



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

November 14, 2002

AUDIT REFERRAL # 02-16

MEMORANDUM

TO: Lawrence H. Norton
General Counsel

THROUGH: James A. Pehrkon
Staff Director

Robert J. Costa
Deputy Staff Director

FROM: Joseph F. Stoltz
Assistant Staff Director
Audit Division

Russ Bruner
Audit Manager

Cornelia Riley
Lead Auditor

SUBJECT: Paul Williams for Congress – Referral Matters

On November 5, 2002, the Commission approved the audit report on Paul Williams for Congress (PWFC). The audit report was released to the public on November 12, 2002. Although PWFC responded to the Interim Audit Report, it failed to comply with any recommendations. Therefore, all findings are being referred to your office.

Attached is a copy of the Final Audit Report on Paul Williams for Congress.

All workpapers and related documentation are available for review in the Audit Division. Should you have any questions, please contact Cornelia Riley or Russ Bruner at 694-1200.

Attachment as stated

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**REPORT OF THE AUDIT DIVISION
ON
PAUL WILLIAMS FOR CONGRESS**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Paul Williams for Congress (PWFC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code, which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. 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.

B. AUDIT COVERAGE

The audit covered the period from January 23, 1999, the date of the first reported transaction,¹ through December 31, 2000. PWFC reported a beginning cash balance of \$0; total receipts for the audit period of \$136,395; total disbursements for the audit period of \$139,098; and an ending cash balance of (\$2,703) on November 27, 2000.²

C. COMMITTEE ORGANIZATION

PWFC registered with the Federal Election Commission on August 8, 1999, as the principal campaign committee for Paul Williams (the Candidate), Republican candidate for the U.S. House of Representatives from the State of Texas, 9th District. The Treasurer for PWFC from inception through the present is Mr. Mike Mundy. PWFC maintained its headquarters in Kemah, Texas.

¹ According to the bank records obtained through subpoena, the bank activity did not commence until August 23, 1999. The bank records relate to those accounts identified in sworn affidavits from the Treasurer and the Candidate.

² This date is the end of the Post General reporting period, the last report filed by PWFC. On February 16, 2001, PWFC was notified by Mailgram of its "Failure to File the Year-End Report" covering the period November 28 through December 31, 2000. To date, PWFC has not responded.

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To manage its financial activity, PWFC acknowledges two bank accounts. From these accounts, PWFC made 713 disbursements totaling \$129,462. PWFC reported contributions from individuals totaling \$110,775, contributions from political party committees and other political committees totaling \$5,619,³ and a loan from the Candidate for \$20,000. PWFC did not use accounting or campaign management software to prepare and file its reports. Accounting, recordkeeping and reporting functions were performed by the Candidate and a consultant.

D. HISTORY AND AUDIT SCOPE

On April 3, 2001, the Commission voted to audit PWFC and the Audit staff notified PWFC's Treasurer by letter dated April 4, 2001. The audit notification letter also outlined the scope of the audit and described the records necessary for the audit. After several unsuccessful attempts to reach the Treasurer, the Candidate referred the Audit staff to a PWFC consultant for the provision of records. The consultant acknowledged by letter dated April 26, 2001 that the campaign was attempting to gather the records for the Audit staff.

After several more conversations and a discussion about the consequences of not providing records, the Audit staff received some records on August 13, 2001. These records consisted of six books of tissue copies of checks and four of five pages of one bank statement. On August 22, 2001 the Treasurer was notified that these records were not adequate for audit purposes and that as Treasurer he was legally responsible for the records pursuant to 2 U.S.C. §432(c), and (d). On this date the Treasurer was advised of the additional records required. He was also informed about the subpoena process and subsequent issues that could arise from the audit if the records were not produced.

On August 27, 2001 the Treasurer explained that the landlord of PWFC's headquarters had discarded all the campaign materials when he wanted the office space cleared out for another tenant. The Treasurer was informed that subpoenas would be requested for all involved parties. On September 5, 2001 the Treasurer provided the missing page from the one bank statement mentioned above and the addresses of the landlord and the Candidate for the issuance of subpoenas.

