Final Audit Report of the Commission on Chris Dodd for President, Inc.

January 24, 2007 – September 30, 2008

Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.[1] The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

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)

Chris Dodd for President, Inc. is the principal campaign committee of Christopher J. Dodd, a candidate for the Democratic Party's nomination for the office of President of the United States. The Committee is headquartered in West Hartford, Connecticut. For more information, see chart on the Campaign Organization, p. 2.

Financial Activity (p. 3)

Receipts	
o Contributions from Individuals	$ 9,848,996
o Contributions from Political Committees	750,402
o Transfers from Affiliated Committees	4,632,357
o Loans Received	1,302,811
o Matching Funds Received	1,961,742
o Offsets to Operating Expenditures	127,012
o Other Receipts	47,506
Total Receipts	**$ 18,670,826**
Disbursements	
o Operating Expenditures	$ 14,978,850
o Loan Repayments	1,302,811
o Transfers to Other Authorized Committee[2]	507,910
o Contribution Refunds	1,365,901
Total Disbursements	**$ 18,155,472**

Commission Findings (p. 4)

- Net Outstanding Campaign Obligations (Finding 1)
- Receipt of Prohibited Contribution and Contributions that Exceed Limits (Finding 2)
- Misstatement of Financial Activity (Finding 3)

[1] 26 U.S.C. §9038(a).

[2] This represents the transfer of general election contributions redesignated to the Candidate's Senate committee, Friends of Chris Dodd.

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Table of Contents

Part I
Background

Authority for Audit

This report is based on an audit of Chris Dodd for President, Inc. (CDFP), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans;
2. The receipt of contributions from prohibited sources;
3. The receipt of transfers from other authorized committees;
4. The disclosure of contributions and transfers received;
5. The disclosure of disbursements, debts and obligations;
6. The recordkeeping process and completeness of records;
7. The consistency between reported figures and bank records;
8. The accuracy of the Statement of Net Outstanding Campaign Obligations;
9. The campaign's compliance with spending limitations; and
10. Other campaign operations necessary to the review.

Inventory of Campaign Records

The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. CDFP's records were materially complete and the fieldwork began immediately.

Audit Hearing

CDFP requested a hearing before the Commission. The request was granted and the hearing was held on August 31, 2011. At the hearing, CDFP addressed issues related to the receipt of prohibited and excessive contributions, as well as, the misstatement of financial activity.

Part II
Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	January 11, 2007
• Eligibility Period	November 26, 2007 - January 3, 2008[3]
• Audit Coverage	January 24, 2007 – September 30, 2008[4]
Headquarters	West Hartford, Connecticut
Bank Information	
• Bank Depositories	Two
• Bank Accounts	One checking, two brokerage
Treasurer	
• Treasurer When Audit Was Conducted	Kathryn Damato
• Treasurer During Period Covered by Audit	Kathryn Damato
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid staff

[3] The period during which the Candidate was eligible for matching funds began on the date of certification of his matching fund eligibility and ended on the date the Candidate announced his withdrawal from the campaign. See 11 CFR §9033.

[4] Limited reviews of receipts and expenditures were performed after September 30, 2008, to determine whether the Candidate was eligible to receive additional matching funds.

Overview of Financial Activity
(Audited Amounts)

Cash-on-hand @ January 24, 2007	**$ 0**
o Contributions from Individuals	$ 9,848,996[5]
o Contributions from Political Committees	750,402
o Transfers from Affiliated Committees	4,632,357
o Loans Received	1,302,811
o Matching Funds Received	1,961,742[6]
o Offsets to Operating Expenditures	127,012
o Other Receipts	47,506
Total Receipts	**$ 18,670,826**
o Operating Expenditures	$ 14,978,850
o Loan Repayments	1,302,811
o Transfers to Other Authorized Committee	507,910[7]
o Contribution Refunds	1,365,901
Total Disbursements	**$ 18,155,472**
Cash-on-hand @ September 30, 2008	**$ 515,354**

[5] Figure includes approximately 25,000 contributions from more than 19,200 individuals.

[6] As of September 30, 2008, CDFP had made four matching fund submissions totaling $1,999,514 of which $1,961,742 was certified by the Commission and paid to CDFP. This represents 9 percent of the maximum entitlement ($21,025,000) a 2008 Presidential candidate could receive.

[7] This represents the transfer of general election contributions redesignated to the Candidate's Senate committee, Friends of Chris Dodd.

