

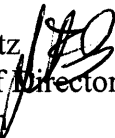


FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 18, 2005

MEMORANDUM

TO: Press Office

FROM: Joseph F. Stoltz   
Assistant Staff Director  
Audit Division

SUBJECT: Public Issuance of the Final Audit Report on the Democrat, Republican,  
Independent Voter Education Political Campaign Committee (A03-49)

Attached please find a copy of the audit report on the Democrat, Republican,  
Independent Voter Education Political Campaign Committee, which was approved by the  
Commission on July 5, 2005.

The audit report may be released to the public on July 18, 2005.

Attachment as stated

cc: Office of General Counsel  
Office of Public Disclosure  
Reports Analysis Division  
FEC Library  
Web Manager



# Report of the Audit Division on the Democrat, Republican, Independent Voter Education Political Campaign Committee

January 1, 2001 – December 31, 2002

## 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.<sup>1</sup> 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 Democrat, Republican, Independent Voter Education Political Campaign Committee is a separate segregated fund of the International Brotherhood of the Teamsters headquartered in Washington, DC. For more information, see chart on the Committee Organization, p 2.

## Financial Activity (p. 2)

• <b>Receipts</b>	
○ From Individuals	\$ 9,228,790
○ From Other Political Committees	9,867
○ Loans Received	500,000
○ Offsets to Operating Expenditures	220
○ Refunds of Federal Contributions	27,415
○ Other Federal Receipts	32,917
○ <b>Total Receipts</b>	<b>\$ 9,799,209</b>
• <b>Disbursements</b>	
○ Operating Expenditures	\$ 495,140
○ Contributions to Federal Candidates/Other Political Committees	2,725,205
○ Loan Repayments	500,000
○ Other Disbursements	5,851,266 <sup>2</sup>
○ <b>Total Disbursements</b>	<b>\$ 9,571,611</b>

## Findings and Recommendations (p. 3)

- Apparent Prohibited Contributions – Bank Loans (Finding 1)
- Failure to Maintain Contributor Payroll Deduction Authorizations (Finding 2)
- Untimely Deposit of Contributions (Finding 3)
- Misstatement of Financial Activity (Finding 4)

<sup>1</sup> 2 U.S.C. §438(b).

<sup>2</sup> This figure primarily includes contributions to non-federal candidates and party committees.

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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of the Democrat, Republican, Independent Voter Education Political Campaign Committee (DRIVE), 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 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. 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. 2 U.S.C. §438(b).

### **Scope of Audit**

DRIVE was not able to provide a useable receipts database. Due to the large volume of transactions and the small amount of each individual contribution, the Audit staff could not accurately evaluate contributions for itemization and disclosure.

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions and other receipts.
4. The disclosure of disbursements, debts and obligations.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

### **Changes to the Law**

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for the period November 6, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 6, 2002.

## Part II

### Overview of Committee Committee Organization

<b>Important Dates</b>	<b>DRIVE</b>
• Date of Registration	Prior to 1975
• Audit Coverage	January 1, 2001 – December 31, 2002
<b>Headquarters</b>	Washington, DC
<b>Bank Information</b>	
• Bank Depositories	2
• Bank Accounts	3
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	C. Thomas Keegal
• Treasurer During Period Covered by Audit	C. Thomas Keegal
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 1, 2001</b>	<b>\$ 526,030</b>
o From Individuals	9,228,790
o From Other Political Committees	9,867
o Loans Received	500,000
o Offsets to Operating Expenditures	220
o Refunds of Federal Contributions	27,415
o Other Federal Receipts	32,917
<b>Total Receipts</b>	<b>\$9,799,209</b>
o Operating Expenditures	495,140
o Contributions to Federal Candidates/Other Political Committees	2,725,205
o Loan Repayments	500,000
o Other Disbursements	5,851,266
<b>Total Disbursements</b>	<b>\$9,571,611</b>
<b>Cash on hand @ December 31, 2002</b>	<b>\$ 753,628</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Apparent Prohibited Contributions – Bank Loans**

DRIVE reported receiving two loans totaling \$500,000 from Amalgamated Bank (the Bank). Each loan was reported on Schedule C. Schedule C-1 indicated that each loan was secured and described the collateral as accounts receivable. However, it does not appear that either loan is secured. The Audit staff recommended that DRIVE demonstrate that the loans were secured; made in the ordinary course of business; and, not a prohibited contribution or file amended reports disclosing each loan as unsecured. However, DRIVE did neither. (For more detail, see p. 4)

