



Final Audit Report of the Commission on the AFL-CIO COPE Political Contributions Committee

January 1, 2005 – December 31, 2006

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)

AFL-CIO COPE Political Contributions Committee is a separate segregated fund of AFL-CIO and is headquartered in Washington, DC. For more information, see the chart on the Committee Organization, p.3.

Financial Activity (p. 2)

- **Receipts**
 - From Individuals \$ 193,546
 - From Other Political Committees 48,250
 - Transfers from Affiliated Committees 1,168,138
 - Other Receipts 8,004
 - **Total Receipts** \$ 1,417,938
- **Disbursements**
 - Contributions to Candidates/Committees \$ 1,304,452
 - Other Disbursements 166,520
 - **Total Disbursements** \$ 1,470,972

Commission Finding (p. 4)

- Transfers Received from Separate Segregated Funds (Finding 1)

Additional Issue (p.7)

- Misstatement of Financial Activity (Issue 1)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the AFL-CIO COPE Political Contributions Committee (AFL-CIO COPE), 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

Following Commission approved procedures, the Audit staff evaluated various factors and as a result, this audit examined:

1. The consistency between reported figures and bank records.
2. The disclosure of individual contributors' occupation and name of employer.
3. The receipt of transfers received from other separate segregated funds.

Part II

Overview of Committee

Committee Organization

Important Dates	AFL-CIO COPE
• Date of Registration	March 13, 1975
• Audit Coverage	January 1, 2005 – December 31, 2006
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	1
• Bank Accounts	2 (1 Business Account and 1 Business Money Market Account)
Treasurer	
• Treasurer When Audit Was Conducted	Richard L. Trumka
• Treasurer During Period Covered by Audit	Richard L. Trumka
Management Information	
• 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)

Cash on hand @ January 1, 2005	\$ 122,740
o From Individuals	193,546
o From Other Political Committees	48,250
o Transfers from Affiliated Committees	1,168,138
o Other Receipts	8,004
Total Receipts	\$ 1,417,938
o Contributions to Candidates/Committees	1,304,452
o Other Disbursements	166,520
Total Disbursements	\$ 1,470,972
Cash on hand @ December 31, 2006	\$ 69,706

Part III

Summaries

Commission Finding

Finding 1. Transfers Received from Separate Segregated Funds

During the audit period, AFL-CIO COPE received transfers totaling \$1,100,000 from two separate segregated funds. The interim audit report questioned whether AFL-CIO COPE and the two separate segregated funds, CWA COPE Political Contributions Committee (CWA COPE) and American Federation of Teachers AFL-CIO Committee on Political Education (AFT AFL-CIO), were required to meet the transmittal and recordkeeping requirements for collecting agents. In conjunction with a hearing before the Commission, counsel for AFL-CIO COPE submitted a 1979 Report of the Audit Division on the AFL-CIO COPE which included recommendations that are consistent with AFL-CIO COPE's longstanding reporting practices for the transfers. Since the Commission has a means of assuring itself that the contributions received under this practice do not exceed the limits prescribed by the Act, and considering AFL-CIO's past practice and the approval of this arrangement in the 1979 audit report, the Commission accepts AFL-CIO COPE's current reporting practice. (For more detail, see p. 4)

Additional Issue

Issue 1. Misstatement of Financial Activity

A comparison of AFL-CIO COPE's reported activity to bank records revealed a misstatement of cash on hand and disbursements in years 2005 and 2006. It was recommended that AFL-CIO COPE file amended reports to correct the misstatement. In response to the interim audit report, AFL-CIO COPE filed amended reports to correct the misstatements. AFL-CIO COPE also corrected its cash balance on its September 2009 monthly report. (For more detail, see p. 7)

Part IV

Commission Finding

Finding 1. Transfers Received from Separate Segregated Funds

Summary

During the audit period, AFL-CIO COPE received transfers totaling \$1,100,000 from two separate segregated funds. The interim audit report questioned whether AFL-CIO COPE and the two separate segregated funds, CWA COPE Political Contributions Committee (CWA COPE) and American Federation of Teachers AFL-CIO Committee on Political Education (AFT AFL-CIO), were required to meet the transmittal and recordkeeping requirements for collecting agents. In conjunction with a hearing before the Commission, counsel for AFL-CIO COPE submitted a 1979 Report of the Audit Division on the AFL-CIO COPE which included recommendations that are consistent with AFL-CIO COPE's longstanding reporting practices for the transfers. Since the Commission has a means of assuring itself that the contributions received under this practice do not exceed the limits prescribed by the Act, and considering AFL-CIO's past practice and the approval of this arrangement in the 1979 audit report, the Commission accepts AFL-CIO COPE's current reporting practice.

Legal Standard

A. Affiliated Definition. Established, financed, maintained or controlled by the same organization. Affiliated political committees are considered one political committee for purposes of contribution limits. Committees presumed to be affiliated include those established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations. Also, committees established by an organization of national or international unions and/or all its State or local central bodies are presumed to be affiliated. Affiliation is not presumed between unions and organizations of national or international unions. 11 CFR §§100.5(g) and 110.3(a).

B. Collecting Agent Definition. A collecting agent is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. A collecting agent may be the separate segregated fund's connected organization or an organization or committee affiliated with the SSF, or a local, national, or international union collecting contributions on behalf of the separate segregated fund of any federation with which the local, national, or international union is affiliated. 11 CFR §102.6(b)(1).

C. Requirements for Collecting Agents. The separate segregated fund (SSF) is responsible for ensuring that the recordkeeping, reporting, and transmittal requirements are met.

1. Collecting agent may solicit only those individuals who are eligible for solicitation under the law, and pay the expenses of soliciting.