Part III
Summaries

Commission Findings

Finding 1. Net Outstanding Campaign Obligations

As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010. The review indicated that the Candidate did not receive matching fund payments in excess of his entitlement. In response to the Preliminary Audit Report, Counsel for CDFP did not dispute this finding, but noted that, in regard to the general election contributions maintained in a brokerage account, the basis value of the brokerage account, not the fair market value, should have been utilized in valuation.

The Commission approved a finding that CDFP did not receive matching fund payments in excess of the Candidate's entitlement. (For more detail, see p. 6)

Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits

During audit fieldwork, the Audit staff reviewed all contributions from other political committees. The review identified a prohibited in-kind contribution of $15,423 from the International Association of Firefighters (IAFF) for the primary election, as well as, $51,000 in excessive primary election contributions from other political committees. In addition, the Audit staff's review of general election contributions indicated that CDFP had not resolved contributions totaling $244,050 which required a redesignation and transfer out or a refund to the contributor.

In response to the Preliminary Audit Report, CDFP disputed whether it had in fact received a prohibited contribution and the amount of the prohibited in-kind contribution from the IAFF, which CDFP believed to be lower based on the documentation it provided. Regarding the excessive contributions from other political committees of $51,000, CDFP demonstrated that $6,700 did not exceed limits and untimely refunded contributions totaling $39,500. Finally, CDFP's response reduced the amount of general election contributions which required a redesignation and transfer out or a refund to the contributor to $7,100.

The Commission approved a finding that CDFP received a prohibited in-kind contribution from IAFF of $5,784 and received excessive contributions from other political committees totaling $44,300 of which $39,500 were refunded in an untimely manner and $4,800 were not resolved. The Commission also approved a finding that CDFP has not resolved general election contributions of $7,100. (For more detail, see p. 9)

Finding 3. Misstatement of Financial Activity

During audit fieldwork, a comparison of reported figures with bank records revealed that CDFP understated its receipts by $355,240 and overstated its disbursements by $190,935 in 2008. In response to the Preliminary Audit Report, CDFP amended its reports, but excluded an adjustment relating to net realized brokerage losses. As a result, receipts for 2008 remain misstated.

The Commission approved a finding that CDFP misstated financial activity for 2008. (For more detail, see p. 16)

Summary of Amounts Owed to the U.S. Treasury

• Finding 2	Receipt of Contributions that Exceed Limits – Unresolved ($4,800 + $7,100)	$ 11,900

Part IV
Commission Findings

Finding 1. Net Outstanding Campaign Obligations

Summary

As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010. The review indicated that the Candidate did not receive matching fund payments in excess of his entitlement. In response to the Preliminary Audit Report, Counsel for CDFP did not dispute this finding, but noted that, in regard to the general election contributions maintained in a brokerage account, the basis value of the brokerage account, not the fair market value, should have been utilized in valuation.

The Commission approved a finding that CDFP did not receive matching fund payments in excess of the Candidate's entitlement.

Legal Standard

A. Net Outstanding Campaign Obligations (NOCO). Within 15 days after the candidate's date of ineligibility, the candidate must submit a statement of "net outstanding campaign obligations." This statement must contain, among other things:

- The total of all committee assets including cash-on-hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding-down costs. 11 CFR §9034.5(a).

B. Entitlement to Matching Payments after Date of Ineligibility. If, on the date of ineligibility, a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

Facts and Analysis

A. Facts

The Candidate's date of ineligibility was January 3, 2008. As part of audit fieldwork, the Audit staff reviewed CDFP's financial activity through December 31, 2010, and prepared the Statement of Net Outstanding Campaign Obligations that appears on the next page.

Chris Dodd for President, Inc.
Statement of Net Outstanding Campaign Obligations
As of January 3, 2008
Prepared through December 31, 2010

Assets

Primary Election Cash in Bank	$ 271,389		
General Election Cash in Bank	1,706,575		
Accounts Receivable	46,899		
Capital Assets	8,407		
Total Assets			$2,033,270

Liabilities

Primary Election Accounts Payable	$ 542,065		
General Election Accounts Payable	1,706,575	[a]	
Loans Payable	1,302,811		
Winding Down Costs:			
Actual 1/4/08 – 12/31/10	1,301,910	[b]	
Amounts Peyable to U.S. Treasury for:			
Unresolved Excessive Contributions (See Finding 2)	4,800	[c]	
Total Liabilities			4,858,161
Net Outstanding Campaign Obligations (Deficit) as of January 3, 2008			($2,824,891)

Footnotes to NOCO Statement:

[a] The NOCO statement represents the primary campaigns financial position at the date of ineligibility (DOI). To ensure that the need to refund general election contributions had no impact on matching fund entitlement, the Audit staff adjusted this payable to match the general election cash in bank amount. Prior to DOI, CDFP received general election contributions of $1,749,670; however, at DOI, the fair market value of the brokerage account in which these contributions were maintained was $1,706,575, a loss of $43,095.