##### **Finding 2. Failure to Maintain Contributor Payroll Deduction Authorizations**

Based on a sample of contributions from individuals for which detailed contributor information was provided, it was projected that payroll deduction authorization forms were not available for contributions totaling \$1,235,460. DRIVE demonstrated compliance with the Audit staff's recommendation by providing a description of policy and procedural changes implemented to ensure that such authorizations are obtained and maintained in the future. These new procedures will be subject to review by the Audit staff at a later date. (For more detail, see p. 7)

##### **Finding 3. Untimely Deposit of Contributions**

Transactions were tested to determine if DRIVE deposited contributions timely. The sample results projected that contributions, totaling \$1,914,970, made via payroll deduction were not deposited timely. DRIVE complied with the Audit staff's recommendation by implementing and submitting new procedures that will ensure compliance. These new procedures will be subject to review by the Audit staff at a later date. (For more detail, see p. 8)

##### **Finding 4. Misstatement of Financial Activity**

The Audit staff compared DRIVE's reported activity to its bank records for calendar years 2001 and 2002. DRIVE's receipts, disbursements, and ending cash were misstated. DRIVE complied with the Audit staff's recommendation by amending its reports to correctly disclose its financial activity. (For more detail, see p. 9)

## Part IV

# Findings and Recommendations

### Finding 1. Apparent Prohibited Contributions – Bank Loans

#### Summary

DRIVE reported receiving two loans totaling \$500,000 from Amalgamated Bank (the Bank). Each loan was reported on Schedule C. Schedule C-1 indicated that each loan was secured and described the collateral as accounts receivable. However, it does not appear that either loan is secured. The Audit staff recommended that DRIVE demonstrate that the loans were secured; made in the ordinary course of business; and, not a prohibited contribution or file amended reports disclosing each loan as unsecured. However, DRIVE did neither.

#### Legal Standard

**Loans Excluded from the Definition of Contribution.** A loan of money to a political committee by a State bank, a federally chartered depository institution (including national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business.

A loan will be deemed to be made in the ordinary course of business if it bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument and is subject to a due date or amortization schedule. 11 CFR §100.7(b)(11)

**Assurance of Repayment.** Commission regulations state a loan is considered made on a basis which assures repayment if the lending institution making the loan has:

- Perfected a security interest in collateral owned by the political committee receiving the loan.
- Obtained a written agreement whereby the political committee receiving the loan has pledged future receipts, such as public financing payments.
- If these requirements are not met, the Commission will consider the totality of circumstances on a case by case basis in determining whether the loan was made on a basis which assured repayment. 11 CFR §100.7(b)(11)(i) (A) and (B)

When pledged future receipts are used to assure repayment by a committee that does not receive Presidential Matching Funds, the relevant requirements are that:

- The amount of the loan does not exceed the pledged funds.

- Loan amounts are based on reasonable expectations that the pledged funds will be received. The committee must furnish the lending institution documentation such as cash flow charts or other financial plans that reasonably establish that such funds will be available.
- A separate account is established at the lending institution, or the lender is given an assignment that permits the lender access to an account at another institution, and the pledged funds are required to be deposited into the separate account for the purpose of retiring the debt. 11 CFR §100.7(b)(11)(i)(B)

### **Facts and Analysis**

DRIVE received two loans from the Amalgamated Bank. The first loan in the amount of \$300,000 was received on October 29, 2002. The second loan in the amount of \$200,000 was received on November 1, 2002. DRIVE reported each loan on Schedules C (Loan Information) and C-1 (Loans and Lines of Credit). Schedule C-1 indicated that the \$300,000 loan was secured by future receipts described as Accounts Receivable and the \$200,000 was reportedly collateralized by Accounts Receivable and Certificates of Deposit.

Each loan was supported by a revolving promissory note, continuing security agreement, and a covenant agreement. These documents were signed by DRIVE's Chairman and Treasurer.<sup>3</sup> The revolving promissory note listed collateral as accounts receivable, bank deposits, certificates of deposit, and general intangibles. The covenant agreement required DRIVE to provide the Bank with a reasonable estimate of revenue for a six month period, unaudited quarterly financial statements, a year end balance sheet, and a statement of income and retained earnings.