2. Collecting agent may include a solicitation for contributions to an SSF in a bill for another payment.
3. Collecting agent may establish a separate transmittal account solely for the SSF's contributions or use its own account for the temporary deposit and transmittal of contributions to the SSF. The agent must keep separate records of all receipts and deposits that represent contributions to the SSF.
4. Collecting agent must transfer the funds within 10 days for all contributions over \$50 and within 30 days for contributions \$50 or less.
5. Collecting agent must forward the required recordkeeping information to the SSF along with the collected contributions, and maintain records of SSF contribution deposits and transmittals for three years.
6. The SSF receiving contributions collected by a collecting agent shall report the full amount of each contribution received as a contribution from the original contributor to the extent required by 11 CFR §104.3(a), 11 CFR §§102.6(c) and 102.8(b).

Facts and Analysis

During the audit period, AFL-CIO COPE received four transfers from AFT AFL-CIO totaling \$800,000 and four transfers from CWA COPE totaling \$300,000. These transfers were reported by AFL-CIO COPE on Line 12 (Transfers from Affiliated/Other Party Committees) and described as joint fundraising transfers or as payroll deductions on its Schedules A (Itemized Receipts).

CWA COPE is the separate segregated fund of the international union Communications Workers of America (CWA). AFT AFL-CIO is the separate segregated fund of the international union American Federation of Teachers (AFT). Both CWA and AFT are members of the federation of unions AFL-CIO. The separate segregated funds of these unions (CWA COPE, AFT AFL-CIO and AFL-CIO COPE) are not considered "affiliated" within the meaning of 11 CFR §110.3 and, therefore, are subject to separate contribution limitations and must independently report their individual contributions.

CWA COPE and AFT AFL-CIO initially receive and report contributions for their respective committees as well as AFL-CIO COPE. These contributions are often received from individuals via voluntary payroll deduction. The payroll deduction authorization cards contain a statement that the contributions will be used in a "joint fundraising" effort and that a portion of their contributions would go to AFL-CIO COPE. The contributors do not designate specific or separate contribution amounts for AFL-CIO COPE. Likewise, the timing and amounts transferred to AFL-CIO COPE were based on periodic discussions with officers of CWA COPE and AFT AFL-CIO.

At the audit exit conference and in the interim audit report, the Audit staff questioned whether the AFL-CIO COPE had a collecting agent relationship with CWA COPE and AFT AFL-CIO and was thus required to follow the collecting agent reporting and recordkeeping procedures.

In response to the interim audit report, counsel for AFL-CIO COPE stated that it concurs that both AFT AFL-CIO and CWA COPE may act as collecting agents for AFL-CIO

COPE and that the transfers made complied with the timing requirements of 11 CFR §102.6(c)(4), although it disagrees that this regulation is applicable to its situation.

Further, counsel disagrees that the separate segregated funds must establish separate transmittal accounts solely for AFL-CIO COPE contributions, or must maintain contribution records of the contributions that comprise the transfers. Also, counsel disagrees that the separate segregated funds are required to forward all recordkeeping information to AFL-CIO COPE, and that AFL-CIO COPE must report the incoming transfers on Line 11 (Receipts from Individuals/Persons), itemizing individual contributions that exceed \$200. Counsel explains that the joint fundraising nature makes the individual attribution to, and reporting by AFL-CIO COPE unnecessary. Counsel states that the transfers themselves provide the necessary information because individual CWA/AFL-CIO members authorize all of their contributions to be remitted to CWA COPE and then delegate to the two separate segregated funds the authority to apportion the total receipts between them.

Counsel states that the arrangement at issue has been in place for at least 25 years and has been regularly reported by all participating separate segregated funds. It submits that, absent a change in the governing regulations, they should be entitled to continue under the current arrangement and it is manifestly unfair to impose new requirements now.

The Audit staff prepared a Draft Final Audit Report and forwarded that report and accompanying legal analysis to AFL-CIO COPE with an offer of a hearing before the Commission.

Audit Hearing

AFL-CIO COPE requested a hearing before the Commission. The request was granted and the hearing was held on March 4, 2010. At the hearing, counsel for AFL-CIO COPE argued that AFL-CIO COPE has been reporting transfers from separate segregated funds in the manner in which it was directed by the Commission based upon a previous audit report approved by the Commission on June 7, 1979.

The reporting practices that AFL-CIO COPE has undertaken during the audit period, as well as those undertaken before the audit period, are consistent with the reporting recommendations from the 1979 audit report. Because AFT AFL-CIO and CWA COPE are reporting committees in their own right, contributions received under this practice are reported to the Commission, and the Commission has a means of assuring itself that the contributions do not exceed the limits prescribed by the Act. Moreover, due consideration must be given to the approval of this arrangement in the 1979 audit report and AFL-CIO's longstanding past practice. Under these circumstances, the Commission accepts AFL-CIO COPE's current reporting practice.

Part V

Additional Issue

Issue 1. Misstatement of 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; and
- The total amount of disbursements for the reporting period and for the calendar year;
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2) and (4).

Facts and Analysis

A comparison of AFL-CIO COPE's reported activity to bank records revealed a misstatement of cash on hand and disbursements in years 2005 and 2006. The majority of the differences were the result of understating disbursements. It was recommended that AFL-CIO COPE file amended reports to correct the misstatement. In response to the interim audit report, AFL-CIO COPE filed amended reports to correct the misstatements. AFL-CIO COPE also corrected its cash balance on its September 2009 monthly report.

The Commission decided by a vote of 6-0 to move the discussion of this matter to the Additional Issues section of the audit report.