



**AUDIT REFERRAL # 09-02**

FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 26, 2009

**MEMORANDUM**

To: Thomasenia P. Duncan  
General Counsel

Through: Robert A. Hickey *[Signature]*  
Staff Director

From: John D. Gibson *[Signature]*  
Chief Compliance Officer

Joseph F. Stoltz *[Signature]*  
Assistant Staff Director  
Audit Division

Alex Boniewicz *[Signature]*  
Audit Manager

By: Marty Kuest *[Signature]*  
Lead Auditor

Subject: League of Conservation Voters Action Fund (A07-41) -  
Referral Matters

On May 14, 2009, the Commission approved the final audit report on the League of Conservation Voters Action Fund (A07-41). The final audit report includes the following matter that is referable:

**Finding 1 – Misstatement of Financial Activity**

Although the magnitude of the misstatement requires referral of this matter to the Office of General Counsel, we believe that because the misstatement has been acknowledged and corrected by the committee and no further investigation is required, the Audit staff suggests careful consideration should be given to the extent of resources utilized by your office to pursue these matters. Further, we believe this matter to be ideally suited for referral to the Office of Alternative Dispute Resolution.

All work papers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Marty Kuest or Alex Boniewicz at 694-1200.

Attachment: Finding 1 – Misstatement of Financial Activity

cc: Lorenzo Holloway

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## Finding 1. Misstatement of Financial Activity

### Summary

A comparison of LCVAF's reported figures to its bank records revealed that receipts, disbursements and cash-on-hand balances had been materially misstated for calendar years 2005 and 2006. For 2005, LCVAF understated beginning cash on hand by \$10,585, overstated receipts by \$5,521, understated disbursements by \$2,590 and understated ending cash-on-hand by \$2,474. In 2006, receipts were overstated by \$9,109, disbursements understated by \$113,680 and the ending cash-on-hand was overstated by \$120,315. In response to the interim audit report recommendation, LCVAF noted that it had taken steps to improve its accounting and reporting system, identified reported contributions originally received by LCV for which the funds had not been transferred to LCVAF and filed amended reports to materially correct the misstatements.

### 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 calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

### Facts and Analysis

The Audit staff reconciled reported activity to bank records for calendar years 2005 and 2006. The following charts outline the discrepancies for the beginning cash balances, receipts, disbursements, and the ending cash balances. The succeeding paragraphs explain why the differences occurred, if known.

2005 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2005	\$251,604	\$262,189 <sup>1</sup>	\$10,585 <sup>2</sup> Understated
Receipts	\$170,092	\$164,571	\$5,521 Overstated
Disbursements	\$304,486	\$307,076 <sup>2</sup>	\$2,590 <sup>2</sup> Understated
Ending Cash Balance @ December 31, 2005	\$117,210	\$119,684	\$2,474 Understated

The beginning cash was understated by \$10,585 and is unexplained, but is likely the result of prior period discrepancies.

The overstatement of receipts was the result of the following:

<sup>1</sup> Subsequent to the issuance of the interim audit report, an LCVAF representative indicated that two unreported disbursements were, in fact, the reissue of voided checks. The voided checks represented previously unaccounted for outstanding checks at the beginning of 2005. This increase to outstanding checks at the beginning of 2005 effectively reduced beginning cash, disbursements and the related discrepancies, each by \$2,053.

- Contributions and receipts not reported +\$ 14,584  
(consisting of \$4,655 itemizable, \$800 unitemizable contributions and a \$9,129 offset)
  - Receipts reported but no record of deposit identified - 20,105  
(consisting of \$1,000 itemized and \$19,105 unitemized contributions)
- Total Net Overstatement of Receipts - \$ 5,521**

The understatement of disbursements was the result of the following:

- Disbursements not reported +\$ 4,655
  - Disbursements reported unsupported by negotiated check or debit - 1,987
  - Over reporting of unitemized disbursements - 78
- Total Net Understatement of Disbursements +\$ 2,590**

The \$2,474 understatement of ending cash was the net result of the misstatements described above.

<b>2006 Committee Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash Balance @ January 1, 2006	\$117,210	\$119,684	\$2,474 Understated
Receipts	\$921,765	\$912,656	\$9,109 Overstated
Disbursements	\$828,542	\$942,222	\$113,680 Understated
Ending Cash Balance @ December 31, 2006	\$210,433	\$90,118	\$120,315 Overstated

The overstatement of receipts was the result of the following:

- Contribution and receipts not reported +\$ 30,568  
(consisting of \$21,000 itemizable, \$100 unitemizable contributions and offsets totaling \$9,468)
  - Earned interest not reported + 1,552
  - Contribution reported but no record of deposit identified - 5,000
  - Unexplained difference (see explanation on following page) - 36,229
- Total Net Overstatement of Receipts - \$ 9,109**

The understatement of disbursements was the result of the following:

- Disbursements not reported +\$ 113,678
  - Unexplained difference + 2
- Total Understatement of Disbursements +\$ 113,680**

The \$120,315 overstatement of ending cash was the result of the misstatements noted above.

