



Interim Audit Report of the Audit Division on the Conservative Campaign Committee

(April 5, 2011 - December 31, 2012)

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 matter discussed in this report.

About the Committee (p. 2)

The Conservative Campaign Committee is a non-connected committee headquartered in Willows, California. For more information, see the chart on Committee Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 3,871,317
○ Other Receipts	28,994
Total Receipts	\$ 3,900,311
• Disbursements	
○ Operating Expenditures	\$ 2,519,567
○ Independent Expenditures	1,339,170
○ Refund of Contributions	20,110
○ Other Disbursements	6,512
Total Disbursements	\$ 3,885,359

Findings and Recommendations (p. 3)

- Failure to File Reports and Properly Disclose Independent Expenditures (Finding 1)
- Recordkeeping for Communications (Finding 2)

¹ 52 U.S.C. §30111(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Conservative Campaign Committee² (CCC), 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 consistency between reported figures and bank records;
2. the disclosure of individual contributors' occupation and name of employer;
3. the disclosure of independent expenditures;
4. the disclosure of debts and obligations pertaining to independent expenditures;
5. the completeness of disbursement records; and
6. other committee operations necessary to the review.

Limitations

CCC satisfied the recordkeeping requirements of 11 CFR§102.9 concerning disbursements. However, testing of disbursements was limited due to the available copies of communications that could be associated to disbursements (See Finding 2-Recordkeeping for Communications). Absent review of information associated with campaign communications, the Audit staff was unable to determine whether disbursements totaling \$357,998 were properly classified as operating expenditures and, if not, whether possible additional reporting was necessary. (See Finding 2, p.8).

² On December 18, 2012, the Commission received a Statement of Organization from the Campaign to Defeat Barack Obama officially changing its name to the Conservative Campaign Committee.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	April 11, 2011
• Audit Coverage	April 5, 2011 ³ - December 31, 2012
Headquarters	
Willows, California	
Bank Information	
• Bank Depositories	One
• Bank Accounts	One Checking and One Savings
Treasurer	
• Treasurer When Audit Was Conducted	Kelly Lawler
• Treasurer During Period Covered by Audit	Kelly Lawler
Management Information	
• Attended Commission Campaign Finance Seminar	No
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts⁴)

Cash-on-hand @ April 5, 2011	\$ 0
Receipts	
○ Contributions from Individuals	3,871,317
○ Other Receipts	28,994
Total Receipts	\$ 3,900,311
Disbursements	
○ Operating Expenditures	2,519,567
○ Independent Expenditures	1,339,170 ⁵
○ Refund of Contributions	20,110
○ Other Disbursements	6,512
Total Disbursements	\$ 3,885,359
Cash-on-hand @ December 31, 2012	\$ 14,952

³ CCC opened its first bank account April 5, 2011.

⁴ Audited amounts may differ from reported amounts; however, the differences were not material enough to result in a misstatement of financial activity finding.

⁵ This amount, as well as the amount for operating expenditures, may change as a result of the Commission's final consideration of the audit Finding 1.

Part III

Summaries

Findings and Recommendations

Finding 1. Failure to File Reports and Properly Disclose Independent Expenditures

During audit fieldwork, the Audit staff ascertained that CCC disclosed independent expenditures, totaling \$1,339,170, on Schedule E (Itemized Independent Expenditures). Of these expenditures, CCC did not properly disclose independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E and reporting as debt on Schedule D (Debts and Obligations). Additionally, the Audit staff identified disbursements disclosed as operating expenditures on Schedule B, Line 21b (Operating Expenditures), totaling \$294,036, which appear to be independent expenditures.

Of the \$1,339,170 independent expenditures reported on Schedule E, CCC did not file 24-hour reports for \$12,302 of them in a timely manner and did not file any 24-hour reports for \$3,774 of them. Additionally, for the \$294,036 disclosed as operating expenditures which appear to be independent expenditures, CCC did not file 24/48-hour reports totaling \$270,210.

