



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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June 2, 2017

MEMORANDUM

To: The Commission

Through: Alec Palmer *AWH/fr*
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

Thomas E. Hintermister *PCO*
Assistant Staff Director
Audit Division

Douglas A. Kodish *DC/LK*
Audit Manager

By: Lezhi Irving
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the American Financial Services Association PAC (AFSAPAC) (A15-11)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to AFSAPAC on April 21, 2017 (see attached DFAR). In response to the DFAR, the committee provided additional information concerning finding 2. AFSAPAC did not request an audit hearing.

This memo provides a brief overview of the findings in the attached DFAR and the Audit staff's recommendation for each finding outlined in the DFAR. The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

Finding 1. Misstatement of Financial Activity

A. Misstatement of Financial Activity- Most Recent Reports Filed Prior to the Audit

The Audit staff determined that for 2013, AFSAPAC understated its receipts by \$10,081, its disbursements by \$67,905, and its beginning and ending cash by \$113,536 and \$55,712, respectively. For 2014, AFSAPAC understated its

beginning and ending cash balance by \$55,712 and \$53,393. Multiple amendments were filed after the beginning of the audit for both 2013 and 2014, but the amendments were not filed in response to the audit and did not fully correct the misstated amounts.

The Audit staff recommends that the Commission find that AFSAPAC misstated its financial activity for calendar years 2013 and 2014.

B. Misstatement of Financial Activity – Original Reports Filed

The Audit staff determined that AFSAPAC, based on the filing of its original reports, understated receipts by \$310,683. AFSAPAC provided no additional comments in its responses to either the Interim or the Draft Final Audit Reports.

The Audit staff recommends that the Commission find that AFSAPAC misstated its financial activity in its original reports filed for calendar years 2013 and 2014.

Finding 2. Excessive Contributions Made to Federal Candidates

The Audit staff found what appeared to be excessive contributions made to federal candidate committees totaling \$18,000. However, subsequent to the exit conference, AFSAPAC clarified that \$17,000 of the apparent excessive contributions were not excessive. And in response to the DFAR, AFSAPAC provided a copy of a \$500 contribution refund check, which left an immaterial amount unresolved.

The Audit staff recommends that the Commission find that AFSAPAC did not make excessive contributions to federal candidates.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Lezhi Irving or Douglas Kodish at 694-1200.

Attachments:

- Draft Final Audit Report of the Audit Division on the American Financial Services Association PAC

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the American Financial Services Association PAC

(January 1, 2013 - December 31, 2014)

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 Committee (p. 2)

The American Financial Services Association PAC is a qualified, non-party political action committee headquartered in Washington, D.C. For more information, see the chart on the Committee Organization, p.2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 820,603
○ Contributions from Other Political Committees	10,000
○ Other Receipts	24,380
Total Receipts	\$ 854,983
• Disbursements	
○ Transfers to Affiliated/Other Party Committees	\$ 22,000
○ Contributions to Federal Candidates/Other Committees	735,850
○ Other Disbursements	25,304
Total Disbursements	\$ 783,154

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Excessive Contributions Made to Federal Candidates (Finding 2)

¹ 52 U.S.C. §30111(b).

**Draft Final Audit Report of the
Audit Division on the
American Financial Services
Association PAC**

(January 1, 2013 - December 31, 2014)



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Part I

Background

Authority for Audit

This report is based on an audit of the American Financial Services Association PAC (AFSAPAC), 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 must 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 disclosure of individual contributors' occupation and name of employer;
2. the disclosure of disbursements, debts and obligations;
3. contributions to candidate committees;
4. the consistency between reported figures and bank records;
5. other committee operations necessary to the review.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	March 17, 1976
• Audit Coverage	January 1, 2013 - December 31, 2014
Headquarters	Washington, D.C.
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Two
Treasurer	
• Treasurer When Audit Was Conducted	Bill Himpler
• Treasurer During Period Covered by Audit	Bill Himpler
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2013	\$ 246,207
Receipts	
○ Contributions from Individuals	820,603
○ Contributions from Other Political Committees	10,000
○ Other Receipts	24,380
Total Receipts	\$ 854,983
Disbursements	
○ Transfers to Affiliated/Other Party Committees	22,000
○ Contributions to Federal Candidates/Other Committees	735,850
○ Other Disbursements	25,304
Total Disbursements	\$ 783,154
Cash-on-hand @ December 31, 2014	\$ 318,036