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The Audit staff was able to identify and materially explain differences arising from the reconciliation of the LCVAF's bank accounts to its reported activity except for the apparent overstatement of receipt activity for 2006.

The \$36,229 unexplained overstatement of 2006 receipts suggested that reported receipts exceeded the reconciled bank total by \$36,229. This difference remained a problem for LCVAF. It appeared likely that LCVAF reported and itemized receipts designated to it by contributors whose contributions were initially received by but not transferred from LCV.

LCV received numerous contributions which, in accordance with instructions from the contributors, transferred specified amounts to LCVAF. In addition to LCVAF, LCV maintains a 501(c)(3) entity, the League of Conservation Voters Education Fund (LCVEF) and a League of Conservation Voters 527 fund. Throughout the course of the audit, it became apparent to the Audit staff that the complexity of this organizational structure created some confusion when it came to correctly attributing transactions among the various entities.<sup>2</sup>

An LCVAF representative confirmed that a reported \$5,000 contribution, noted above in the explanation of differences for 2006 receipts, could not be traced to a deposit batch from either of LCVAF's bank accounts. Sufficient receipt records were not available to allow the Audit staff to trace all itemized receipts to deposit batches and then to the bank.

At the exit conference, the Audit staff presented this matter to LCVAF representatives and provided schedules to support the misstatement. LCVAF representatives acknowledged the misstatements and affirmed their willingness to cooperate to resolve this matter.

### **Interim Audit Report Recommendation**

The Audit staff recommended that LCVAF:

- Provide any additional information or written comments that it considered relevant to the overstatement of receipt activity on its reports filed for 2005 and 2006;
- Explain any steps taken or procedures it had adopted to address the apparent problems arising from the complex multi-organizational structure to assure the accurate attribution of activity to the appropriate entity; and,
- Amend its reports for the misstatements detailed above for 2005 and 2006. In addition, LCVAF should have amended its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment. Further, LCVAF should have reconciled the cash balance of its most recent report to identify subsequent discrepancies that may have impacted the \$120,315 adjustment recommended by the Audit staff.

<sup>2</sup> An LCVAF expenditure of \$110,000 to a media vendor was originally paid by LCV and then reimbursed. An independent expenditure of \$50,000 from LCV was incorrectly included on an LCVAF 24-hour notice though not otherwise reported. Contributions designated for LCVAF, but received by LCV were often transferred months after their having been received.

## **Committee Response to Recommendation and Audit Staff's Assessment**

In response to the interim audit report, LCVAF explained that it had:

“...carefully reviewed the ‘unexplained difference’ of \$36,229 noted in the IAR (pages 5 and 6) which accounts for a portion of the net overstatement of receipts for 2006. Of this amount, \$27,500.00 has been identified as contributions from individuals intended as contributions to LCVAF which inadvertently were not transferred from the connected organization's accounts to LCVAF's account. LCVAF (sic) has transferred these contributions to the LCVAF account and will report this transfer as a memo entry on the monthly report for January, 2009 with an explanatory note stating that the transfer ‘per Audit represents the value of PAC contributions initially deposited into the account of the connected organization but intended for LCVAF, representing the names, dates and amounts of the contributions to LCVAF as originally reported.’<sup>3</sup> The remaining \$8,729.00 [\$36,229 - \$27,500] of the ‘unexplained difference’ will be reported as a negative adjustment on Schedule A of the amended year end report for 2006 with an explanatory note stating that the adjustment is ‘to reduce total receipts for 2006 to account for an adjustment per Audit.’ We understand that [A]udit staff have (sic) approved both of these actions.”

To address the systemic problems that contributed to the misstatements, LCVAF's response stated that it has restructured its FEC accounting procedures to eliminate the kinds of record keeping and reporting difficulties experienced during the audit period. Included in the restructuring is:

- additional trained staff (who have or will soon have attended FEC training) to process contributions;
- the engagement of Aristotle, Inc. to manage financial activity (including the reconciliation of this activity to reported activity) and file disclosure reports; and,
- mandatory review of disclosure reports by the general counsel and Chief Financial Officer prior to their submission.

The Audit staff reviewed the amended disclosure reports filed by LCVAF for January 1, 2005, through December 31, 2006, and concluded that the public record had been materially corrected.

<sup>3</sup> Although the LCVAF will not file the February monthly report until 02/20/09, they have provided a copy of the documentation supporting the \$27,500 transfer.