In October 2001 the Commission approved the issuance of subpoenas to the Treasurer, Candidate, the landlord for the PWFC office space, the campaign consultant who provided the few records noted above, and to a second consultant who appeared to have access to PWFC's financial records and who also prepared a portion of PWFC's reports. Subpoenas were issued to Compass Bank (listed on the Statement of Organization as the campaign depository) and to Wells Fargo Bank (bank account information provided by PWFC).

³ Within the total for contributions from individuals PWFC included \$3,548 of contributions disclosed as from other political committees. Receipt records were limited; thus the Audit staff could not determine from PWFC records the extent of contributions received from individuals and other political committees. See Section I. D History and Audit Scope

On December 10, 2001 the Commission received, as a result of responses to subpoenas, limited receipts documentation (totaling \$17,695), a few deposit tickets (totaling \$3,960) and copies of loose contributor checks totaling \$3,620. Complete bank statements from Compass Bank and Wells Fargo Banks were also received through the subpoena process with the last of the material received on April 3, 2002.

The scope of this audit is therefore limited to the bank statement and tissue copies of checks that cleared the bank, accounting for \$59,112, maintained by PWFC (these checks represent 42% of the total reported disbursement activity), complete bank statements and limited receipts documentation secured via subpoena, and PWFC disclosure reports. Some additional information was obtained through interrogatories accompanying the subpoenas and conversations between the Audit staff and PWFC representatives.

In the narrative response to the Interim Audit Report PWFC explained that it operated a grassroots campaign with limited resources; that most functions of the campaign were performed by volunteers; that most records were kept in a box which was inappropriately discarded after the election; and that following the loss on election day everyone involved with the campaign returned to their normal lives. See the responses to Findings II.A, II.B, II.C, and II.E.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. FAILURE TO MAINTAIN RECORDS

Section 104.14(b)(1) of Title 11 of the Code of Federal Regulations states, in part, that each political committee required to file any report or statement shall maintain all records relevant to such reports or statements as follows: maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills, and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness.

Sections 102.9(a) through (f) of Title 11 of the Code of Federal Regulations specifies the records required to be kept by the treasurer for both receipts and disbursements, and the recordkeeping duties of the treasurer:

For contributions in excess of \$50, the account shall include the name and address of the contributor together with the date and amount of the contribution. If the contribution aggregates in excess of \$200 for the calendar year the regulations additionally require the *identification* of the contributor (full name and mailing address along with the occupation and name of employer) as defined at 11 CFR §100.12.

For disbursements, the required records include the name and address of every person to whom any disbursement is made along with the date,

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amount, and purpose of the disbursement. If the disbursement is in excess of \$200 then a receipt or invoice from the payee or a cancelled check to the payee shall also be obtained.

The treasurer or his or her authorized agent shall use his or her best efforts to obtain, maintain, and submit the required information and shall keep a complete record of such efforts. The treasurer is required to preserve all records and accounts for 3 years after the report to which such records and accounts relate is filed.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations defines the donation of goods offered free or at less than the usual charge or the payment of services on the committee's behalf as an in-kind contribution. Any in-kind contribution must also be reported as an in-kind expenditure pursuant to 11 CFR §100.8(a)(1)(iv).

1. Receipts

As discussed in Section I.D., PWFC provided no documentation to support receipts prior to the issuance of subpoenas. Under subpoena the Candidate provided receipt records that consisted of copies of some response devices and copies of contributor checks attached to deposit tickets. This documentation covered \$17,695 or 13% of the total reported receipts. In addition, a consultant to PWFC provided copies of contributor checks totaling \$3,620 that were not attached to deposit tickets and not included in materials obtained from others. Thus, only \$21,305 (\$17,695 + \$3,610) or 15.6% of the total reported receipts are documented with respect to contributor name, address, date, and amount of the contribution. The occupation and name of employer for contributors was maintained for only 27 contributions from individuals, totaling \$5,950. No records were obtained for \$9,067 of the \$9,167 of receipts reported from political party or other political committees. Finally, no record is available for in-kind receipts totaling \$3,227 (see below).

2. Disbursements

In response to subpoenas the Audit staff received a complete set of bank statements for the Audit period from the two banks identified by PWFC.

