



Final Audit Report of the Commission on Sheila Jackson Lee 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 Act¹. 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)

Sheila Jackson Lee for Congress is the principal campaign committee for Sheila Jackson Lee, Democratic candidate for the United States House of Representatives from the state of Texas, 18th Congressional District, and is headquartered in Houston, Texas. For more information, see the Campaign Organization chart, p.2.

Financial Activity (p. 2)

| | |
|---|---------------------|
| • Receipts | |
| ○ Contributions from Individuals | \$ 802,719 |
| ○ Contributions from Other Political Committees | 246,731 |
| ○ Offsets to Operating Expenditures | 16,723 |
| ○ Other Receipts | 2,042 |
| Total Receipts | \$ 1,068,215 |
| • Disbursements | |
| ○ Operating Expenditures | \$ 849,202 |
| ○ Refunds of Contributions to Individuals | 1,600 |
| ○ Other Disbursements | 23,909 |
| Total Disbursements | \$ 874,711 |

Commission Findings (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)
- Receipt of Apparent Prohibited Contributions (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 Sheila Jackson Lee for Congress (SJLC), 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 disclosure of unauthorized disbursements;
6. the consistency between reported figures and bank records;
7. the completeness of records; and
8. other committee operations necessary to the review.

Audit Hearing

SJLC 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 | January 12, 1994 |
| • Audit Coverage | January 1, 2019 - December 31, 2020 |
| Headquarters | Houston, Texas |
| Bank Information | |
| • Bank Depositories | One |
| • Bank Accounts | Two Checking |
| Treasurer | |
| • Treasurer When Audit Was Conducted | Karen Y. Grays |
| • Treasurer During Period Covered by Audit | Karen Y. Grays |
| Management Information | |
| • Attended FEC Campaign Finance Seminar | No |
| • Who Handled Accounting and Recordkeeping Tasks | Paid and Volunteer Staff |

Overview of Financial Activity (Audited Amounts)

| | |
|---|---------------------|
| Cash on hand @ January 1, 2019 | \$ 66,502 |
| Receipts | |
| ○ Contributions from Individuals | 802,719 |
| ○ Contributions from Other Political Committees | 246,731 |
| ○ Offsets to Operating Expenditures | 16,723 |
| ○ Other Receipts | 2,042 |
| Total Receipts | \$ 1,068,215 |
| Disbursements | |
| ○ Operating Expenditures | 849,202 |
| ○ Refunds of Contributions to Individuals | 1,600 |
| ○ Other Disbursements | 23,909 |
| Total Disbursements | \$ 874,711 |
| Cash on hand @ December 31, 2020 | \$ 260,006 |

Part III

Summaries

Commission Findings

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of SJLC's reported financial activity with its bank records revealed a misstatement of beginning cash on hand, receipts, and disbursements for calendar year 2019, as well as a misstatement of receipts, disbursements, and ending cash on hand for calendar year 2020. Specifically, for 2019, SJLC overstated beginning cash on hand by \$16,835, and understated receipts and disbursements by \$23,055, and \$16,881, respectively. For 2020, SJLC understated receipts, disbursements and ending cash on hand by \$120,605, \$19,341, and \$92,186, respectively. In response to the Interim Audit Report recommendation, SJLC corrected the public record for the respective misstated beginning cash on hand, receipts, disbursements, and ending cash on hand by filing amended disclosure reports. Additionally, SJLC corrected the public record by amending its cash on hand balance on its 2022 July Quarterly Report. In response to the Draft Final Audit Report, SJLC did not provide any additional comments.

