\$275,753
• Disbursements reported, but not clearing the bank	(18,875)
• Unexplained differences	<u>(714)</u>
Net Understatement of Disbursements	<u>\$256,164</u>

The \$36,287 understatement of the ending cash on hand was a result of the reporting discrepancies described above, as well as a math errors of \$10,845 relating to CFW's reported ending cash on hand on its 2020 disclosure reports.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with the CFW representatives and provided schedules detailing the misstatements of financial activity. During the exit conference, the CFW representatives stated that CFW's failure to file activity for eight days of the 2020 Post General Report was a simple oversight, and the receipts and disbursements not filed during this period represented the majority of the 2020 misstatement. The CFW representatives stated they may file a Form 99 to correct the misstatements.

The CFW representatives did not provide a written exit conference response for this finding.

⁸ The reported 2020 ending cash on hand does not equal the 2020 beginning cash on hand plus reported receipts minus reported disbursements. This was due to mathematical discrepancies on several 2020 reports which understated the ending cash on hand by \$10,845.

⁹ The majority of receipts and disbursements not reported were during the eight-day period from October 15, 2020, through October 22, 2020. CFW inadvertently filed its 2020 30-Day Post-Election Report with the start date of October 23, 2020 instead of October 15, 2020 and therefore, did not report any receipts or disbursements during this period.

¹⁰ See *supra* footnote 9.

The Interim Audit Report recommended that CFW amend its disclosure reports or file a Form 99¹¹ (Miscellaneous Electronic Submission) to correct the misstatements noted above. In addition, the Interim Audit Report recommended that CFW reconcile the cash on hand balance on its most recently filed report to include these adjustments and correct any subsequent discrepancies.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, the CFW representative stated that many of the misstatements were attributable to software technical issues, and that the issues were further exacerbated by the COVID-19 pandemic as technical issues continued to grow but company customer support was reduced. The CFW representative stated that CFW was in the process of filing amendments to accurately reflect its financial activities.

Subsequent to the February 7, 2023, due date of its response to the Interim Audit Report, CFW filed amended disclosure reports to address this finding. Given that the amendments were filed late and to ensure the timely progression of the audit, they were to be reviewed in the next phase of the audit process. Absent the full review of the filed amended disclosure reports, CFW's financial activity for 2019 and 2020 remained misstated.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that CFW filed amended reports after the Interim Audit Report due date, and that these amended reports would be reviewed in the next phase of the audit process.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, CFW stated that it filed amended disclosure reports which reflected the misstatements of financial activity discussed in the Draft Final Audit Report. The Audit staff's review of the amended reports revealed that CFW had materially corrected its financial activity for 2019 and 2020 calendar years.

Commission Conclusion

On October 19, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CFW understated its reported beginning cash on hand balance by \$19,197,¹² overstated disbursements by \$19,691, and understated its ending cash on hand balance by \$19,215 in calendar year 2019; and understated the beginning cash on hand, receipts, disbursements, and the ending cash on hand balance by \$19,215, \$262,391, \$256,164, and \$36,287, respectively, in calendar year 2020.

The Commission approved the Audit staff's recommendation.

¹¹ CFW was advised by the Audit staff that if it chose to file a Form 99, instead of amending its disclosure reports, the form must contain all pertinent information that is required on the schedule.

¹² See *Supra* footnote 4.

Finding 2. Receipt of Contributions in Excess of the Limit

Summary

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that CFW received apparent excessive contributions totaling \$19,000. These errors occurred as a result of CFW not resolving the excessive portion of contributions by obtaining signed reattribution letters from its contributors or issuing refunds of the excessive portion of contributions in a timely manner. In response to the Interim Audit Report recommendation, CFW provided copies of the front of refund checks issued totaling \$19,000, but did not provide cancelled checks to the contributors or an acceptable alternative.

In response to the Draft Final Audit Report, CFW provided documentation to demonstrate that \$8,400 of the \$19,000 in refund checks issued for excessive contributions have been negotiated by the contributors. Additionally, CFW provided documentation that the remaining excessive amount totaling \$10,900, was disgorged to the U.S. Treasury. As such, CFW resolved, albeit untimely, the excessive contributions.

The Commission approved a finding that CFW received excessive contributions from individuals totaling \$19,000.

Legal Standard

A. Authorized Committee Limits. For the 2020 election, an authorized committee may not receive more than a total of \$2,800 per election from any one person or \$5,000 per election from a multicandidate political committee. 52 U.S.C. §§30116(a)(1)(A) and (a)(2)(A); 11 CFR §§110.1(a) and (b) and 110.9.

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - Keep a written record explaining why the contribution may be illegal;
 - Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
 - Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reattribution and redesignation); and
 - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

C. Joint Contributions. Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A

joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

D. Reattribution of Excessive Contributions. The Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

- The reattribution must be signed by both contributors;
- The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(B).

Facts and Analysis

A. Facts

1. Facts

During audit fieldwork, the Audit staff conducted a review of all contributions to identify apparent excessive contributions from individuals, as noted below.