Although the loan documents appear to demonstrate that each loan was secured, in fact, neither loan was secured by collateral. For example, DRIVE did not maintain any certificates of deposit and even though DRIVE maintained its checking accounts at the Bank, it appears that there were no holds or restrictions on the use of funds from these accounts. There were no documented outstanding accounts receivable and neither Bank document described the make up of "general intangibles." Further, there was no evidence made available that DRIVE provided the Bank with any of the financial statements or revenue estimates required by the covenant agreement; nor was there any evidence that the Bank made any attempts to obtain such information. Therefore, the Audit staff concluded that the loans were not made on a basis that assures repayment.

Finally, it should be noted that DRIVE did not properly disclose the loans as outstanding on its Year-End 2002 disclosure report. Each loan was paid off in calendar year 2003. It was not until 2005 that DRIVE amended its 2003 reports to show the loans as outstanding until paid and to show the payments.

This matter was discussed during fieldwork and at the exit conference. The DRIVE representative acknowledged that the collateral did not exist, with the exception of bank deposits, which were not restricted. He further indicated that the Bank is a "labor bank"

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<sup>3</sup> Our copies of the documents are not signed by a bank representative.



that is privately owned and is willing to extend credit to unions and their political action committees.

### **Interim Audit Report Recommendation**

The Audit staff recommended that DRIVE provide evidence demonstrating that the loans were secured; were made in the ordinary course of business; and, why each loan should not be considered a prohibited contribution from the bank. Absent such a demonstration, DRIVE should have filed amended reports to correctly disclose each loan as unsecured.

### **Committee's Response to Recommendations and the Audit Staff's Assessment**

In response, DRIVE representatives stated:

“the loans were made in accordance with applicable banking laws and regulation, under the ordinary course of business, and on a basis which assures repayment meaning that: 1) Prior to approving the loan, DRIVE provided Amalgamated Bank with financial documents demonstrating the amount of future membership contributions on a monthly basis and that the contributions would be available as security for the loans. After reviewing these documents, DRIVE's credit history as well as other standard loan criteria, Amalgamated Bank made the loan at the usual and customary interest rate for the category of loan involved and in a manner fully compliant with federal regulations. 2) As required by federal regulations, Amalgamated Bank required repayment of the loans. Amalgamated Bank was assured that it would be repaid through a written instrument. And, these loans were secured by DRIVE's monthly membership contributions which were deposited in a savings account with Amalgamated Bank. This account served as collateral for the loans which is typical of the type of collateral offered by political committees. **In addition, it is important to note that the total loan amount did not exceed the amount of pledged funds and in fact, the amount of money in DRIVE's account at Amalgamated Bank always exceeded the amount of the loans (emphasis added).**”

DRIVE also provided a copy of a “Deposit Account Pledge Agreement” applicable to DRIVE's money market account which held the pledged deposits. According to the agreement under section 2 (b) Blocked Account, “so long as any of the Liabilities shall remain unpaid: (i) the Deposit shall be kept in a separate blocked Account or Accounts or, if the Deposit is a portion of a Account, the pledged portion of the Account shall be blocked and held in that account.” Deposit is defined as funds in the Account.

According to a letter from the Bank, DRIVE's accounts receivable, general intangibles and cash secured both loans. The Bank also maintains that DRIVE's account balance

always exceeded the outstanding loan balance and the cash on deposit was sufficient to act as full collateral for the loan.

Both DRIVE and the Bank asserted that the total loan amount did not exceed the amount of pledged funds and in fact, the amount of money in DRIVE's account at Amalgamated Bank always exceeded the amount of the loans. However, the bank statements indicate that the balance fell below the \$500,000 loan principal on November 18, 2002, (\$495,228) and remained under that amount through December 4, 2002 (\$399,593)<sup>4</sup>. It is therefore clear that any block that may have been attached to the account was not equal to the loan amount.

DRIVE also states that revenue projections were provided to the Bank prior to obtaining the loan to provide assurance of repayment. As noted in the Legal Standards above, if future receipts are used to provide assurance of repayment for a loan, specific requirements must be met. The documentation provided to date fails to demonstrate that those requirements have been met.