[b] Estimated winding down costs are not included above because this would only increase the deficit. It is likely that CDFP is still incurring minimal salary and legal expenses.

[c] This amount does not include $7,100 in unresolved excessive general election contributions.

Shown below are adjustments for funds received after January 3, 2008, through July 17, 2008 (the date of the last matching fund payment):

Net Outstanding Campaign Obligations (Deficit) as of 1/3/08	($2,824,891)
Private Contributions and Other Receipts Received 1/4/08 through 7/17/08	503,712
Matching Funds Received 1/4/08 through 7/17/08	1,961,742
Remaining Net Outstanding Campaign Obligations (Deficit) as of 7/17/08	($359,437)

As presented above, CDFP has not received matching fund payments in excess of its entitlement.

B. Preliminary Audit Report & Audit Division Recommendation
The Audit staff presented the NOCO to CDFP representatives at the exit conference. In its response, CDFP did not address the NOCO.

In the Preliminary Audit Report, the Audit staff recommended that CDFP demonstrate whether an adjustment(s) was required to any component of the NOCO statement or provide any other comments it desired.

C. Committee Response to Preliminary Audit Report
In response to the Preliminary Audit Report, Counsel for CDFP (Counsel) did not dispute the NOCO but stated that incorrect amounts were presented for "General Election Cash in Bank" and "General Election Accounts Payable" because these figures were generated using the fair market value instead of the basis value of the account. Counsel further added that "While this error does not affect the Committee's net financial position, it is significant in light of Findings 2 and 3..."

D. Draft Final Audit Report
In the Draft Final Audit Report, the Audit staff concluded that the general election brokerage account was correctly presented at fair market value as of the Candidate's date of ineligibility, in accordance with 11 CFR §9034.5(a)(2)(i).

E. Committee Response to the Draft Final Audit Report
CDFP did not mention this matter in its response to the Draft Final Audit Report.

F. Audit Hearing
Counsel for CDFP did not discuss this matter during the audit hearing.

Commission Conclusion
On March 1, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission adopt a finding that the Candidate did not receive matching fund payments in excess of his entitlement.

The Commission approved the Audit staff's recommendation.

Finding 2. Receipt of Prohibited Contribution and Contributions that Exceed Limits

Summary

During audit fieldwork, the Audit staff reviewed all contributions from other political committees. The review identified a prohibited in-kind contribution of $15,423 from the International Association of Firefighters (IAFF) for the primary election, as well as, $51,000 in excessive primary election contributions from other political committees. In addition, the Audit staff's review of general election contributions indicated that CDFP had not resolved contributions totaling $244,050 which required a redesignation and transfer out or a refund to the contributor.

In response to the Preliminary Audit Report, CDFP disputed whether it had in fact received a prohibited contribution and the amount of the prohibited in-kind contribution from the IAFF, which CDFP believed to be lower based on the documentation it provided. Regarding the excessive contributions from other political committees of $51,000, CDFP demonstrated that $6,700 did not exceed limits and untimely refunded contributions totaling $39,500. Finally, CDFP's response reduced the amount of general election contributions which required a redesignation and transfer out or a refund to the contributor to $7,100.

The Commission approved a finding that CDFP received a prohibited in-kind contribution from IAFF of $5,784 and received excessive contributions from other political committees totaling $44,300 of which $39,500 were refunded in an untimely manner and $4,800 were not resolved. The Commission also approved a finding that CDFP has not resolved general election contributions of $7,100.

Legal Standard

A. Authorized Committee Limits. An authorized committee may not receive more than a total of $2,300 per election from any one person or $5,000 per election from a multicandidate political committee based on limits determined for the 2008 cycle. 2 U.S.C. §441a(a)(1)(A), (2)(A) and (f); 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 redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanation of redesignation); and
  - If the committee does not receive a proper redesignation within 60 days of receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §103.3(b)(3), (4) and (5).