The Commission approved a finding that SJLC overstated its reported beginning cash on hand by \$16,835, and understated receipts and disbursements by \$23,055, and \$16,881, respectively, in calendar year 2019; and understated receipts, disbursements and ending cash on hand by \$120,605, \$19,341, and \$92,186, 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 SJLC received apparent excessive contributions totaling \$129,600. These errors occurred as a result of SJLC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, 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, SJLC provided copies of presumptive redesignation and reattribution letters, resolving excessive contributions totaling \$87,600, albeit untimely. A list of contributors to whom excessive contributions were refunded was also provided in response to the Interim Audit Report. In response to the Draft Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements and bank transaction activity to support that \$42,000 in refund checks issued were negotiated, correcting its remaining excessive contributions, albeit untimely.

The Commission approved a finding that SJLC received excessive contributions from individuals totaling \$129,600. (For more detail, see p. 8.)

Finding 3. Receipt of Apparent Prohibited Contributions

During audit fieldwork, a review of contributions revealed that SJLC received 12 contributions, totaling \$16,050, from apparent prohibited sources. In response to the Interim Audit Report recommendation, SJLC stated that it contacted the LLC's regarding their taxation status and issued refunds totaling \$10,450. In response to the Draft Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements to support that \$6,950 of the \$10,450 in refund checks issued for prohibited contributions were negotiated. As such, SJLC materially resolved, albeit untimely, the prohibited contributions.

The Commission approved a finding that SJLC received prohibited contributions totaling \$10,450. (For more detail, see p. 13.)

Part IV

Commission Findings

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of SJLC's reported financial activity with its bank records revealed a misstatement of beginning cash on hand, receipts, and disbursements for calendar year 2019, as well as a misstatement of receipts, disbursements, and ending cash on hand for calendar year 2020. Specifically, for 2019, SJLC overstated beginning cash on hand by \$16,835, and understated receipts and disbursements by \$23,055, and \$16,881, respectively. For 2020, SJLC understated receipts, disbursements and ending cash on hand by \$120,605, \$19,341, and \$92,186, respectively.² In response to the Interim Audit Report recommendation, SJLC corrected the public record for the respective misstated beginning cash on hand, receipts, disbursements, and ending cash on hand by filing amended disclosure reports. Additionally, SJLC corrected the public record by amending its cash on hand balance on its 2022 July Quarterly Report. In response to the Draft Final Audit Report, SJLC did not provide any additional comments.

The Commission approved a finding that SJLC overstated its reported beginning cash on hand by \$16,835, and understated receipts and disbursements by \$23,055, and \$16,881, respectively, in calendar year 2019; and understated receipts, disbursements and ending cash on hand by \$120,605, \$19,341, and \$92,186, 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).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled SJLC's reported financial activity with its bank records for calendars years 2019 and 2020. The reconciliation determined that SJLC misstated beginning cash on hand, receipts, and disbursements for 2019. SJLC misstated receipts, disbursements, and ending cash on hand for 2020. The succeeding paragraphs explain why the discrepancies occurred.

² In response to the Interim Audit Report, the SJLC representative noted that the in-kind contributions were incorrectly overstated by \$75, as such, the Audit staff adjusted the bank and reported receipts and disbursements.

| 2019 Campaign Activity | | | |
|--|------------------------|---------------------|-------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash on hand @ January 1, 2019 | \$83,337 | \$66,502 | \$16,835 Overstated |
| Receipts | \$399,208 | \$422,263 | \$23,055 Understated |
| Disbursements | \$122,317 | \$139,198 | \$16,881 Understated |
| Ending Cash on hand @ December 31, 2019 | \$358,644 ³ | \$349,567 | \$9,077 Overstated |

The beginning cash on hand was overstated by \$16,835 and the discrepancy resulted from prior period discrepancies.