It is the opinion of the Audit staff that DRIVE has not demonstrated that the loans were made on a basis that assures repayment and not contributions by the Bank.

## **Finding 2. Failure to Maintain Contributor Payroll Deduction Authorizations**

### **Summary**

Based on a sample of contributions from individuals for which detailed contributor information was provided, it was projected that payroll deduction authorization forms were not available for contributions totaling \$1,235,460. DRIVE demonstrated compliance with the Audit staff's recommendation by providing a description of policy and procedural changes implemented to ensure that such authorizations are obtained and maintained in the future. These new procedures will be subject to review by the Audit staff at a later date.

### **Legal Standard**

**Recordkeeping.** Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports and statements. Records to be maintained with respect to the matters required to be reported, include bank records, 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

<sup>4</sup> In addition, there were significant amounts of outstanding checks that had been written on the DRIVE's zero balance operating account which was funded by the same money market account that holds the pledged deposits. Those amounts are not reflected in the bank statement balances. Thus how far below the loan principal amount the account balance went was, in part, dependent on how quickly payees negotiated their checks. For example, as of October 31, 2002, the zero balance operating account had \$644,489 in outstanding checks while the money market account had a balance of \$811,672 (loan balance was \$300,000).

and completeness. The Commission has determined that, under 11 CFR §104.14(b)(1), separate segregated funds established pursuant to Part 114 of the Commission's rules must maintain copies of Payroll Deduction Authorizations (PDA's) for each individual who makes any contributions(s) via automatic payroll deduction. *See, e.g.* MUR 4955 (Metropolitan Life). 11 CFR §104.14(b)(1)

### **Facts and Analysis**

The Audit staff conducted a sample review of 1103 deposit batches totaling \$9,265,986. The sample results projected that contributions totaling \$2,780,095 had no documentation or incomplete documentation and could not be tested to determine if the contributor's respective PDA was available.

For contributions transmitted by local unions and/or employers that were supported by individual contributor listings, the sample projected that the respective contributor's PDAs for contributions totaling \$1,235,460 were missing.

At the exit conference, the Audit staff advised DRIVE representatives of this matter. A DRIVE representative stated that it was difficult to get information from the locals. In past audits of DRIVE, although some PDA's were difficult to locate, it was determined that the files maintained by the national office were materially complete.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE demonstrate its compliance and provide any other comments it may have relevant to these matters. Absent such a demonstration, it was recommended that DRIVE provide a description of policy and procedural changes implemented to ensure that such authorizations were obtained and maintained in the future. Once these procedures were in place, the Audit staff would verify that they were adequate to assure compliance via follow-up fieldwork.

In its response, DRIVE stated that in 2004 they began using an imaging database to store old and current PDA's, creating a complete universe of PDA's in an electronic format. Every 30 days the database is updated with all new PDA's. Current cash receipts are now compared to the PDA database to confirm that there is a PDA on file. DRIVE continued, "if a contribution does not match up with a payroll deduction authorization form, it will be returned to the contributing employer."

## **Finding 3. Untimely Deposit of Contributions**

### **Summary**

Transactions were tested to determine if DRIVE deposited contributions timely. The sample results projected that contributions, totaling \$1,914,970, made via payroll deduction were not deposited timely. DRIVE complied with the Audit staff's recommendation by implementing and submitting new procedures that will ensure compliance. The new procedures will be subject to review by the Audit staff at a later date.

### **Legal Standard**

**Deposit of Contributions.** All receipts by a political committee shall be deposited in accounts established pursuant to 11 CFR § 103.2, except that any contribution may be, within 10 days of the treasurer's receipt, returned to the contributor without being deposited. All deposits shall be made within 10 days of the treasurer's receipt. 11 CFR §103.3(a).

### **Facts and Analysis**

Not all transmittals of contributions received from local unions and/or employers were supported with deposit batches or transmittal check copies that establish the date of the transmittal. For those transmittals of contributions that included a copy of the transmittal check, the sample projected that contributions, totaling \$1,914,970, made via payroll deduction were not deposited timely. The untimely deposits were made up to 64 days late.

At the exit conference, representatives stated that DRIVE attempted to make deposits once a week. However, deposits were at times misplaced and its depository was not centrally located.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE demonstrate the deposits were made timely. Absent such a demonstration, the Audit staff recommended that DRIVE implement new procedures to ensure compliance and submit them for review by the Audit staff. Once these procedures were in place, the Audit staff would verify that they were adequate to assure compliance via follow-up fieldwork.