C. 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:

1. The redesignation must be signed by the contributor;
2. The redesignation must be received by the committee within 60 days of the committee's receipt of the original contribution; and
3. The contributor may instead request a refund of the excessive amount.
   11 CFR §110.1(b)(5).

Within 60 days of 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).

D. General Election Contributions. If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors or redesignated in accordance with 11 CFR §§110.1(b)(5) or 110.2(b)(5), as appropriate.

E. Unreimbursed Value of Transportation. The unreimbursed value of transportation provided to any campaign traveler is an in-kind contribution from the service provider to the candidate committee on whose behalf the campaign traveler traveled. 11 CFR §100.93(b)(2).

F. Payment of Transportation. If a campaign traveler uses any other means of transportation, with the exception of an airplane, the campaign committee on whose behalf the travel is conducted, must pay the service provider within 30 calendar days of the date of receipt of the invoice for such travel, but not later than 60 calendar days after the date the travel began. 11 CFR §100.93(d).

G. Receipt of Prohibited Contribution from Labor Organizations. Political campaigns may not accept contributions made from the general treasury funds of labor organizations. 2 U.S.C. §441b.

Facts and Analysis

A. Receipt of Prohibited Contribution

1. Facts

During audit fieldwork, the Audit staff noted that the International Association of Fire Fighters billed CDFP $12,088 on February 12, 2008, for a share of the rental cost of an RV, which was decorated to identify Senator Dodd's presidential campaign. The IAFF invoice, printed on its letterhead, read as an agreement between the IAFF and CDFP. It stated that the RV was rented for a period of forty-eight days from November 18, 2007 to January 4, 2008. The invoice indicated that CDFP used the RV for eighteen days in December 2007, through the date of ineligibility. The IAFF prorated the cost using a daily rate. The total cost of the rental for the forty-eight days was $32,233, with $15,423 attributed to the cost of the RV and $16,810 to the cost of "wrapping" it to identify the campaign. The invoice requested that payment of $12,088 be made within sixty days to the International Association of Firefighters Interested in Registration and Education PAC (FIREPAC), a separate segregated fund of the IAFF.

In its December 2007 monthly report, FIREPAC disclosed making an independent expenditure[8] on November 28, 2007, in support of Dodd for "RV Art & Wrapping" in the amount of $16,810[9]. When questioned, CDFP representatives stated that the IAFF initially paid for the RV to use as transportation to events involving communications with the IAFF's restricted class. They stated that FIREPAC paid to wrap the RV because it was a communication expressly advocating Senator Dodd's presidential candidacy, which had not been coordinated with CDFP. CDFP later sought to determine whether it could use the wrapped RV from the IAFF for its own purposes. The IAFF made the RV available and CDFP used it just prior to the Iowa caucus. As mentioned above, the invoice for $12,088 was for a portion of the cost to rent and wrap the RV; however, CDFP paid the entire RV rental and wrapping cost of $32,233. It should also be noted that CDFP's payment occurred more than one-and-a-half years after the invoice date. After reporting the independent expenditure, FIREPAC disclosed a debt owed by CDFP in its March 2008 monthly report for the full cost of the RV ($32,233) and continued to report this debt until it reported the reimbursement in its December 2009 monthly report[10].

2. Preliminary Audit Report & Audit Division Recommendation

In response to a discussion of this issue at the exit conference, CDFP representatives provided a copy of a reimbursement check, dated October 21, 2009, to FIREPAC for $32,233. CDFP representatives stated that CDFP paid both for the use of the RV and the cost of the wrap to avoid receiving an in-kind contribution. In response to other inquiries from the Audit staff, CDFP representatives stated that it was their understanding that the IAFF paid the rental cost of the RV; that the same RV wrapping was utilized by both the IAFF and CDFP; and that they were not aware of any other expenses that were paid by FIREPAC relating to the use or wrap of the RV after CDFP acquired its use.

The Audit staff acknowledged that the payment of $32,233 to FIREPAC by CDFP was an attempt to rectify this matter. However, the rental portion of the RV cost ($15,423), apparently paid by the IAFF, appeared to be a prohibited contribution. Labor organizations are prohibited from making contributions to political campaigns. The contribution was resolved in an untimely manner by CDFP as a result of the reimbursement made to FIREPAC, noted above.