The Audit staff compared the disbursements itemized on Schedule B of PWFC disclosure reports to both the tissue copies of checks provided by PWFC and to the checks and other debits listed on the bank statements secured through subpoenas.

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a. Compass Bank

PWFC provided no cancelled checks or other external documentation (receipts or invoices) for the 210 disbursements made from the Compass Bank account. These disbursements, debited to the account between August 23, 1999 and May 16, 2000, totaled \$35,279. All withdrawals per the bank statements, except two, that were in excess of \$200 could be traced to the disclosure reports. The two transactions included an entry identified as a check but without a check number for \$1,000 on April 24, 2000 and the final closing debit for \$1,287 on May 16, 2000. Neither withdrawal could be traced as a transfer to the other PWFC bank account and neither one was itemized. It therefore appears that these two disbursements were not reported.

b. Wells Fargo Bank

For disbursements from the Wells Fargo Bank account, the Audit staff was provided six books of check tissue copies (168) and all bank statements.⁴ There were 503 disbursements from Wells Fargo Bank that total \$90,955, and were debited to the account between April 28, 2000 and December 31, 2000. These disbursements included 174 transactions by check and 329 other transactions that are described on the bank statements as debits by credit card purchases, point of sale purchases, ATM withdrawals of cash, and service charges.

The disbursement records provided by PWFC do not satisfy minimum recordkeeping requirements. The address was not maintained for the 168 check tissue copies, the purpose was missing for 28, the amount was missing or incorrect for 9, and the payee or date was not recorded or was illegible on the tissue copies for 6 of the disbursements. The October 2000 bank statement provided by PWFC included partial information (payee, date and amount) for debits totaling \$2,575. There were no records maintained for the remaining \$29,268 (\$90,955-\$59,112-\$2,575) in disbursements (checks and debits) that cleared the Wells Fargo bank during the Audit period. Sixty-one of these debits were cash withdrawals and associated fees totaling \$16,918 (see Finding II.C.).

c. Reported Receipts and Disbursements not Traced to Available Bank Documentation

In addition to the review of financial activity discussed above, the Audit staff reviewed all itemized transactions on the disclosure reports. This review identified 36 disbursement transactions totaling \$23,749, contributions from individuals totaling \$4,035, and a loan receipt for \$20,000 that could not be traced to available bank documentation. The receipts from individuals and twenty-three of the reported disbursements totaling \$3,562 were reported in 1999 before any bank account acknowledged by the PWFC was opened. The loan receipt (\$20,000) and the remaining

⁴ A consultant provided one invoice for this account through the subpoena process.

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13 untraced disbursements (\$23,749-\$3,562=\$20,187)⁵ were reported during the report periods for which bank statements were secured by subpoena.

d. In-Kind Contributions

PWFC reported three in-kind receipts from two political committees, but failed to keep records of these transactions as either receipts or expenditures. The amount totaled \$1,517; PWFC also did not report or keep records for in-kind contributions of office space provided free of charge by two individuals. The Audit staff estimated this in-kind contribution to be \$1,710.⁶

e. Summary

PWFC failed to keep adequate records for any of the 713 disbursements from its bank accounts totaling \$126,234, and four in-kind transactions totaling \$3,227. Sixty-one of the disbursements from banks were cash withdrawals totaling \$16,918 (see Finding II.C.). Partial records were kept for 211 disbursements totaling \$61,688. Reported disbursements totaling \$23,749 and receipts totaling \$24,035 could not be traced to bank records. As a result of subpoenas issued by the Commission, invoices supporting seven reported⁷ disbursements totaling \$3,320 were obtained.

In the Interim Audit Report the Audit staff recommended that PWFC demonstrate that it has satisfied the recordkeeping requirements of 11 CFR §§102.9 and 104.14; provide an explanation and documentation to support reported transactions totaling \$23,749 of disbursements and \$24,035 of receipts that do not appear on the bank records obtained by the Commission; provide an explanation and documentation to support the disposition of both the \$1,287 closing debit for Compass Bank and the \$1,000 unnumbered check from Wells Fargo; and provide complete receipt and disbursement records for campaign transactions to include an account of contributions and other receipts, and copies of cancelled checks, invoices, receipted bills, etc for disbursements. Further, the Audit staff recommended that PWFC provide an explanation and documentation for the \$16,918 in cash withdrawals from PWFC accounts.