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of AFSAPAC's reported financial activity with its bank records revealed a misstatement of receipts, disbursements, and the beginning and ending cash balances for 2013, and the beginning and ending cash balances for 2014. For 2013, AFSAPAC understated the beginning cash balance by \$113,536, understated receipts by \$10,081, understated disbursements by \$67,905, and understated the ending cash balance by \$55,712. For 2014, AFSAPAC understated the beginning cash balance by \$55,712, and the ending cash balance by \$53,393. Multiple amendments were filed after the beginning of the audit for both 2013 and 2014, but they did not fully correct the misstated amounts.

In response to the Interim Audit Report (IAR) recommendation, AFSAPAC stated that it filed amended reports on January 13, 2016, which significantly changed the misstated amounts. However, these amendments were not filed in direct response to the misstatements identified by the audit. Absent filing amended reports to materially correct the misstatements, AFSAPAC has not complied with the IAR's recommendation.

In addition, AFSAPAC's original reports for 2013 and 2014 materially understated receipts by \$310,683. AFSAPAC attempted to correct these misstatements and filed amended reports for each reporting period during the two year election cycle. In response to the IAR recommendation, AFSAPAC did not provide any additional comments regarding its understatement of receipts on its original reports. (For more detail, see p. 4.)

Finding 2. Excessive Contributions Made to Federal Candidates

AFSAPAC made 11 contributions to seven federal candidate committees that, when aggregated with 22 previous contributions, appear to have exceeded the contribution limit by \$18,000. In response to the exit conference, AFSAPAC redesignated contributions of \$17,000 related to the finding, and was seeking or had obtained refunds for the remaining amount. In response to the IAR recommendation, AFSAPAC stated that it had filed amended reports to properly reflect these redesignations; however, no amended reports have been received and the refunds were not discussed. AFSAPAC has clarified it did not make excessive contributions of \$17,000. Absent further evidence of contribution refunds obtained by AFSAPAC, the remaining \$1,000 is considered an excessive contribution made by AFSAPAC. (For more detail, see p. 8.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of AFSAPAC's reported financial activity with its bank records revealed a misstatement of receipts, disbursements, and the beginning and ending cash balances for 2013, and the beginning and ending cash balances for 2014. For 2013, AFSAPAC understated the beginning cash balance by \$113,536, understated receipts by \$10,081, understated disbursements by \$67,905, and understated the ending cash balance by \$55,712. For 2014, AFSAPAC understated the beginning cash balance by \$55,712, and the ending cash balance by \$53,393. Multiple amendments were filed after the beginning of the audit for both 2013 and 2014, but they did not fully correct the misstated amounts.

In response to the Interim Audit Report (IAR) recommendation, AFSAPAC stated that it filed amended reports on January 13, 2016, which significantly changed the misstated amounts. However, these amendments were not filed in direct response to the misstatements identified by the audit. Absent filing amended reports to materially correct the misstatements, AFSAPAC has not complied with the IAR recommendation.

In addition, AFSAPAC's original reports for 2013 and 2014 materially understated receipts by \$310,683. AFSAPAC attempted to correct these misstatements and filed amended reports for each reporting period during the two year election cycle. In response to the IAR recommendation, AFSAPAC did not provide any additional comments regarding its understatement of receipts on its original reports.

Legal Standard

Contents of Reports. Each report must disclose:

- the amount of cash-on-hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and
- certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104 (b) (1), (2), (3), (4) and (5).

Facts and Analysis

A. Misstatement of Financial Activity- Most Recent Reports Filed Prior to the Audit

1. Facts

As part of this audit, the Audit staff reconciled AFSAPAC's reported financial activity with its bank records for calendar years 2013 and 2014. The following charts outline the discrepancies between AFSAPAC's disclosure reports and its bank records. Succeeding paragraphs explain why the discrepancies occurred.