In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that it did not receive a prohibited contribution of $15,423 from the IAFF, including documentation to verify that the IAFF did not pay for the rental portion of the RV.

3. Committee Response to Preliminary Audit Report

CDFP's response did not include any additional documentation. However, Counsel maintained that CDFP could not be found to have received a prohibited contribution when it was directed (on the IAFF's invoice) to pay FIREPAC and it simply complied. In addition,

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[8] FIREPAC reported independent expenditures of approximately $374,000 in support of CDFP for the 2008 election.

[9] This payment was not verified with IAFF or FIREPAC as having been made for the rental or the wrap.

[10] A reimbursement from CDFP was inadvertently deposited into FIREPAC's non-federal account. The subsequent transfer to correct the deposit error was reflected on FIREPAC's 2009 Year-End report.

Counsel stated that even if CDFP should have paid the IAFF, the 60-day timetable in 11 CFR §100.93 should not apply because it applied only to non-commercial forms of transportation. Counsel maintained that "the primary purpose of the wrapped bus [RV] was not to transport people from place to place, but rather to serve as an unusual form of campaign visibility, like the C-SPAN bus or the Ron Paul blimp." Analyzed in this manner, Counsel believed the proper question was whether the campaign paid for the use of the RV within a commercially reasonable time (Counsel cited 11 CFR §114.9(d) - Use or Rental of Corporate or Labor Organization Facilities by Other Persons). Counsel further added that the circumstances that led to the delay in payment were not adequately considered. The response stated that while the payment remained outstanding, CDFP was in a deficit position with many competing obligations that it sought to manage as best it could. Counsel maintained that CDFP chose to pay the full cost of the RV rental and wrap, in an abundance of caution, even though there was a strong argument that it could have paid less.

Regardless of whether the payment for the use of the RV is considered under 11 CFR §100.93 - use of non-commercial forms of transportation or 11 CFR §114.9(d) - use of corporate or labor organization facilities, reimbursement was not made within a commercially reasonable time.

4. Draft Final Audit Report
The Draft Final Audit Report concluded that CDFP received a prohibited contribution of $15,423 from the IAFF.

5. Committee Response to the Draft Final Audit Report
In response to the Draft Final Audit Report, Counsel stated there was no sound basis for a finding that CDFP received a prohibited contribution from the IAFF. Counsel stated the following factors for the Commission's consideration. First, the amount in question should be $12,088, not $15,423, since this was the amount billed to CDFP. Second, the billing was actually not from the union itself, but rather the union's separate segregated fund, FIREPAC. Third, CDFP paid FIREPAC for the full cost of the RV rental and wrap out of an abundance of caution, and FIREPAC appropriately reported a debt owed by CDFP and subsequently deposited CDFP's payment into its account.

6. Audit Hearing
During the audit hearing, Counsel reiterated the points made in response to the Draft Final Audit Report to support that CDFP did not accept a prohibited contribution from the IAFF. Counsel further mentioned that a possible explanation for the invoice being printed on the IAFF's letterhead could be that the IAFF handled the administrative functions of its separate segregated fund, FIREPAC.

Commission Conclusion
On March 1, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that CDFP received a prohibited contribution of $15,423 from the IAFF.

Based on the documented pro rata share of usage by CDFP, the Commission approved a finding for the receipt of a prohibited contribution of $5,784 (18 days/48 days x $15,423).

However, CDFP's receipt of a prohibited contribution was mitigated by CDFP's repayment (albeit untimely) of the entire RV rental and wrapping cost.

B. Apparent Excessive Contributions from Other Political Committees

1. Facts

During audit fieldwork, the Audit staff identified seventeen apparent excessive contributions totaling $51,000 from other political committees. The contributions initially identified by the Audit staff included:

- Three contributions totaling $8,000 that had been timely refunded by CDFP; however, the refund checks never cleared CDFP's bank account.
- A contribution of $4,000 for which CDFP presented a timely, completed letter of redesignation to the Candidate's Senatorial Committee, Friends of Chris Dodd (FOCD). CDFP neither transferred the contribution to FOCD, nor refunded it[11].
- Thirteen contributions totaling $39,000 for which CDFP had failed to provide any evidence of a refund or redesignation.

2. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided a listing of these apparent excessive contributions. Counsel did not address these contributions in its response.