In the response to the Interim Audit Report PWFC described itself as "...a small grassroots campaign without the resources to afford the luxury of an accountant, bookkeeper, or staff to handle and maintain the day-to-day records." Most records were kept in a box where volunteers would place receipts and invoices for expenses, materials,

⁵ Because the Audit staff was only able to trace those reported disbursements that were itemized, the actual number and amount of untraced disbursements (that may occur within the unitemized total) may be larger for this period.

⁶ For approximately 6 months of 2000 an individual and his spouse provided about 300 square feet of office space to PWFC free of charge. The Audit staff estimated this in kind contribution to be \$1,710 based on the individual's statement that he would normally lease the space for \$0.95/ft per month.

⁷ Included among these invoices was one relating to a reported disbursement for \$1,059 that could not be traced to any PWFC account.

and other matters pertaining to the campaign. PWFC acknowledges that the campaign "...was focused more on delivering its message to potential voters and the mechanics of getting voters to vote than keeping accurate records." Despite this admission PWFC asserts that they had used "best efforts" to maintain the records but that they had been discarded by the landlord after the General Election in 2000. PWFC made no comment regarding any efforts to obtain duplicate records from banks or vendors.

PWFC also made no comment and offered no explanation regarding the reported disbursements (\$23,749) and receipts (\$24,035) for which no bank records were provided. Further, PWFC made no response regarding the disposition of the \$1,287 closing debit and \$1,000 unnumbered check.

With regard to the \$16,918 in cash withdrawals, PWFC surmised that the withdrawals were to reimburse volunteers for expenses.

Finally, PWFC disputed the Audit staff's estimate on the in-kind value of office space. PWFC stated "...anyone would be a fool to pay \$1,710 for a one-room, windowless, office at that location." PWFC offered no estimate of its own and did not challenge the specific parameters used by the Audit staff to attain the estimate.

B. DISCLOSURE OF RECEIPTS AND DISBURSEMENTS

1. Disclosure of Contributions from Individuals

Section 434(b)(3)(A) of Title 2 of the United States Code requires, in part, a political committee to report the identification of each person (other than a political committee) who makes a contribution to the committee in an aggregate amount or value in excess of \$200 per calendar year, together with the date and amount of any such contribution.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to be, in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and, in the case of any other person, the full name and address of such person.

Section 104.3(a)(4) of Title 11 of the Code of Federal Regulations states, in part, that the identification of each contributor and the aggregate year-to-date total for such contributor shall be reported for each person, other than any political committee, whose contribution or contributions aggregate in excess of \$200 per calendar year and for all committees which make contributions to the reporting committee during the reporting period.

Sections 104.7(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by the Act, any report of such committee shall be considered in compliance with the Act. The treasurer and the committee will only be deemed to have exercised best efforts if all

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written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications; the treasurer makes at least one effort after the receipt of each contribution aggregating in excess of \$200 per calendar year, in either a written request or documented oral request, within 30 days of receipt of the contribution, to obtain the information; and, the treasurer reports all contributor information not provided by the contributor, but in the committee's possession, including information in contributor records, fundraising records and previously filed reports, in the same two-year election cycle.

The contributor records supplied by the PWFC did not permit an evaluation of the accuracy of the disclosure of contributions. Using the records obtained through subpoena, (approximately 15% of reported receipts) a very limited test was performed. These records were used in conjunction with reported contributions from the same contributors to determine the information required to be disclosed.⁸ This limited testing revealed that (out of 29 contributions testable for disclosure) one contribution was reported on the wrong line number;⁹ three were disclosed as being from the wrong person, and eight were either missing occupation/name of employer or the occupation/name of employer was incorrectly disclosed. Thirteen reported occupation/name of employer entries could not be verified because they lacked supporting records.

The Audit staff also evaluated the adequacy of disclosure for all itemized contributions.¹⁰ Of the 121 disclosed contributions evaluated, 100 entries contained disclosure errors: 88 were missing aggregate year-to-date totals; 25 had inadequate or incorrect occupation/name of employer; 8 were missing addresses or had incomplete addresses; and 4 were missing a contributor name or were disclosed from the wrong contributor.¹¹

⁸ This aggregation could be based only on contributions itemized on the reports. Thus most contributions could not be tied to a contributor history for aggregation purposes.

