

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 WFC received apparent excessive contributions totaling \$51,212. These errors occurred as a result of WFC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reatribution letters to its contributors or issuing refunds of the excessive portions of contributions in a timely manner. In response to the exit conference, WFC materially resolved, albeit untimely, these excessive contributions. In response to the Interim Audit Report recommendation, WFC stated it did not have further comments on the finding. In response to the Draft Final Audit Report, WFC did not provide any additional comment.

The Commission approved a finding that WFC received excessive contributions from individuals totaling \$51,212.

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 reatribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reatribution and redesignation); and
 - If the committee does not receive a proper reatribution 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. Reatribution 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 reatribution must be signed by both contributors;
- The reatribution 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 reatribution 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 reatribution 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).

E. Redesignation of Excessive Contributions. When an authorized candidate committee receives an excessive contribution (or a contribution that exceeds the committee's net debts outstanding), the committee may ask the contributor to redesignate the excess portion of the contribution for use in another election. The committee must inform the contributor that:

- The redesignation must be signed by the contributor;
- The redesignation 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(b)(5).

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

When an individual makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR §110.1(b)(5)(ii)(B)(1)-(4).

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer's receipt of the contribution, and must offer the contributor the option to receive a refund instead.

Facts and Analysis

A. Facts

1. Facts

The Audit staff utilized sample testing to identify apparent excessive contributions from individuals, as noted below.

Excessive Contributions - Testing Method	
Sample Projection Amount ⁶	\$51,212
Total Amount of Excessive Contributions	\$51,212
Reason for Excessive Contributions	
Contributions not resolved via presumptive letter or refund	\$51,212
Total Amount of Excessive Contributions	\$51,212

2. Additional Information

WFC did not maintain a separate account for questionable contributions. However, based on its cash on hand at the end of the audit period, it appears that WFC did maintain sufficient funds to refund the apparent excessive contributions.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the WFC representatives during the exit conference and provided a schedule of the apparent excessive contributions. WFC representatives asked questions regarding the presumptive reattribution and/or redesignation letters that could be issued. The Audit staff explained that presumptive letters sent in response to the exit conference would resolve the excessive contributions, albeit untimely. Additionally, the Audit staff notified WFC representatives that the errors presented were based on a sample review and WFC should review its receipts database for the audit period to identify any additional excessive contributions.

⁶ The sample error amount (\$51,212) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$33,614 or as high as \$68,810.

In response to the exit conference, WFC stated it did not dispute that it “inadvertently did not issue presumptive redesignation and reatribution letters for certain contributions that were otherwise in excess of the per-election amount limitations.” In response to the exit conference, WFC also submitted presumptive letters that were sent to all contributors identified by the Audit staff:

Corrective Action Taken by Committee – Excessive Contributions	
Dollar Amount of Presumptive Letters Sent – <i>Untimely</i>	\$34,200

In addition, WFC reviewed its contribution records and identified an additional ten excessive contributions. WFC sent presumptive letters to these contributors for contributions totaling \$33,600 as well and submitted them to the Audit staff for review. The Audit staff determined that, of the additional presumptive letters sent to contributors totaling \$33,600, WFC resolved an additional \$14,000 in excessive contributions, albeit untimely. As such, WFC provided evidence that it sent more presumptive letters to contributors, in response to the audit, than as identified in the audit. All of the presumptive letters provided to the Audit staff were dated December 18, 2021. The Audit staff concluded WFC materially resolved the excessive contributions, albeit untimely.

The Interim Audit Report recommended that WFC provide any additional comments it deemed relevant to this matter.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, WFC stated it had no further comments on the finding.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that WFC materially resolved, albeit untimely, the excessive contributions totaling \$51,212.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, WFC did not provide any additional comment.

Commission Conclusion

On July 27, 2022, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that WFC received excessive contributions from individuals totaling \$51,212.

The Commission approved the Audit staff’s recommendation.