In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that it did not receive excessive contributions. Such documentation was to include copies of refund checks negotiated in a timely manner, or redesignation letters signed and dated in a timely manner. Absent such documentation, the Audit staff recommended that CDFP make appropriate refunds to contributors and provide evidence of such actions (copies of the front and back of negotiated refund checks) or make a payment of $51,000 to the U.S. Treasury.

3. Committee Response to Preliminary Audit Report

In response to the Preliminary Audit Report, Counsel provided documentation demonstrating that three contributions totaling $6,700 were not excessive. For the remaining fourteen contributions totaling $44,300, copies of refund checks dated November 30, 2010, were submitted.

4. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff noted that CDFP demonstrated that three contributions totaling $6,700 did not exceed the limits, twelve contributions totaling $39,500 were refunded in an untimely manner, and two contributions totaling $4,800 remained unresolved until evidence was provided that the refund checks had been negotiated. The Audit staff also recommended that, if CDFP was unable to provide such evidence, the unresolved excessive contributions of $4,800 should be disgorged to the U.S. Treasury.

5. Committee Response to the Draft Final Audit Report

Counsel did not offer any comments regarding the apparent excessive contributions from other political committees in CDFP's response to the Draft Final Audit Report.

[11] It was later determined that this contribution was not excessive.

6. Audit Hearing
At the audit hearing, Counsel did not discuss this matter.

Commission Conclusion
On March 1, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that CDFP received excessive contributions from other political committees totaling $44,300. Of this amount, CDFP demonstrated that contributions totaling $39,500 were refunded in an untimely manner and the remaining contributions of $4,800 are unresolved.

The Commission approved the Audit staff's recommendation.

C. Receipt of General Election Contributions

1. Facts
During audit fieldwork, the Audit staff identified contributions designated for the general election totaling $244,050. As the Candidate did not participate in the general election, these contributions had to be either redesignated and transferred out, or refunded. In accordance with Advisory Opinion 2008-04 (AO), CDFP had six days from the receipt of the AO (dated September 2, 2008) to obtain redesignations or make refunds of the general election contributions. Initially, the Audit staff did not locate redesignation letters associated with these contributions and noted that sufficient CDFP funds were not available to transfer these funds to FOCD or make refunds to the contributors. The Audit staff considered these apparent excessive contributions unresolved until CDFP provided associated redesignation letters.

2. Preliminary Audit Report & Audit Division Recommendation
At the exit conference, the Audit staff provided CDFP representatives with a schedule outlining the general election contributions. In response, Counsel maintained that CDFP had properly refunded all its general election contributions.

In the Preliminary Audit Report, the Audit staff recommended that CDFP provide documentation demonstrating that these contributions were not excessive. Such documentation was to include copies of timely negotiated refund checks or timely signed and dated redesignation letters. Absent this documentation, the Audit staff directed CDFP to make appropriate refunds to contributors and provide evidence of such actions (copies of the front and back of negotiated refund checks), or make a payment of $244,050 to the U.S. Treasury.

3. Committee Response to Preliminary Audit Report
In response to the Preliminary Audit Report, Counsel maintained that only $14,900 of the $244,050 in general election contributions awaited refund or disgorgement. Counsel also provided the following documentation in regards to the general election contributions:

a. Copies of thirty redesignation letters for contributions totaling $74,800, which were all completed and signed by the contributors. All the letters requested redesignation to the FOCD 2010 primary or general election and were timely obtained by CDFP.

b. A copy of an email confirmation from CDFP's receipts processing vendor demonstrating that it had processed a refund of a $2,300 contribution on September 13, 2007.
c. A copy of a negotiated disgorgement check for a contribution of $5,000 and a letter sent to the Bureau of Public Debt on November 25, 2008. Other documentation stated that the political action committee which made the original contribution no longer existed.
d. A copy of a negotiated disgorgement check to the U.S. Treasury for $144,950, dated November 30, 2010. Counsel stated that this check was for eighty-two stale-dated refund checks. Counsel provided check stubs for all the refund checks. From the check stubs, it appeared that nearly all the refund checks were written on August 21, 2008. Counsel also added that, "While the Committee agrees that the stale-dated refund checks must be disgorged, many do not provide an appropriate basis for a finding of excessive contributions, in that they were lawfully received and timely refunded."
e. Web page verification from CDFP's receipts processing vendor demonstrating that a $2,100 contribution was returned for non-sufficient funds.
f. Copies of a negotiated refund check for $5,000, four refund checks totaling $7,100, and a negotiated disgorgement check for $2,800 to the U.S. Treasury for contributions for which Counsel stated CDFP lacked evidence of refund or timely redesignation. All refund checks were dated November 26, 2010, and the disgorgement check was dated November 30, 2010.

4. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that for the general election contributions totaling $244,050 CDFP demonstrated that $2,100 was actually returned for non-sufficient funds and that contributions totaling $234,850 were resolved. With respect to the remaining $7,100, the Audit staff considered these contributions unresolved until documentation of the negotiated refunds was provided or the amount was disgorged to the U.S. Treasury.

5. Committee Response to the Draft Final Audit Report

In response to the Draft Final Audit Report, Counsel maintained that the audit report should make clear that, for the bulk of the general election contributions, CDFP timely obtained redesignations and issued refunds. Counsel stated that CDFP transferred all its general election contributions to FOCD. Counsel objected to the Draft Final Audit Report statements that (1) CDFP had not provided the required redesignation letters necessary to transfer the excessive contributions, (2) CDFP resolved excessive contributions of $160,050 in an untimely manner, and (3) contributions of $173,210 have not been transferred to FOCD.

6. Audit Hearing

At the audit hearing, Counsel presented the arguments outlined in CDFP's response to the Draft Final Audit Report (discussed above).

Commission Conclusion

On March 1, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that CDFP received general election contributions totaling $241,950 ($244,050 less a contribution of $2,100 that CDFP demonstrated was actually returned for non-sufficient funds). Of this

amount, CDFP demonstrated that contributions totaling $234,850 were resolved[12]. The remaining contributions of $7,100 are unresolved.

The Commission approved the Audit staff's recommendation.

Finding 3. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of reported figures with bank records revealed that CDFP understated its receipts by $355,240 and overstated its disbursements by $190,935 in 2008. In response to the Preliminary Audit Report, CDFP amended its reports, but excluded an adjustment relating to net realized brokerage losses. As a result, receipts for 2008 remain misstated.

The Commission approved a finding that CDFP misstated financial activity for 2008.

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). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

As a part of fieldwork, the Audit staff reconciled reported activity with bank records for 2008. The following chart outlines the discrepancies for the beginning cash balances, receipts, disbursements, and the ending cash balances. The succeeding paragraphs explain why the differences occurred, if known.

2008 Committee Activity			
	Reported	**Bank Records**	**Discrepancy**
Opening Cash Balance @ January 1, 2008	$ 2,489,560	$ 2,456,875	$ 32,685 Overstated
Receipts	$ 1,910,177	$ 2,265,417	$ 355,240 Understated
Disbursements	$ 4,397,873	$ 4,206,938	$ 190,935 Overstated
Ending Cash Balance @ September 30, 2008	$ 515,970[13]	$ 515,354	$ 616 Overstated

[12] This figure includes contributions totaling $15,100 that were resolved in an untimely manner.

[13] The reported ending cash balance is incorrect because CDFP decreased its beginning cash-on-hand by $12,949 in its August 2008 Monthly Report and increased beginning cash-on-hand by $527,055 in its October 2008 Monthly Report. The unexplained changes in cash may have been an attempt to correct the cash discrepancies that resulted from the misstatements of receipts and disbursements. Absent these incorrect adjustments by CDFP, the reported ending cash balance at September 30, 2008, would have been $1,864.

The overstatement of opening cash-on-hand ($32,685) resulted from discrepancies that occurred in the previous year, 2007.

The understatement of receipts resulted from the following:

• Matching fund payment received 7/17/08, not reported	$ 514,173
• Net realized losses (brokerage accounts), not reported[14]	(150,370)
• Vendor refund, not reported	5,876
• Offsets to operating expenditures, not reported	23,954
• Political committee contributions, not reported	16,100
• Unexplained difference	(54,493)
Net understatement of receipts	$ 355,240

The overstatement of disbursements resulted from the following:

• Loan repayment, over-reported	$ (144,757)
• Disbursements and brokerage fees, not reported	239,950
• Net errors in reporting payroll and fees	41,733
• October Transfer to FOCD reported in September[15]	(351,210)
• Reported disbursements that actually cleared bank in Dec. '07	(3,300)
• Unexplained difference	26,649
Net overstatement of disbursements	$ (190,935)

The overstatement of ending cash-on-hand ($616) resulted from the misstatements described above.