⁹ This contribution was from a political action committee and should have been itemized and reported under Line 11c, whereas it was itemized under Line 11a and reported under Line 11b.

¹⁰ PWFC itemized some contributions that did not require itemization. These transactions were not included in this review.

¹¹ The errors in contributor name were identified from the receipts documentation provided through subpoena. The total number of errors by category is greater than the total number of entries containing errors because some contributions contained in more than one error.

2. Disclosure of Loan from Candidate

Section 104.3(d) of Title 11 of the Code of Federal Regulations requires that a reporting committee disclose on Schedule C or D as appropriate the amount and nature of outstanding debts and obligations. Such debts and obligations owed to or by a political committee that remain outstanding shall be continuously reported until extinguished (11 CFR §104.11).

The PWFC reported a \$20,000 loan on Schedule C from the Candidate dated June 12, 2000. On October 3, 2000 PWFC submitted an amended report asserting that this loan was from personal funds of the Candidate. On the next report filed (October 15 Quarterly), PWFC reported \$20,000 as owed on the Summary Page, but did not file a Schedule C. On the 30-Day Pre General report that covered the period October 1-18, 2000, PWFC reported the loan aggregate (\$20,000) but did not include this amount within the aggregate amount of Total Receipts for the calendar year. Also, PWFC did not report the loan as a debt on either the Summary Page or on a Schedule C. The last report filed (30 Day Post General) did not include the loan within aggregate totals of receipts for the calendar year, and, again PWFC did not report the amount of the loan as a debt or include a Schedule C. Finally, the loan receipt could not be traced to bank records of either of the accounts identified in sworn affidavits from the Treasurer, the Candidate, and other PWFC personnel. For the period July 19 through September 24, 2000 the PWFC itemized five expenses totaling \$19,692 that were not disbursed from the disclosed bank accounts of PWFC. Under subpoena the Audit staff also obtained the bank statements for one personal account of the Candidate. The expenses were not disbursed from this account either.

No repayments to the candidate for this loan were reported on Schedules B or C as required or were documented in the limited records obtained.

3. Disclosure of Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states that each report under this section shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

The Audit staff was able to partially verify the disclosure for the 168 disbursements for which tissue copies of checks were provided. The address could be verified for one vendor only.¹² Of the 122 disbursements that required itemization, PWFC failed to itemize 53 disbursements totaling \$6,781.

For those disbursements that were itemized (69), 23 had missing or incomplete addresses, and 2 were reported for the wrong amount. Except for one vendor

¹² Several invoices were obtained from one consultant through the subpoena process.

the Audit staff was unable to verify disclosed purposes by invoices or other third party documentation.

Although the Audit staff was unable to verify the accuracy of disclosure for the disbursements for which there was no recordkeeping, the Audit staff did evaluate the adequacy and completeness of disclosure of all disbursements itemized on the reports that appeared to require itemization. Of the 167 disclosed disbursements evaluated, 29 (17%) entries lacked complete addresses, and 65 (39%) had missing or inadequately described purposes.

In the Interim Audit Report the Audit staff recommended that PWFC file amended Schedules A, B and C, by reporting period, to fully correct the deficiencies noted above. With respect to the loan the Audit staff recommended that PWFC provide documentation to support both the receipt of the loan and the contention that the loan was from personal funds of the Candidate. The documentation was to include bank and other financial records of the Candidate adequate to demonstrate that the loan was made from his personal funds.

With respect to filing amended reports, PWFC responded that it "...would desire to file amended reports if records were available; however, finds it either onerous or impossible to meet said recommendation without the records." PWFC also asserted that, despite missing disclosure information on the reports, it provided each contributor with a response device that requested the appropriate information.

With respect to the loan reported from the Candidate, PWFC stated "...the candidate on numerous occasions provided PWFC with personal funds for ancillary matters. In addition, the candidate performed numerous professional duties, such as the drafting of campaign material, which has a value, which PWFC did not have to expend in the marketplace."