If CCC believes that the apparent independent expenditures, totaling \$294,036, did not require reporting as independent expenditures, the Audit staff recommends that CCC provide evidence to support its conclusion. Absent such evidence, the Audit staff recommends that CCC amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures. Lastly, the Audit staff recommends that CCC provide documentation to support that the 24/48-hour reports were timely filed or provide documentation to support the date of public dissemination for each communication to determine whether a filing of 24/48-hour report was required. (For more detail, see p. 4.)

Finding 2. Recordkeeping for Communications

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information reported on the disclosure reports. CCC reported 134 expenditures totaling \$357,998 on Schedule B, Line 21 (Operating Expenditures) with purposes such as “fundraising blast emails”, “media consulting and commissions” and “online advertising”. Documentation that was provided by CCC was insufficient to make a determination pertaining to the purpose for these disbursements and verification as an operating expense. The Audit staff recommends that CCC provide the missing copies of communications and invoices for the Audit staff to verify proper reporting of the communications. (For more detail, see p. 8.)

Part IV

Findings and Recommendations

Finding 1. Failure to File Reports and Properly Disclose Independent Expenditures

Summary

During audit fieldwork, the Audit staff ascertained that CCC disclosed independent expenditures, totaling \$1,339,170, on Schedule E (Itemized Independent Expenditures). Of these expenditures, CCC did not properly disclose independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E and reporting as debt on Schedule D (Debts and Obligations). Additionally, the Audit staff identified disbursements disclosed as operating expenditures on Schedule B, Line 21b (Operating Expenditures), totaling \$294,036, which appear to be independent expenditures.

Of the \$1,339,170 independent expenditures reported on Schedule E, CCC did not file 24-hour reports for \$12,302 of them in a timely manner and did not file any 24-hour reports for \$3,774 of them. Additionally, for the \$294,036 disclosed as operating expenditures which appear to be independent expenditures, CCC did not file 24/48-hour reports totaling \$270,210.

If CCC believes that the apparent independent expenditures, totaling \$294,036, did not require reporting as independent expenditures, the Audit staff recommends that CCC provide evidence to support its conclusion. Absent such evidence, the Audit staff recommends that CCC amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures. Lastly, the Audit staff recommends that CCC provide documentation to support that the 24/48-hour reports were timely filed or provide documentation to support the date of public dissemination for each communication to determine whether a filing of 24/48-hour report was required.

Legal Standard

A. Definition of Independent Expenditures. An independent expenditure is an expenditure made for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party or its agents.

A clearly identified candidate is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference, such as "your Congressman," or through an unambiguous reference to his or her status as a candidate, such as "the Democratic Presidential nominee" or "Republican candidate for Senate in this state."

Expressly advocating means any communication that:

- Uses phrases such as “vote for the President” or “re-elect your Congressman” or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge election or defeat of one or more clearly identified candidates; or
- When taken as a whole and with limited references to external events, such as proximity to the election, could be interpreted by a reasonable person only as advocating the election or defeat of one or more clearly identified candidates. 11 CFR §§100.16(a), 100.17 and 100.22.

B. Disclosure Requirements – General Guidelines. An independent expenditure shall be reported on Schedule E if, when added to other independent expenditures made to the same payee during the same calendar year, it exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as memo entries on Schedule E and as a debt on Schedule D. Independent expenditures of \$200 or less need not be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11.

C. Last-Minute Independent Expenditure Reports (24-Hour Reports). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election, must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour report is required each time additional independent expenditures aggregate \$1,000 or more. The date that a communication is publicly disseminated serves as the date that the committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

D. Independent Expenditure Reports (48-Hour Reports). Any independent expenditures aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must be disclosed within 48 hours each time the expenditures aggregate \$10,000 or more. The reports must be filed with the Commission within 48 hours after the expenditure is made. 11 CFR §§104.4(f) and 104.5(g)(1).

E. Formal Requirements Regarding Reports and Statements. Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness. 11 CFR §104.14(b)(1).