Excessive Contributions - 100% Review	
Excessive Contribution Amount	\$19,000
Total Amount of Excessive Contributions	\$19,000

Reason for Excessive Contributions	
Contributions not resolved via signed reattribution letter or refund	\$19,000
Total Amount of Excessive Contributions	\$19,000

2. Additional Information

CFW did not maintain a separate account for questionable contributions. However, CFW did maintain a sufficient balance in its bank account to make refunds of the apparent excessive contributions.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the CFW representatives during the exit conference and provided a schedule of the apparent excessive contributions. During the exit conference, the CFW representatives stated that they would provide documentation related to these contributions.

The CFW representatives did not provide a written exit conference response for this finding.

The Interim Audit Report recommended that CFW:

- Provide evidence demonstrating that the contributions in question were not excessive, or if excessive, were resolved in a timely manner. This evidence should have included documentation that was not made available to the Audit staff during the audit, including copies of solicitation cards completed by the contributors at the time of their contribution that clearly informed the contributors of the limitations or timely refunds or reattributions for excessive contributions.
- Absent such demonstration, CFW should have reviewed its contributions to determine which are excessive and how each can be resolved, and/or offer a refund for any remaining excessive amounts. CFW must either provide evidence that the excessive contribution amounts were refunded or, for any excessive contributions for which CFW was unable to process a refund for any reason, provide evidence that the excessive contribution amounts were disgorged to the U.S. Treasury. For a reattribution, both the contributor and the individual to whom a contribution was reattributed must be notified.
- If funds were not available to make the necessary refunds, CFW should have disclosed the contributions requiring refunds on Schedule D (Debts and Obligations) until funds become available to make such refunds.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, the CFW representative stated that CFW made best efforts to ensure contributions were within the contribution limits. Further, the CFW representative stated the excessive contributions totaling \$19,000 were inadvertent, and CFW issued refunds as part of its Interim Audit Report response. CFW

provided copies of the front of the refund checks, totaling \$19,000, but did not provide copies of the cancelled refund checks. The Draft Final Audit Report concluded that the apparent excessive contributions, totaling \$19,000, have not been resolved.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that CFW provided copies of the front of the contribution refund checks, totaling \$19,000, but did not provide copies of the cancelled refund checks. The Draft Final Audit Report concluded that the apparent excessive contributions, totaling \$19,000, have not been resolved.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, CFW provided documentation to demonstrate that \$8,400 of the \$19,000 in refund checks issued for excessive contributions have been negotiated by the contributors. Additionally, CFW provided documentation that an additional \$10,900 was disgorged to the U.S. Treasury. As such, CFW resolved, albeit untimely, the excessive contributions.¹³

Commission Conclusion

On October 19, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CFW received excessive contributions from individuals totaling \$19,000.

The Commission approved the Audit staff's recommendation.

Finding 3. Cash Disbursements

Summary

During audit fieldwork, the Audit staff determined that CFW made three cash disbursements and issued one check payable to cash, which exceeded the cash disbursement limit by \$7,000. The Act requires political committees to make all disbursements, except those from a petty cash fund, by check or similar draft drawn on a committee account, not to exceed \$100. In response to the Interim Audit Report recommendation, the CFW representative stated that circumstances related to the COVID-19 pandemic made it difficult for canvassers to cash checks; therefore, CFW issued cash to its canvassers rather than checks. Further, the representative stated the campaign manager made best efforts to track all cash expenditures and was willing to make a declaration that the cash paid to canvassers furthered the canvassing program.

In response to the Draft Final Audit Report, CFW provided a letter signed by its Campaign Manager stating that all cash was used for the canvassing program. CFW stated that it “made its best efforts to comply with the Federal Election Campaign Act

¹³ The amount that CFW disgorged to the U.S. Treasury of \$10,900, was \$300 more than the remaining excessive contribution amount calculated by the Audit staff of \$10,600. CFW included a \$2,500 contribution from an individual in its calculation, while only \$2,200 of that \$2,500 contribution was in excess of the limit.

during the COVID-19 pandemic while also navigating challenges presented to the canvass workers in cashing checks.”

The Commission approved a finding that CFW made excessive cash disbursements totaling \$7,000.

Legal Standard

A. Disbursement by Check. A political committee may only make expenditures in cash, not to exceed \$100, from a petty cash fund. A written journal for such cash expenditures is to be maintained by the treasurer. All other disbursements shall be made by check or similar draft drawn on account(s) established at the campaign’s depository(ies). 52 U.S.C. §30102(h)(2).

B. Petty Cash Fund. A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase per transactions.

It is the duty of the treasurer to keep and maintain a written journal of all petty cash disbursements. The written journal shall include:

- Name and address of every person to whom any disbursement is made;
- Date;
- Amount;
- Purpose; and
- If disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate. 11 CFR §102.11.