PWFC did not disclose any in-kind expenditure made by the Candidate on behalf of the campaign. Furthermore the disclosed loan could not be traced to bank receipts. Finally, PWFC provided no documentation to support the personal nature of any funding provided by the Candidate.

C. EXCESS DISBURSEMENTS OF CASH

Section 432(h)(1) of Title 2 of the United States Code requires that all disbursements by a political committee, except for disbursements from the petty cash fund shall be made by check drawn on account(s) established at the committee's campaign depository or depositories. The regulations governing the use of a petty cash fund (11 CFR §102.11) restrict any committee from making expenditures in excess of \$100 to any person per purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate,

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the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate.

Between May 15 and December 28, 2000, PWFC personnel made 61 ATM withdrawals totaling \$16,918, including fees. The separate transactions ranged in amount from \$63 to \$300 each. Fifty-nine withdrawals totaling \$16,754 exceeded the \$100 limit on cash transactions. On November 6, the day before the general election, \$900 was withdrawn. During the week subsequent to the election (between November 9 and 15) \$1,802 cash was withdrawn; within another 5-day period (November 20-24) \$1,500 was withdrawn in cash. A total of \$4,171 in cash was withdrawn after the general election. Four cash withdrawals totaling \$671 were made both after the election and outside the state of Texas.

Another likely cash transaction involved the closing debit for the account maintained in Compass Bank. On May 16, 2000 the account at Compass Bank was closed with a debit of \$1,287. This transaction was not itemized on the disclosure reports and the amount was not deposited into the other acknowledged depository (Wells Fargo Bank) of PWFC. Therefore it appears that this debit may have been negotiated for cash or was deposited into an undisclosed account.

PWFC has provided no evidence that these disbursements were made out of a petty cash fund. No disbursements to a petty cash fund were disclosed by PWFC, nor were any of the above transactions itemized. There are no records to establish the disposition of the cash withdrawn from PWFC's account.

In the Interim Audit Report the Audit staff recommended that PWFC demonstrate that the \$18,205 apparently disbursed in cash falls within the provisions of 2 USC §432(h) and provide an accounting of the cash disbursements.

PWFC responded that the cash disbursements were probably for volunteer expenses. PWFC explained that "It was common practice for PWFC to provide [a] volunteer "in charge" of the campaign activity with sufficient funds, almost always cash, to pay for meals, gasoline, and other related matters." That statement does not satisfy the provisions of 2 USC §432(h) and 11 CFR 102.11. Disbursements must be by check unless made from a petty cash fund. Further, any disbursement from petty cash should not exceed \$100 to any person per transaction and must be documented in a written journal. The response also implies that volunteer expenses extended out-of-state (\$671) and long after the election (\$4,171). PWFC made no suggestion as to the disposition of the closing debit or the unnumbered check. The prohibited nature of these cash disbursements remains unchanged.

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D. PERSONAL USE OF EXCESS CAMPAIGN FUNDS

Excess campaign funds are defined at 11 CFR §113.1(e) as amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures. Excess campaign funds may not be converted to any personal use by any person (11 CFR §113.2(d)). According to 11 CFR §113.1(g) personal use is defined as any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign. Examples of personal use (11 CFR §113.1(g)) include but are not limited to household food items or supplies, funeral expenses, clothing, tuition payments, mortgage, rent or utility payments, admission to entertainment events; dues, fees or gratuities to a nonpolitical organization, salary payments to a member of the candidate's family (with exceptions); and legal, meal, travel and vehicle expenses not associated with the campaign.

Permissible uses of excess campaign funds (11 CFR §113.2(2)(b-d)) relevant to a non officeholder include donations to certain charities, transfers to a national, State, or local committee of any political party, or to repay to a candidate any loan the proceeds of which were used in connection with his or her campaign.

At close of business on November 7, 2000, Election Day, the PWFC had cash on hand of \$5,052. Between that date and January 26, 2001 (the last bank statement obtained by the Audit staff) PWFC received \$1,008 in additional deposits, paid the Treasurer \$250, and made expenditures identified on the bank statements as *Other withdrawals* totaling \$5,801. The cash balance on January 26, 2001 was \$9. The Other withdrawals are grouped by categories (restaurants, service stations, communications, cash withdrawals, and miscellaneous) on Attachment 1.