Facts and Analysis

A. Reporting of Independent Expenditures

1. Facts

During audit fieldwork, the Audit staff reviewed disbursements to ensure that independent expenditures were disclosed correctly on Schedule E, including disclosing the correct memo and debt entry, if required. The Audit staff noted that CCC disclosed independent expenditures totaling \$1,339,170 on Schedule E; however, CCC made additional media-related expenditures totaling \$294,036 and disclosed them as operating expenditures. A review and analysis of these expenditures revealed the following:

a) Apparent Independent Expenditures Reported as Operating Expenditures (Copy of Communication Made Available)

CCC made 39 apparent independent expenditures totaling \$294,036 for which it provided invoices, television and radio advertisements, fundraising blast emails, and additional supporting documents to the Audit staff. All of these communications totaling \$294,036 contained language expressly advocating the election or defeat of a clearly identified candidate, as defined under 11 CFR §100.22(a). The television and radio advertisements included statements such as: “Defeat Obama Tele-thon”, “Defeat Obama Radio-thon” and “Rebuild America, Defeat Obama Tour”.

The fundraising blast emails included links to television and radio advertisements, as well as express advocacy language within the body of the email. The emails included express advocacy phrases such as: “Defeat Barack Obama” and “We’re going to stop Barack Obama from getting Wisconsin’s 10 Electoral Votes”.

b) Independent Expenditures Reported on Schedule E (Independent Expenditure Schedule)

CCC made 240 independent expenditures totaling \$1,339,170 which were reported on Schedule E. CCC did not properly disclose seven independent expenditures totaling \$12,168 that were publicly disseminated prior to payment and therefore required reporting as memo entries on Schedule E. CCC should have disclosed memo entries on Schedule E when the communications were disseminated in addition to the reporting at the time of payment. This amount should also be reported as a corresponding debt on Schedule D (Debts and Obligations).

2. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff presented the schedule of disclosure errors for independent expenditures. In response to the exit conference, CCC provided additional documentation including copies of seven major fundraising blast emails totaling \$100,374. Upon review, the Audit staff determined these email

communications included express advocacy, but were not properly reported as independent expenditures. The cost of these fundraising emails is part of the \$294,036 in section A.1 (a) above.

The Audit staff recommends that, within 30 calendar days of service of this report, CCC provide documentation and evidence that apparent independent expenditures totaling \$294,036 did not require reporting as independent expenditures. Evidence should include invoices with the corresponding communications and, where applicable, CCC's payment information. Absent such evidence, the Audit staff recommends that CCC amend its reports to disclose these disbursements as independent expenditures on Schedule E and submit revised procedures for reporting independent expenditures. The Audit staff also recommends CCC amend its reports to include the reporting of \$12,168 in independent expenditures as memo entries based on the date in which the materials were disseminated. This amount should also be reported as a corresponding debt on Schedule D.

B. Failure to File 24/48-Hour Reports for Independent Expenditures

1. Facts

The Audit staff reviewed independent expenditures reported by CCC, as well as the apparent independent expenditures noted above, to determine whether additional reporting of a 24/48-hour report was required.⁶ The following was noted:

a) Independent Expenditures Reported on Schedule E (Independent Expenditure Schedule)

Of the \$1,339,170 reported on Schedule E:

- i) CCC failed to file 24-hour reports for three disbursements totaling \$3,774.
- ii) CCC untimely filed 24-hour reports for ten disbursements totaling \$12,302, which were generally two to three days late and were prior to the general election.

b) Apparent Independent Expenditures Reported as Operating Expenditures

Of the \$294,036 in apparent independent expenditures reported on Schedule B, CCC did not file 24/48-hour reports totaling \$270,210⁷.

⁶ The date the expenditure is publicly distributed serves as the date that the independent expenditure is made for purposes of the additional 24/48-hour report filing requirement. In the absence of a known date for public dissemination, the Audit staff used the invoice date or date of incurrence to determine if a 24/48-hour report was required. The Audit staff used the invoice date for 15 of the payments, totaling \$125,582, to determine if a 24/48-hour report was required.