The 2019 understatement of receipts resulted from the following:

| | |
|---|------------------------|
| • Contributions from individuals not reported | \$29,272 |
| • Contributions from political committees not reported | 4,500 |
| • Offsets to operating disbursements not reported | 4,441 |
| • Contributions reported not supported by bank deposits | (12,992) |
| • Unexplained differences | <u>(2,166)</u> |
| Net Understatement of Receipts | <u>\$23,055</u> |

The 2019 understatement of disbursements resulted from the following:

| | |
|---|------------------------|
| • Disbursements not reported | \$28,180 |
| • Credit card fees not reported | 630 |
| • Bank fees not reported | 210 |
| • 2018 disbursements reported in 2019 | (4,824) |
| • Contribution refund not reported | 500 |
| • Disbursements reported twice | (166) |
| • Disbursements reported but did not clear the bank | (6,784) |
| • Unexplained differences | <u>(865)</u> |
| Net Understatement of Disbursements | <u>\$16,881</u> |

The \$9,077 overstatement of the ending cash on hand was a result of the reporting discrepancies described above.

³ The reported 2019 ending cash on hand does not equal beginning cash on hand plus reported receipts minus reported disbursements. This was due to a mathematical discrepancy on the 2019 July Quarterly Report and on the 2019 October Quarterly Report in which the ending cash on hand was overstated by \$1,584.

| 2020 Campaign Activity | | | |
|--|-----------------|---------------------|--------------------------|
| | Reported | Bank Records | Discrepancy |
| Beginning Cash on hand @ January 1, 2020 | \$358,644 | \$349,567 | \$9,077 Overstated |
| Receipts | \$525,272 | \$645,877 | \$120,605 Understated |
| Disbursements | \$716,096 | \$735,437 | \$19,341 Understated |
| Ending Cash on hand @ December 31, 2020 | \$167,820 | \$260,006 | \$92,186 Understated |

The 2020 understatement of receipts resulted from the following:

| | |
|---|-------------------------|
| • Contributions from individuals not reported | \$129,715 |
| • Contributions from political committees not reported | 6,050 |
| • Contributions reported not supported by bank deposits | (27,664) |
| • Offsets to operating disbursements not reported | 12,281 |
| • Receipts under-reported | 570 |
| • In-kind contributions over reported as receipts | (75) |
| • Unexplained differences | <u>(272)</u> |
| Net Understatement of Receipts | <u>\$120,605</u> |

The 2020 understatement of disbursements resulted from the following:

| | |
|---|-------------------------|
| • Disbursements not reported | \$92,287 |
| • Disbursements under-reported | 44,086 |
| • Credit card fees not reported | 869 |
| • Bank fees not reported | 401 |
| • Contribution refund not reported | 1,100 |
| • Disbursements reported twice | (20,755) |
| • Disbursements reported but did not clear the bank | (97,724) |
| • In-kind contributions not reported as disbursements | 1981 |
| • Unexplained differences | <u>(2,904)</u> |
| Net Understatement of Disbursements | <u>\$ 19,341</u> |

The \$92,186 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 the SJLC representatives and provided schedules detailing the misstatements of financial activity. During the exit conference, SJLC representatives stated that they understood what needed to be done.

SJLC representatives did not provide a formal exit conference response to this finding.

The Interim Audit Report recommended that SJLC amend its disclosure reports or file a Form 99⁴ (Miscellaneous Electronic Submission) to correct the misstatements noted above and reconcile the cash on hand balance on its most recently filed disclosure report and correct any subsequent discrepancies.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SJLC corrected the public record for the respective misstated beginning cash on hand, ending cash on hand, receipts, and disbursements for 2019 and 2020 by filing amended disclosure reports. Additionally, SJLC corrected the public record by amending its cash on hand balance on its 2022 July Quarterly Report.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that SJLC corrected the public record when it filed the amended disclosure reports and amended its cash on hand balance on its 2022 July Quarterly Report.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, SJLC did not provide any additional comments.

Commission Conclusion

On January 18, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that SJLC overstated its reported beginning cash on hand by \$16,835, and understated receipts and disbursements by \$23,055, and \$16,881, respectively, in calendar year 2019; and understated receipts, disbursements and ending cash on hand by \$120,605, \$19,341, and \$92,186, respectively, in calendar year 2020.