The disbursements listed on Attachment 1 are the types of expenses that would exist irrespective of the campaign and appear to represent funds converted to personal use. These disbursements do not appear to fall into any of the categories allowable under 11 CFR §113.2(2)(b-d). They do not represent donations to charities, or transfers to national, State or local party committees. Also they do not appear to represent repayment of a loan from the candidate. Although PWFC had reported a loan receipt from the candidate on the July Quarterly report, no loan receipt could be traced to bank records, and the loan was not reported on either the Pre-General or Post General¹³ reports. The Summary Page of both these reports also indicated that no outstanding obligations existed. Finally, these expenditures include no salary or office expense payments. The Audit staff is of the opinion that both the timing and nature of these disbursements indicate that they were for personal use. The personal nature is also supported by the out-of-state location of some of the disbursements.

In the Interim Audit Report the Audit staff recommended that PWFC provide evidence to establish the relationship to the campaign of the \$5,801 in post

¹³ Post General report (covering October 19-November 27) was the last report filed by PWFC. This report was not signed.

election disbursements listed on Attachment 1. The evidence provided was to include an accounting of the cash withdrawn from the PWFC account during that period.

PWFC made no reference to, nor comment on, this Finding.

E. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2), and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and the total amount of all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of PWFC's reported financial activity¹⁴ to its bank activity for the period of January 1, 1999 through December 31, 2000 revealed misstatements of its reported receipts, disbursements and ending cash-on-hand. As noted above, PWFC maintained very limited records of its receipts and disbursements. The Commission obtained bank statements directly from the banks identified by PWFC in response to subpoenas. Absent more detailed records, the Audit staff could not identify all differences between bank and reported activity.

According to the bank statements and identified in-kind transactions, PWFC received \$129,492 in receipts.¹⁵ The PWFC reported receipts of \$136,394. Identified differences include:

- \$ (4,035) of receipts reported in 1999 not traceable to bank
- \$ (20,000) loan receipt reported in 2000 not traceable to bank
- \$ 400 of receipts during the Year End 2000 reporting period not reported
- \$ 1,710 in-kind receipt for office space not reported
- \$ 15,023 unidentified difference

PWFC bank records and identified in-kind transactions total \$129,462 of disbursements.¹⁶ PWFC, however, reported disbursements of \$139,098. Major identified differences include:

- \$ (23,749) of disbursements reported in 1999 and 2000 not traceable to the bank statements.
- \$ 1,287 closing debit for Compass Bank not reported in 2000,
- \$ 3,227 of in-kind expenditures not reported in 2000
- \$ 1,000 unnumbered check that cleared Wells Fargo bank on April 24 not reported in 2000.
- \$ 1,527 Year End 2000 disbursements not reported
- \$ 7,072 unidentified difference

¹⁴ See footnote 13

¹⁵ \$20,305 in 1999 and \$109,187 in 2000.

¹⁶ \$14,106 in 1999 and \$115,356 in 2000.

The ending cash on hand at December 31, 2000 was \$30 according to the bank records available. PWFC reported the ending cash on hand balance on November 27, 2000 as (\$2,703). This report was the last report filed by PWFC. As of November 27, 2000 the cash on hand should have been \$1,157, a difference of \$3,860.

If the disclosed receipts and disbursements that could not be traced to the banks acknowledged by PWFC are added to the acknowledged bank activity for 1999 and 2000, then the correct reportable receipts are \$153,527 (\$129,492 + \$4,035 + \$20,000) and the correct reportable disbursements are \$153,211 (\$129,462 + \$23,749), and the ending cash-on-hand at December 31, 2000 was \$316.

In the Interim Audit Report the Audit staff recommended that PWFC file comprehensive amended Summary and Detailed Summary pages for calendar years 1999 and 2000 as well as appropriate Schedules A and B, by reporting period, correcting the misstatements noted above. As a supplement to the amendments the Audit staff also recommended that PWFC provide full explanations and supporting documentation for all transactions noted above that: (1) were reported but not reflected on bank statements provided to date; and (2) appear on the bank statements but not reported.