C. Required Records for Disbursements. For each disbursement, the treasurer of a political committee must keep records on the:

- Amount;
- Date;
- Name and address of the payee;¹⁴
- Purpose (a brief description of why the disbursement was made);
- If the disbursement was made on behalf of a candidate, the candidate’s name and office sought by the candidate; and
- If the disbursement was in excess of \$200, the records must include a receipt or an invoice from payee, or a cancelled check or share draft to the payee. If the disbursement was made by credit card, the record must include the monthly statement or customer receipt and the cancelled check used to pay the credit card bill. 52 U.S.C. §30102(c) and 11 CFR §102.9(b).

¹⁴ The payee is usually the person providing the goods or services to the committee. In the case of travel advances, however, the payee is the person receiving the advance. 11 CFR §102.9(b)(2).

D. Preserving Records and Copies of Records. The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff examined bank records and the disbursement database provided by CFW and identified four transactions, totaling \$7,400, involving cash disbursements, each of which exceeded the \$100 transaction limit for cash disbursements. One transaction was a check payable to “Cash” in the amount of \$500; the remaining three transactions consisted of cash withdrawals from CFW’s bank account.

CFW provided records for cash disbursements totaling \$6,390. Records for cash disbursements totaling \$1,010 were not provided. The cash disbursements were used to pay various individuals for Get Out the Vote (GOTV) activity.

The Audit staff notes that political committees may maintain a petty cash fund out of which they may make expenditures not to exceed \$100 to any person, per purchase, and per transaction. The political committees must maintain a written journal of all petty cash disbursements per 11 C.F.R. §102.11. However, CFW did not maintain a petty cash fund. CFW confirmed that there was no petty cash fund and a review of CFW’s disbursement records did not yield any evidence to demonstrate that CFW established or maintained a petty cash fund. The Audit staff concludes that four cash disbursements, in excess of \$100, totaling \$7,000, were excessive cash disbursements.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the CFW representatives during the exit conference and provided a schedule of the cash disbursements. During the exit conference, the CFW representatives stated that in hindsight, CFW should have written checks instead of making cash payments but mentioned that, due to the large number of individuals participating in the GOTV activity, it was easier to pay cash than to issue checks. The CFW representatives stated that they would provide comments related to this finding.

The CFW representatives did not provide a written exit conference response for this finding.

The Interim Audit Report recommended that CFW demonstrate its compliance with the Act regarding cash disbursements, submit the missing disbursement records, and provide any relevant comments.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, the CFW representative stated that CFW issued cash to its canvassers to pay for canvassing costs instead of checks

because, during the COVID-19 pandemic, check cashing stores and banks were closed or maintained limited hours, making it difficult for canvassers to cash checks. The CFW representative also stated that the Candidate's constituents are "comprised of many low-wage and working-class communities who regularly work paycheck to paycheck and, in many instances, cash their checks immediately at check-cashing stores or directly from the banks".

The CFW representative further stated that the campaign manager made best efforts to track all cash expenditures, but she was unable to provide CFW with all disbursement records. According to CFW, the campaign manager would be willing to make a declaration that "the cash received was used to pay canvassers and in furtherance of the canvassing program."

The Interim Audit Report maintained that CFW has not demonstrated its compliance with the Act regarding cash disbursements, and that CFW has made excessive cash disbursements totaling \$7,000.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that CFW had not demonstrated its compliance with the Act regarding cash disbursements, and that CFW has made excessive cash disbursements totaling \$7,000.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, CFW provided a letter signed by the Campaign Manager stating that all cash was used for the canvassing program. CFW stated that it "made its best efforts to comply with the Federal Election Campaign Act during the COVID-19 pandemic while also navigating challenges presented to the canvass workers in cashing checks." CFW stated that:

The Office of General Counsel ("OGC") asserts that the Committee failed to keep the required records to document cash payments. However, the Committee provided records for cash disbursements totaling \$6,390. Although the Committee could not provide documentation for all cash payments, records for a substantial amount of the cash payments were provided which is materially distinguishable from the facts presented in the MUR referenced by the OGC.

Further, CFW stated that it made only four cash payments and provided records for a substantial amount of the cash disbursements, whereas the committee referenced in the MUR engaged in a "pattern of making cash disbursements and intentionally falsifying and concealing its activity."

The Act specifies that "[n]o disbursements may be made (other than petty cash disbursements ...) ... except by check."¹⁵ The Act further states that committees "may maintain a petty cash fund for disbursements not in excess of \$100 to any person in

¹⁵ 52 U.S.C. § 30102(h)(1); *see also* 11 C.F.R. § 102.10.

connection with a single purchase or transaction.”¹⁶ As such, CFW made excessive cash disbursements totaling \$7,000.

Commission Conclusion

On October 19, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that CFW made excessive cash disbursements totaling \$7,000.

The Commission approved the Audit staff’s recommendation.

¹⁶ 52 U.S.C. § 30102(h)(2); *see also* 11 C.F.R. § 102.11.