Draft Final Audit Report of the Audit Division on Weber for Congress

(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)

Weber for Congress is the principal campaign committee for Randy Keith Weber, Sr., Republican candidate for the United States House of Representatives from the state of Texas, 14th Congressional District, and is headquartered in Friendswood, Texas. For more information, see the Campaign Organization chart, p.2.

Financial Activity (p. 2)

Receipts	
o Contributions from Individuals	$ 557,822
o Contributions from Political Committees	393,957
o Offsets to Operating Expenditures	2,586
o Other Receipts	414
Total Receipts	**$ 954,779**
Disbursements	
o Operating Expenditures	$ 671,382
o Transfers to Other Authorized Committees	221,620
o Contribution Refunds	1,253
Total Disbursements	**$ 894,255**

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)
- Failure to File 48-Hour Notices (Finding 3)

[1] 52 U.S.C. §30111(b).

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Part I
Background

Authority for Audit

This report is based on an audit of Weber for Congress (WFC), 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 from individuals;
4. the review of 48-hour notices;
5. the review of loans the candidate made to the committee;
6. the disclosure of individual contributors' occupation and name of employer;
7. the evaluation of a daily cash analysis;
8. the review of disbursements for personal use of funds;
9. the review of political party contribution discrepancies;
10. the consistency between reported figures and bank records;
11. the completeness of records; and
12. other committee operations necessary to the review.

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Part II
Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	September 14, 2011
• Audit Coverage	January 1, 2019 - December 31, 2020
Headquarters	Friendswood, Texas
Bank Information	
• Bank Depositories	One
• Bank Accounts	One checking
Treasurer	
• Treasurer When Audit Was Conducted	Robert D. Nolen
• Treasurer During Period Covered by Audit	Robert D. Nolen
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid and Volunteer Staff

Overview of Financial Activity
(Audited Amounts)

Cash on hand @ January 1, 2019	**$ 519,533**
Receipts	
o Contributions from Individuals	557,822
o Contributions from Political Committees	393,957
o Offsets to Operating Expenditures	2,586
o Other Receipts	414
Total Receipts	**$ 954,779**
Disbursements	
o Operating Expenditures	671,382
o Transfers to Other Authorized Committees	221,620
o Contribution Refunds	1,253
Total Disbursements	**$ 894,255**
Cash on hand @ December 31, 2020	**$ 580,057**

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Part III
Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of WFC's reported financial activity with its bank records revealed a misstatement of beginning cash on hand and ending cash on hand for calendar year 2019, as well as a misstatement of beginning cash on hand, disbursements, and ending cash on hand for calendar year 2020. Specifically, for 2019, WFC understated beginning cash on hand by $60,778, and understated ending cash on hand by $74,836. For 2020, WFC understated beginning cash on hand by $74,836, overstated disbursements by $27,632 and understated ending cash on hand by $108,650. In response to the Interim Audit Report recommendation, WFC corrected the public record for the misstated beginning cash on hand, ending cash on hand, and disbursements by filing Forms 99 (Miscellaneous Electronic Submission). Additionally, WFC corrected the public record by amending its cash balance on its most recently filed report (April Quarterly 2022 report filed on May 13, 2022).
(For more detail, see p. 4.)

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 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 reattribution 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.
(For more detail, see p. 6.)

Finding 3. Failure to File 48-Hour Notice

During audit fieldwork, the Audit staff identified that WFC failed to file or untimely filed 48-hour notices for 34 contributions totaling $71,300, that were received prior to the primary and general elections. In response to the Interim Audit Report recommendation, WFC reiterated it generally did not dispute that it "inadvertently did not file 48-hour notices for certain contributions." WFC also filed Forms 99 (Miscellaneous Electronic Submission) to correct the date of receipt for one of the contributions, correcting the public record.
(For more detail, see p. 10.)

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Part IV
Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of WFC's reported financial activity with its bank records revealed a misstatement of beginning cash on hand and ending cash on hand for calendar year 2019, as well as a misstatement of beginning cash on hand, disbursements, and ending cash on hand for calendar year 2020. Specifically, for 2019, WFC understated beginning cash on hand by $60,778, and understated ending cash on hand by $74,836. For 2020, WFC understated beginning cash on hand by $74,836, overstated disbursements by $27,632 and understated ending cash on hand by $108,650. In response to the Interim Audit Report recommendation, WFC corrected the public record for the misstated beginning cash on hand, ending cash on hand, and disbursements by filing Forms 99 (Miscellaneous Electronic Submission). Additionally, WFC corrected the public record by amending its cash balance on its most recently filed report (April Quarterly 2022 report filed on May 13, 2022).

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).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled WFC's reported financial activity with its bank records for calendars years 2019 and 2020. The reconciliation determined that WFC's 2019 beginning cash on hand was understated by $60,778 and the ending cash on hand was understated by $74,836. The cash on hand discrepancies resulted primarily from prior period adjustments, as well as non-material misstatements of both receipts and disbursements during calendar year 2019. The following chart details the 2020 discrepancies between WFC's disclosure reports and its bank activity.