⁷ There was \$23,826 (\$294,036 - \$270,210) in apparent independent expenditures reported as operating expenditures that did not require 24/48-hour reports. Based on the available documentation, these expenses were publicly disseminated outside of the 24/48-hour report requirement periods for California's Primary Election (1/1/12 - 6/3/12) and General Election (1/1/12 - 11/4/12).

2. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided the CCC representative with a schedule of undisclosed or late filed 24/48-hour reports. The CCC representative did not provide any comments.

Absent documentation and evidence that apparent independent expenditures noted above in section A.1 (a) did not require reporting as independent expenditures, the Audit staff recommends that, within 30 calendar days of service of this report, CCC provide documentation to support that the 24/48-hour reports, totaling \$286,286 (\$3,774+ \$12,302 + \$270,210) were timely filed or that the report was not required. Such documentation should include support for the date of public dissemination for the Audit staff to determine whether or not a 24/48-hour report was required.

Finding 2. Recordkeeping for Communications

Summary

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information reported on the disclosure reports. CCC reported 134 expenditures totaling \$357,998 on Schedule B, Line 21 (Operating Expenditures) with purposes such as “fundraising blast emails”, “media consulting and commissions” and “online advertising”. Documentation that was provided by CCC was insufficient to make a determination pertaining to the purpose for these disbursements and verification as an operating expense. The Audit staff recommends that CCC provide the missing copies of communications and invoices for the Audit staff to verify proper reporting of the communications.

Legal Standard

A. Formal Requirements Regarding Reports and Statements. Each political committee shall maintain records with respect to the matters required to be reported which shall provide in sufficient detail the necessary information and data from which the filed reports may be verified, explained, clarified, and check for accuracy and completeness. 11 CFR §104.14(b)(1).

B. Preserving Records and Copies of Reports. The treasurer of a political committee must preserve all records and copies of reports for 3 years after the report is filed. 52 U.S.C. §30102(d).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed disbursements to verify the accuracy of the information reported on the disclosure reports. CCC made 134 expenditures totaling \$357,998 for which documentation was insufficient to make a determination pertaining to whether these disbursements were correctly reported on Schedule B, Line 21b (Operating Expenditures).

The Audit staff's analysis of the documentation that was provided, including CCC's disbursement database, invoices and bank statements, determined the following:

i. **Disbursements – Invoices Provided – No Copies of Communication Provided (\$353,323)**

Disbursements totaling \$353,323 were paid to vendors for services such as fundraising communications and disclosed on Schedule B with purposes of "fundraising blast emails", "media consulting and commissions" and "online advertising". For these 133 disbursements, CCC provided payment documentation and invoices, some invoices contained titles of candidates or issues including one titled "paulryan" and another titled "waronwomen". However, CCC did not provide the associated communication. Without a copy of the communications, the Audit staff is unable to verify CCC's reporting of these amounts as operating expenditures. The Audit staff requested copies of the associated communication. To date this information has not been provided.

ii. **Disbursements – No Invoices or Copies of Communication Provided (\$4,675)**

There was one disbursement for newsletters with missing invoices and missing communications totaling \$4,675. The disbursement was reflected on CCC's database as a payment to one vendor and disclosed on Schedule B with the purpose of "email list and newsletter". Without a copy of the invoices and communications, the Audit staff is unable to verify CCC's reporting of this amount as operating expenditures. The Audit staff requested the invoices, payment documentation, and copies of the communications. To date this information has not been provided.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff presented a schedule of the disbursements for which further records were necessary to verify the accuracy of CCC's reporting (with the discussion of independent expenditures at Finding 1 above). The CCC representative did not provide any comments.

The Audit staff recommends that, within 30 calendar days of service of this report, CCC provide the necessary information from which the reported operating expenditures totaling \$357,998 may be verified or explained. Such records should include copies of communications, invoices with the corresponding communications and, where applicable, CCC's payment information.