In response, DRIVE's representative stated during 2001 and 2002 deposits were received through the mail and stored in a safe. Deposits occurred on a weekly basis via a United Parcel Service shipment to a depository bank account. DRIVE recognized that this system may have caused some untimely deposits. However, in 2003 the majority of DRIVE receipts were sent directly to the lockbox bank account and the other deposits were processed and deposited by the next business day. Cash receipts were recorded in two separate databases and verified against the deposit slip for accuracy.

## **Finding 4. Misstatement of Financial Activity**

### **Summary**

The Audit staff compared DRIVE's reported activity to its bank records for calendar years 2001 and 2002. DRIVE's receipts, disbursements, and ending cash were misstated. DRIVE complied with the Audit staff's recommendation by amending its reports to correctly disclose its financial activity.

### **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 or Schedule B.  
2 U.S.C. §434(b)(1), (2), (3), (4), and (5).

### **Facts and Analysis**

The Audit staff's reconciliation of DRIVE's reported financial activity to its bank records for the period January 1, 2001, through December 31, 2002, indicated receipts, disbursements and ending cash on hand were misstated. DRIVE did not provide records to explain how the amounts shown on its disclosure reports were calculated; as such, not all discrepancies could be explained.

According to a DRIVE representative, it was difficult to get local unions and/or employers to send contributor information in an electronic format. Therefore, DRIVE would enter the transmittal amount on its database as a lump sum unitemized receipt. At a later date, the respective contributor information (name and amount, etc.) would be entered. At this point the database is overstated and requires a negative adjustment to offset the unitemized receipt entry. Representatives indicated that the data entry was not always completed by the time disclosure reports were due to be filed and adjusting entries were not always be made; which may have resulted in reported receipts being overstated.

Charts follow which present the misstatements for each calendar year.

<b>2001 Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash Balance on 1-1-01	\$526,030	\$526,030	\$0
Receipts	\$5,018,477	\$4,697,213	\$321,264 Overstated
Disbursements	\$4,894,038	\$4,896,088	\$2,050 Understated
Cash Balance on 12-31-01	\$302,155	\$327,155	\$25,000 Understated

As can be seen from the chart, DRIVE's disclosure reports as filed were not mathematically consistent. DRIVE apparently realized that reported receipts were overstated and, subsequent to being notified of the audit, filed an amended disclosure report for January 2001 (February Monthly) reducing reported receipts by \$351,748. It should be noted that DRIVE's March Monthly disclosure report, as originally filed, reflected a beginning cash on hand figure that was \$348,315 lower than the ending cash on hand figure reflected on the original February Monthly disclosure report.

The understatement in ending cash on hand at December 31, 2001 (\$25,000) could not be explained. However, DRIVE apparently realized its December 31, 2001 cash figure was understated and increased its reported beginning cash on hand (at January 1, 2002) by \$25,000.

<b>2002 Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash Balance on 1-1-02	\$327,155	\$327,155	\$0
Receipts	\$5,204,026	\$5,101,996	\$102,030 Overstated
Disbursements	\$4,732,923	\$4,675,523	\$57,400 Overstated
Cash Balance on 12-31-02	\$696,198	\$753,628	\$57,430 Understated

Again, DRIVE apparently recognized that it overstated reported receipts (\$102,030), which at the time effectively overstated cash on hand. Although, it did not file any amended reports to correct reported receipts, DRIVE did reduce beginning cash (from the previously reported ending cash) for three different reports, for a total of \$102,059.

Finally, the overstatement of disbursements and understatement of ending cash occurred in December 2002 when 25 previously reported checks, totaling \$57,400, were voided but not adjusted on the year end disclosure report.

The Audit staff discussed the discrepancies with DRIVE representatives at the exit conference and provided schedules detailing the adjustments.

The February Monthly 2001 amended report filed subsequent to being notified of the audit materially corrected the misstatements noted for calendar year 2001. Therefore, further amendments for calendar year 2001 are not required.

#### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that DRIVE file amended reports for calendar year 2002 to correct the misstatements noted above, and amend all subsequent reports in order to correct reported cash balances.

DRIVE filed amended reports correctly disclosing their financial activity.