2020 Campaign Activity			
	Reported	**Bank Records**	**Discrepancy**
Beginning Cash on hand @ January 1, 2020	$594,325	$669,162	$74,836 Understated
Receipts	$531,226	$538,515	$7,289

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2020 Campaign Activity			
	Reported	**Bank Records**	**Discrepancy**
			Understated
Disbursements	$655,252	$627,620	$27,632 Overstated
Ending Cash on hand @ December 31, 2020	$471,407[2]	$580,057	$108,650 Understated

The 2020 understatement of receipts resulted from the following:

• Contributions from individuals not reported	$3,859
• Contributions from political committees not reported	3,300
• Contributions from individuals reported not supported by bank deposit	(2,030)
• Offsets to operating disbursements reported not supported by bank deposit	(600)
• Offsets to operating disbursements not reported	1,824
• Interest income not reported	88
• Refunds to individuals reported as negative receipts	1,500
• Unexplained differences	(652)
Net Understatement of Receipts	**$7,289**

The 2020 overstatement of disbursements resulted from the following:

• Credit card processing fees not reported	$442
• In-kind contributions not reported as disbursements	57
• Contributions to political committees not reported	2,000
• Disbursements not reported	330
• Credit card processing fees reported that did not clear the bank	(10)
• Disbursements reported that did not clear the bank	(28,392)
• 2019 Disbursements reported in 2020	(2,065)
• Unexplained differences	6
Net Overstatement of Disbursements	**($27,632)**

The $108,650 understatement of the ending cash on hand was a result of the reporting discrepancies described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with WFC representatives and provided schedules detailing the misstatements of financial activity. WFC inquired as to when the Commission prefers the amendments be filed. The Audit staff advised WFC representatives that the amendments could be filed at any time.

In response to the exit conference, WFC stated it did not dispute the cash on hand and disbursement amounts were "inadvertently misreported" and that it will file a Form 99 to

[2] The reported 2020 ending cash on hand does not equal reported beginning cash on hand plus reported receipts minus reported disbursements. This was due to a mathematical discrepancy in which the reported ending cash on hand for the 2020 April Quarterly Report did not equal the reported beginning cash on hand for 2020 July Quarterly Report.

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address the misstatements.[3] The Audit staff noted that to date WFC had not filed a Form 99.

The Interim Audit Report recommended that WFC amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)[4] to correct the misstatements noted above and to reconcile the cash 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, WFC corrected the public record for the misstated beginning cash on hand, ending cash on hand, and disbursements by filing Forms 99.[5] Additionally, WFC corrected the public record by amending its cash balance on its most recently filed report (April Quarterly 2022 report filed on May 13, 2022).

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 reattribution 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.

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;

[3] WFC also provided clarification for two receipts, which the Audit staff confirmed, though WFC's receipts were not materially misstated.
[4] WFC 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.
[5] WFC filed two Forms 99 on April 18, 2022.

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- 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).

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

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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**

[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.

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Excessive Contributions - Testing Method	

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.

In response to the exit conference, WFC stated it did not dispute that it "inadvertently did not issue presumptive redesignation and reattribution 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 – ***Untimely***	$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.

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Finding 3. Failure to File 48-Hour Notices

During audit fieldwork, the Audit staff identified that WFC failed to file or untimely filed 48-hour notices for 34 contributions totaling $71,300, that were received prior to the primary and general elections. In response to the Interim Audit Report recommendation, WFC reiterated it generally did not dispute that it "inadvertently did not file 48-hour notices for certain contributions." WFC also filed Forms 99 (Miscellaneous Electronic Submission) to correct the date of receipt for one of the contributions, correcting the public record.

Legal Standard

Last-Minute Contributions (48-Hour Notice). Campaign committees must file special notices regarding contributions of $1,000 or more received less than 20 days but not more than 48-hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate, including:

- Contributions from the candidate;
- Loans from the candidate and other non-bank sources; and
- Endorsements or guarantees of loans from the banks. 11 CFR §104.5(f).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified 63 contributions which totaled $138,800 that equaled or exceeded $1,000 and that required a 48-hour notice. A review of these contributions indicated that WFC did not file 48-hour notices for 18 contributions totaling $37,700 (including one $2,000 contribution disclosed as $1,000) and untimely filed 48-hour notices for 16 contributions totaling $33,600. These contributions are summarized below.

	Primary	General	Total
48-Hour Notices – ***Not Filed***	$6,000	$31,700	$37,700
48-Hour Notices – ***Filed Untimely***	$12,100	$21,500	$33,600
TOTAL	**$18,100**	**$53,200**	**$71,300**

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with WFC representatives and provided a schedule of the contributions for which 48-hour notices were not filed or filed untimely. WFC representatives did not provide any comments.

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In response to the exit conference, WFC stated it did not dispute that it "inadvertently did not file 48-hour notices for certain contributions" and that one contribution totaling $2,800 was timely filed, however, it was filed with an incorrect contribution receipt date on its quarterly report and 48-hour notice. After consultation with the Reports Analysis Division, the Audit staff accepted WFC's explanation and did not include this contribution totaling $2,800 in the violation amount of the finding. WFC stated it would file a Form 99 to correct the remaining reporting errors. The Audit staff noted that to date WFC had not filed a Form 99.

The Interim Audit Report recommended that WFC submit documentation demonstrating that the 48-hour notices for the contributions in question were timely filed; the contributions were received outside of the 48-hour notice reporting period; or provide any additional comments it deemed necessary with respect to this matter. WFC should have also amended its Schedule A (Itemized Receipts) or filed a Form 99 (Miscellaneous Electronic Submission)[7] to correct the misreported date for one contribution totaling $2,800.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, WFC reiterated it generally did not dispute that it "inadvertently did not file 48-hour notices for certain contributions." The Audit staff acknowledged the statement. WFC also filed Forms 99[8] to correct the date of receipt for one contribution totaling $2,800, correcting the public record.

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[7] *See supra footnote 4.*
[8] *See supra footnote 5.*