Although PWFC made no direct reference to, or comment on, this Finding, PWFC stated within its general narrative that it "...would like some directions from the FEC regarding how to handle [the filing of amended schedules] since records have been discarded." Notwithstanding the grass-roots nature of the campaign, the limited resources, and the dispersal of volunteers and others associated with the campaign following the election, the disposal of the records has been cited by PWFC as the ultimate hardship prohibiting them from complying with the FEC recommendations. PWFC further asserted that PWFC no longer has a bank account and has no funds to pay for an accountant to prepare these amendments.

The only guidance sought by PWFC from the Audit Division was on September 23, 2002 (the original due date of the response) and that was to request a 15-day extension to respond.

PWFC did not file amended schedules; nor did it explain why some reported activity was not reflected on the bank statements and why some bank activity was not reported.

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Attachment 1

Paul Williams for Congress

Summary of Disbursements made after November 7, 2000

Payee Categories					Date, Place, Amount		
Restaurants	Service stations	Communications	Misc	Cash W/D	Date	Place Name	Amount
			Wire Fee	300 00	11/09/00	Seabrook, TX	300 00
					11/10/00	Bellaire, TX	10 00
				302 00	11/10/00	Lake Charles, LA	302 00
				1 50	11/10/00	Lake Charles, LA	1 50
				300 00	11/13/00	Seabrook, TX	300 00
				300 00	11/13/00	League City, TX	300 00
			Sam's Club		11/13/00	Texas City, TX	48 67
					11/13/00	Kemah, TX	38 09
					11/13/00	Kemah, TX	20 50
			Academy Sports		11/13/00	League City, TX	13 92
					11/13/00	Lake Charles, LA	11 80
				300 00	11/14/00	Seabrook, TX	300 00
					11/14/00	Kemah, TX	17 00
				300 00	11/15/00	League City, TX	300 00
					11/15/00	Missouri	175 00
					11/15/00	Kemah, TX	52 30
			Walgreen		11/15/00	Beaumont, TX	44 17
					11/17/00	Kemah, TX	21 15
					11/17/00	Kemah, TX	15 42
				300 00	11/20/00	Seabrook, TX	300 00
				300 00	11/20/00	League City, TX	300 00
					11/20/00	Cntr, TX	30 00
				300 00	11/21/00	Unknown	300 00
				300 00	11/22/00	Seabrook, TX	300 00
					11/22/00	Missouri	250 00
					11/22/00	Kemah, TX	53 00
				300 00	11/22/00	Houston, TX	10 66
					11/24/00	League City, TX	300 00
					11/24/00	Beaumont, TX	43 00
					11/27/00	Lake Charles, LA	21 68
					11/27/00	Kemah, TX	20 00
			USPS		11/27/00	Houston, TX	13 52
					11/29/00	Kemah, TX	30 00
				200 00	11/30/00	Seabrook, TX	200 00
					11/30/00	Kemah, TX	18 41
					12/01/00	Bayl, TX	43 50
			Walmart		12/04/00	Texas City, TX	56 71
					12/04/00	Kemah, TX	10 56
					12/05/00	Kemah, TX	19 00
					12/06/00	Kemah, TX	54 00
					12/11/00	Missouri	200 00
					12/11/00	TX	32 31
					12/11/00	Kemah, TX	17 25
					12/14/00	Beaumont, TX	30 19
					12/14/00	Kemah, TX	20 50
				200 00	12/15/00	Seabrook, TX	200 00
				103 00	12/15/00	Lake Charles, LA	103 00
				1 50	12/15/00	Lake Charles, LA	1 50
					12/15/00	Kemah, TX	15 01
					12/18/00	Kemah, TX	43 50
					12/18/00	Beaumont, TX	21 80
			Office Depot		12/19/00	Webster, TX	32 42
				203 00	12/22/00	Lake Charles, LA	203 00
				1 50	12/22/00	Lake Charles, LA	1 50
					12/22/00	TX	10 66
					12/26/00	Kemah, TX	43 40
					12/26/00	Beil, TX	8 00
				63 00	12/28/00	Lake Charles, LA	63 00
				1 50	12/28/00	Lake Charles, LA	1 50
					12/28/00	Kemah, TX	46 00
					01/02/01	Kemah, TX	17 25
					01/05/01	Kemah, TX	43 70

Total

\$5,801 05

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