The Commission approved the Audit staff's recommendation.

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 SJLC received apparent excessive contributions totaling \$129,600. These errors occurred as a result of SJLC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, 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, SJLC provided copies of presumptive redesignation and reattribution letters, resolving excessive contributions totaling \$87,600, albeit untimely. A list of contributors to whom excessive contributions were refunded was also provided in response to the Interim Audit Report. In response to the Draft

⁴ SJLC 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.

Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements and bank transaction activity to support that \$42,000 in refund checks issued were negotiated, correcting its remaining excessive contributions, albeit untimely.

The Commission approved a finding that SJLC received excessive contributions from individuals totaling \$129,600.

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).

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

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

| Excessive Contributions – 100% Review | |
|--|-----------------------|
| Excessive Contribution Amount | \$129,600 |
| Total Amount of Excessive Contributions | \$129,600 |
| Reason for Excessive Contributions | |
| Contributions not resolved via presumptive letter or refund | \$87,600 ⁵ |
| Contributions not resolved via signed reattribution letter or refund | \$42,000 |
| Total Amount of Excessive Contributions | \$129,600 |

2. Additional Information

SJLC did not maintain a separate account for questionable contributions. However, based on its cash on hand balance at the end of the audit period, it appears SJLC did maintain a sufficient balance to make refunds of the apparent excessive contributions.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the SJLC representatives during the exit conference and provided schedules of the apparent excessive contributions. The SJLC representatives asked questions regarding the presumptive reattribution and redesignation letters that could be sent. The Audit staff explained that presumptive letters sent in response to the exit conference, could resolve \$87,600 of the apparent excessive contributions, albeit untimely.

The SJLC representatives did not provide a formal exit conference response.

The Interim Audit Report recommended that, SJLC:

- 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; timely

⁵ This total includes two contributions, totaling \$5,500, considered ineligible for presumptive resolution in the Interim Audit Report. Following consultation with SJLC, the Audit staff determined the two contributions to be eligible for presumptive resolution.

- letters sent to contributors eligible for presumptive redesignation and/or reattribution; or timely refunds, redesignations, or reattributions for excessive contributions.
- Absent such demonstration, SJLC 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. SJLC should have provided evidence of such refunds. For a reattribution, both the contributor and the individual to whom a contribution was reattributed must be notified. Absent the contributor's request for a refund, these letters would have obviated the need to refund the contributions.
 - If funds were not available to make such refunds, SJLC should have disclosed the contributions requiring refunds on Schedule D (Debts and Obligations) until funds became available to make the refunds.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SJLC stated the apparent receipt of contributions in excess of the limits fell into two categories. The first category SJLC addressed was contributions requiring documentation be provided to the contributor, so that SJLC could presumptively redesignate or reattribute the excessive contributions to another election or a spouse. SJLC submitted 38 presumptive letters dated June 29, 2022, and one letter dated July 14, 2022. The second category SJLC addressed was contributions that exceeded the combined election limits and, as such, were required to be refunded to the contributor or disgorged to the U.S. Treasury. SJLC provided a list of the refund checks issued, totaling \$42,000, but did not provide copies of the negotiated checks.

| Corrective Action Taken by Committee – Excessive Contributions | |
|---|-----------|
| Apparent Excessive Contributions as of the Interim Audit Report | \$129,600 |
| Dollar Amount of Presumptive Letters Sent – <i>Untimely</i> | \$87,600 |
| Contribution Refunds – Issued | \$42,000 |
| Excessive Contributions – <i>Not Resolved</i> | \$42,000 |

The Audit staff concluded that SJLC resolved excessive contributions, totaling \$87,600, albeit untimely. Absent copies of cancelled checks to the contributors or an acceptable alternative, or evidence that any refunds not cashed by the contributors have been disgorged to the U.S. Treasury, the remaining \$42,000 in excessive contributions were unresolved.