2013 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2013	\$132,671	\$246,207	\$113,536 Understated
Receipts	\$380,743	\$390,824	\$10,081 Understated
Disbursements	\$293,006	\$360,911	\$67,905 Understated
Ending Cash Balance @ December 31, 2013	\$220,408	\$276,120	\$55,712 Understated

The beginning cash balance was understated by \$113,536 and the discrepancy is unexplained, but it likely resulted from prior period misstatements.

The understatement of receipts resulted from the following:

• Contributions from individuals, amount not reported (net)	\$5,500
• Unreported other receipts	10,775
• Unexplained difference	<u>(6,194)</u>
Net Understatement of Receipts	<u>\$10,081</u>

The understatement of disbursements resulted from the following:

• Contributions to political committees not reported	\$48,100
• Contribution refunds not reported	5,000
• Bank fees not reported	2,485
• Disbursement to Sponsor's account not reported	10,775
• Unexplained difference	<u>1,545</u>
Understatement of Disbursements	<u>\$67,905</u>

2014 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2014	\$220,408	\$276,120	\$55,712 Understated
Receipts	\$462,985	\$464,159	\$1,174 Understated
Disbursements	\$418,751	\$422,243	\$3,492 Understated
Ending Cash Balance @ December 31, 2014	\$264,642	\$318,036	\$53,394 Understated

The \$53,394 understatement of the 2014 ending cash balance resulted mostly from reporting discrepancies noted above from the prior year.

AFSAPAC filed amended reports on January 13, 2016, subsequent to the audit notification letter, dated November 18, 2015. These reports disclosed a cash increase of \$42,915 for 2013. However, the amendments only minimally corrected the reporting discrepancies for 2013, and the beginning and ending cash balances for 2014 remained materially misstated.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2013 and 2014 with AFSAPAC's representatives during the exit conference and provided copies of relevant work papers detailing the misstatements. In response, an AFSAPAC representative stated that it filed amended reports to correct the misstatements; however, the amendments were filed after AFSAPAC was notified of the audit and the amounts were still misstated as described in the preceding paragraph.

The IAR recommended that AFSAPAC amend its disclosure reports to correct the misstatements for both 2013 and 2014. In addition, the IAR recommended that AFSAPAC amend its most recently filed report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment. Further, that AFSAPAC should reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may affect the adjustment recommended by the Audit staff.

3. Committee Response to Interim Audit Report

In response to the IAR recommendation, AFSAPAC stated that it filed amended reports on January 13, 2016, which significantly changed the misstated amounts and that the reduction in the misstated amounts evidences AFSAPAC's corrective action. AFSAPAC also stated that the misstatements were all timing related, due to staff limitation and difficulty with the FEC software.

As stated in the IAR, the amendments filed by AFSAPAC prior to the issuance of the IAR did not sufficiently correct the 2013 and 2014 misstatements. The following misstatements remain in the amended reports. For 2013, the beginning cash balance, receipts, disbursements, and ending cash balance were understated by \$70,621, \$9,981, 67,905 and \$12,697, respectively. For 2014, AFSAPAC understated its beginning cash balance by \$12,697, and its ending cash balance by \$10,379. The Audit staff was able to verify certain problems in filing reports mentioned by AFSAPAC, but they were resolved quickly. Absent the filing of amended reports to correct the misstatements above, AFSAPAC has not complied with the IAR recommendation.

B. Misstatement of Financial Activity – Original Reports Filed

1. Facts

In addition to reconciling AFSAPAC's most recent reports (filed prior to audit notification) with its bank statements, the Audit staff also compared its originally filed reports with its bank statements. The purpose of this additional reconciliation

was to identify the degree to which AFSAPAC had misstated its original filings. From this review, the Audit staff determined that AFSAPAC understated its receipts by \$310,683, for the two-year period that ended December 31, 2014. However, as shown in the charts above, under discrepancies for receipts, AFSAPAC filed amendments that corrected all but \$11,255 (\$10,081 + \$1,174) of this receipt understatement.

The Audit Staff also noted that AFSAPAC filed multiple amended reports for every filing period for 2013 and 2014, filing a total of 151 amendments. For example, for the August 2013 monthly report AFSAPAC filed amended reports three times in 2014, two times in 2015, and one time in 2016.

2. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed AFSAPAC's understatement of receipts contained in the original reports it filed at the exit conference. In response, an AFSAPAC representative made a rebuttal to the potential understatement finding by providing information about the corrections made in its amended filings. The Audit staff explained to the representative that amendments have no impact on the finding since the finding is based upon the original reports filed.

The IAR recommended that AFSAPAC provide any additional comments it deemed necessary with respect to this matter.

3. Committee Response to Interim Audit Report

AFSAPAC did not provide any comments regarding this matter.

Finding 2. Excessive Contributions Made to Federal Candidates

Summary

AFSAPAC made 11 contributions to seven federal candidate committees that, when aggregated with 22 previous contributions, appear to have exceeded the contribution limit by \$18,000. In response to the exit conference, AFSAPAC redesignated contributions of \$17,000 related to the finding, and was seeking or had obtained refunds for the remaining amount. In response to the IAR recommendation, AFSAPAC stated that it had filed amended reports to properly reflect these redesignations; however, no amended reports have been received and the refunds were not discussed. AFSAPAC has clarified it did not make excessive contributions of \$17,000. Absent further evidence of contribution refunds obtained by AFSAPAC, the remaining \$1,000 is considered an excessive contribution made by AFSAPAC.

Legal Standard

A. Contribution Defined. A gift, subscription, loan (except when made in accordance with 11 CFR §§100.82 and 100.83), advance, or deposit of money or anything of value

made by any person for the purpose of influencing any election for Federal office is a contribution. 11 CFR §100.52(a).

B. Contribution Limits. No multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. 52 U.S.C. §30116 (a)(1)(2)(A).

C. Definition of Multicandidate Committee.

- A multicandidate committee is a political committee (other than an authorized candidate committee) that has satisfied the following 3 requirements:
 - It has been registered under the federal election campaign law for at least 6 months.
 - It has received contributions from more than 50 contributors.
 - It has made contributions to at least 5 federal candidates. (This last requirement does not apply to state party committees.) 52 U.S.C. §30116(a)(4).
- A political committee affiliated with another political committee that has already qualified as a multicandidate committee automatically becomes a multicandidate committee by virtue of that affiliation. But it shares the contributions limits with its affiliated committee. 52 U.S.C. §30116(a)(5).

Facts and Analysis

A. Facts

The Audit staff reviewed AFSAPAC's reported contributions made to federal candidate committees totaling \$492,000. Of this amount, 11 contributions to seven federal candidate committees when aggregated with 22 other contributions appear to exceed the contribution limit by \$18,000.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff presented the excessive contribution matter to AFSAPAC representatives and provided a schedule of potentially excessive contributions. The Audit staff explained that the excessive contributions resulted from aggregation with other contributions made to the same committees for the same election. The Audit staff asked AFSAPAC's representatives to provide an explanation and documentation for any item on the schedule that they believed to be incorrect. The representatives stated that they would review the items and provide an appropriate response.

In response to the exit conference, AFSAPAC's representative did not mention any corrections to the schedule of excessive contributions, but did provide the Audit staff redesignation letters that were sent out to six of the excessive recipient committees for

17,000 of the excessive \$18,000 amount.² For the remaining excessive contributions, it was said that a refund had been received and another refund was being sought.

The IAR recommended AFSAPAC amend its reports to properly report the elections for which the contributions totaling \$17,000 were redesignated and provide evidence for the \$1,000 in contribution refund checks and their deposit, or provide evidence (or make other comments) that any of the excessive contribution amounts were not excessive.

C. Committee Response to Interim Audit Report

In response to the IAR recommendation, AFSAPAC stated it had redesignated and amended their reports for excessive contributions totaling \$18,000 but the schedule only addressed \$17,000 of the finding amount.² In addition, no amended reports were received to reflect the redesignation for any of the amounts, nor did AFSAPAC mention or provide copies of any refund checks for the \$1,000 in remaining excessive contributions. AFSAPAC has clarified it did not make excessive contributions of \$17,000. Absent further evidence of contribution refunds obtained by AFSAPAC, the remaining \$1,000 is considered an excessive contribution made by AFSAPAC.

² The committee provided redesignation letters for \$18,000 but one of the letters redesignated a contribution for \$1,000 to a different election that was not found to be excessive by the Audit staff, leaving \$1,000 that was not redesignated or for which refunds were not received.