B. Preliminary Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the misstatements and provided CDFP representatives with copies of the Audit staff's bank reconciliation. In response to the exit conference, regarding the over-reporting of transfers to the Candidate's Senate committee (totaling $351,210), CDFP representatives stated that CDFP had instructed its broker to transfer the funds to the FOCD account, and the broker's delay in making the transfer caused the reporting discrepancy. The reporting error could have been avoided if CDFP had not reported the transfer until the funds were actually transferred. Regarding the reporting of operating expenditures, CDFP representatives stated that many operating expenditures were not reported because CDFP was unaware of the data processing requirements for entering debts and obligations. Thus, many debt payments were not disclosed in CDFP's reports. CDFP representatives did not address any of the other discrepancies noted above.

In the Preliminary Audit Report, the Audit staff recommended that CDFP amend its reports to correct the misstatements for 2008.

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[14] It should be noted that this relates to realized gains and losses disclosed by the brokerage firm in its monthly statements, which were not reported by CDFP. These net realized losses resulted from the decline in the stock market.

[15] CDFP reported this transfer in September 2008, while it actually occurred in October 2008. The Audit staff's bank reconciliation was done through September 2008. As such, it was recommended that CDFP amend its reports to correctly disclose the transfer in October 2008.

C. Committee Response to Preliminary Audit Report
In response to the Preliminary Audit Report, Counsel stated that, after the date of ineligibility, CDFP had some difficulty in preparing its reports due mainly to problems experienced in the use of its financial database. Counsel added that this was why, for example, CDFP failed to disclose a matching fund payment received on July 17, 2008, and over-reported a $144,757 loan repayment. Counsel indicated that CDFP would file amendments to correct these misstatements.

However, Counsel further added that the Preliminary Audit Report did not correctly present the "level of misstatement", mainly because of its treatment of CDFP's brokerage account. Counsel argued that the Preliminary Audit Report "...appears to confuse fluctuations in the account's fair market value, which do not need to be reported, with the actual sale of the portfolio assets."

In response to the Preliminary Audit Report, CDFP filed amended reports for 2008 and a portion of 2009. CDFP did not accept the assessment of its brokerage accounts presented in the Preliminary Audit Report and therefore did not make all the recommended adjustments relating to the brokerage accounts in its amended reports. Specifically, the amended reports did not include net realized losses of $150,370 (see section A above), and as a result, receipts remained misstated for 2008. CDFP materially corrected disbursements for 2008.

D. Draft Final Audit Report
In the Draft Final Audit Report, the Audit staff acknowledged the amendments filed by CDFP but noted that receipts remained materially misstated for 2008 as a result of CDFP's decision to not disclose the realized losses from the brokerage accounts.

E. Committee Response to the Draft Final Audit Report
In response to the Draft Final Audit Report, Counsel disagreed with the Audit staff's treatment of CDFP's brokerage account losses. Counsel contended that this finding stemmed from a misunderstanding of the law and made comparisons to the treatment of unrealized gains and losses in the audit of Friends of Anthony Weiner for the 2003-2004 election cycle.

Counsel further stated that the statute and regulations provided no explicit guidance on how realized losses must be reported. Counsel asserted that neither explicitly referred to the disclosure of losses, especially within a brokerage account.

Counsel expressed that the Draft Final Audit Report also demonstrated the lack of clarity on this issue. Counsel pointed to the different means of disclosing the realized losses presented in the Draft Final Audit Report (in "Other Receipts") and the Office of General Counsel's legal analysis of the Draft Final Audit Report (in "Other Disbursements").

F. Audit Hearing
At the audit hearing, Counsel reiterated CDFP's position that the statute and regulations lack guidance on the reporting of realized losses. Counsel also stated that they did not believe there was legal authority that required CDFP to disclose realized losses on a brokerage account.

Subsequent to the audit hearing, the Audit staff clarified to Counsel that CDFP's net realized losses of $150,370 should be reported on Schedule A-P (Itemized Receipts), Line 21 (Other Receipts) as a negative receipt.

Commission Conclusion

On March 1, 2012, the Commission considered the Audit Division Recommendation Memorandum in which the Audit staff recommended the Commission find that CDFP misstated its financial activity for 2008 by understating its receipts by $355,240 and overstating its disbursements by $190,935.

The Commission approved the Audit staff's recommendation.