D. Draft Final Audit Report

The Draft Final Audit Report acknowledged that SJLC resolved, albeit untimely, excessive contributions totaling \$87,600. However, the remaining \$42,000 in excessive contributions were unresolved.

E. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements and bank transaction activity to support that \$42,000 in refund checks issued were negotiated, correcting its remaining excessive contributions, albeit untimely.

Commission Conclusion

On January 18, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that SJLC received excessive contributions from individuals totaling \$129,600.

The Commission approved the Audit staff's recommendation.

Finding 3. Receipt of Apparent Prohibited Contributions

Summary

During audit fieldwork, a review of contributions revealed that SJLC received 12 contributions, totaling \$16,050, from apparent prohibited sources. In response to the Interim Audit Report recommendation, SJLC stated that it contacted the LLC's regarding their taxation status and issued refunds totaling \$10,450. In response to the Draft Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements to support that \$6,950 of the \$10,450 in refund checks issued for prohibited contributions were negotiated. As such, SJLC materially resolved, albeit untimely, the prohibited contributions.

The Commission approved a finding that SJLC received prohibited contributions totaling \$10,450.

Legal Standard

A. Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans):

1. In the name of another; or
2. From the treasury funds of the following prohibited sources:
 - Corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
 - Labor Organizations; or
 - National Banks;
3. Federal Government Contractors (including partnerships, individuals, and sole proprietors who have contracts with the federal government); and
4. Foreign Nationals (including individuals who are not U.S. citizens and not lawfully admitted for permanent residence; foreign governments and foreign political parties; and groups organized under the laws of a foreign country or groups whose principal

place of business is in a foreign country, as defined in 22 U.S.C. §611(b)). 52 U.S.C. §§30118, 30119, 30121, and 30122.

- B. Receipt of Prohibited Corporate Contributions.** Political campaigns may not accept contributions made from the general treasury funds of corporations. This prohibition applies to any type of corporation including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 52 U.S.C. §30118.
- C. Definition of Limited Liability Company.** A limited liability company (LLC) is a business entity recognized as an LLC under the laws of the state in which it was established. 11 CFR §110.1(g)(1).
- D. Application of Limits and Prohibitions to LLC Contributions.** A contribution from an LLC is subject to contribution limits and prohibitions, depending on several factors, as explained below:
- LLC as Partnership. The contribution is considered a contribution from a partnership if the LLC chooses to be treated as a partnership under Internal Revenue Service (IRS) tax rules, or if it makes no choice at all about its tax status. A partnership contribution may not exceed \$2,800 per candidate, per election, and it must be attributed to each lawful partner. 11 CFR §110.1(a), (b), (e) and (g)(2). (See explanation of Partnership Contributions below.)
 - LLC as Corporation. The contribution is considered a corporate contribution—and is barred under the Act—if the LLC chooses to be treated as a corporation under IRS rules, or if its shares are traded publicly. 11 CFR §110.1(g)(3).
 - LLC with Single Member. The contribution is considered a contribution from a single individual if the LLC is a single-member LLC that has not chosen to be treated as a corporation under IRS rules. 11 CFR §110.1(g)(4).
- E. Limited Liability Company’s Responsibility to Notify Recipient Committee.** At the time it makes a contribution, an LLC must notify the recipient committee:
- That it is eligible to make the contribution; and
 - In the case of an LLC that considers itself a partnership (for tax purposes), how the contribution should be attributed among the LLC’s members. 11 CFR §110.1(g)(5).
- F. Questionable Contributions.** If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:
1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
 2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).

3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff identified contributions that appeared to be from prohibited sources. The following chart details the source of those receipts.

| Apparent Prohibited Contributions | |
|--|-----------------|
| Type of Review | 100% |
| Contributions from Limited Liability Companies | \$10,100 |
| Contributions from Corporations | \$5,950 |
| Total of Prohibited Contributions | \$16,050 |

B. Additional Information

For contributions from corporations, the Audit staff verified the corporate status of the entities, as of the date of the contributions, with the applicable Secretary of State offices. For contributions from Limited Liability Companies (LLCs), SJLC did not provide tax status information for contributions totaling \$10,100.

SJLC did not maintain a separate account for questionable contributions. However, SJLC did maintain a sufficient cash on hand balance to make refunds of the apparent prohibited contributions.

C. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with SJLC representatives during the exit conference and provided a schedule of the apparent prohibited contributions identified above. In response to the exit conference, SJLC submitted documentation demonstrating that five contributions in question, totaling \$1,700, were not prohibited, thus these contributions are not a part of this finding. Further, SJLC acknowledged that six contributions totaling \$5,950 would need to be refunded. SJLC sent letters to the remaining contributors and awaited a response.

The Interim Audit Report recommended that SJLC:

- Provide evidence that the contributions in question were made from permissible funds or were timely resolved; or
- Refund the impermissible funds and provide evidence of such refunds; or
- Disgorge any impermissible funds, for which SJLC was unable to process a refund for any reason, to the U.S. Treasury and provide evidence of such disgorgement; or
- If funds were not available to make the necessary refunds or disgorgement, disclose the contributions requiring refunds on Schedule D (Debts and Obligations) until funds became available to make such refunds.

D. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, SJLC stated that, it contacted five LLC's and received two responses. One LLC confirmed that its two \$2,800 contributions, totaling \$5,600, were made from permissible funds. The other LLC confirmed that it elected to file as a corporation for tax purposes or is publicly traded and requested a refund of its \$500 contribution, which SJLC stated has been issued. The three remaining LLC's did not respond to SJLC's inquiry and, as a result, SJLC refunded the contributions, totaling \$4,000.⁶ In addition, SJLC issued six contribution refunds totaling \$5,950 that were received from corporations and provided a list of the checks.

| Corrective Action Taken in Response to the Interim Audit Report | |
|---|-----------------------------|
| Total Apparent Prohibited Contributions as of Interim Audit Report | \$16,050 |
| | |
| Contributions from a Limited Liability Company – Permissibility Confirmed | \$5,600 |
| Contribution from a Limited Liability Company – Impermissibility Confirmed, Refund Requested and Issued | \$500 |
| Contributions Refunded to Three Limited Liability Companies | \$4,000 |
| Contributions Refunded to Six Corporations | \$5,950 |
| | |
| Prohibited Contributions – <i>Not Resolved</i> | \$10,450⁷ |

The Audit staff concluded that SJLC resolved apparent prohibited contributions, totaling \$5,600, based upon permissibility confirmed via letter. Absent copies of cancelled checks to the contributors or an acceptable alternative, or evidence that any refunds not cashed by the contributors have been disgorged to the U.S. Treasury, the remaining \$10,450 in apparent prohibited contributions were unresolved.

⁶ SJLC provided copies of the front of the four refund checks to LLC's totaling \$4,500 (\$500 + \$4,000).

⁷ \$10,450 = \$500 + \$4,000 + \$5,950

E. Draft Final Audit Report

The Draft Final Audit Report acknowledged that SJLC resolved apparent prohibited contributions totaling \$5,600. However, the remaining \$10,450 in apparent prohibited contributions were unresolved.

F. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, SJLC provided an updated list of the refund checks issued, along with bank statements to support that \$6,950 of the \$10,450 in refund checks issued were negotiated. As such, SJLC materially resolved, albeit untimely, the prohibited contributions. Additionally, SJLC stated it made a concerted effort to encourage donors to deposit the checks and sent several replacement checks. As of SJLC's Draft Final Audit Report response, two refund checks, totaling \$3,500, remained outstanding.

Commission Conclusion

On January 18, 2023, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended that the Commission find that SJLC received prohibited contributions totaling \$10,450.

The Commission approved the Audit staff's recommendation.