



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 19, 2014

**MEMORANDUM**

**TO:** Patricia C. Orrock  
Chief Compliance Officer

Thomas E. Hintermister  
Assistant Staff Director  
Audit Division

**FROM:** Lisa J. Stevenson *LJS*  
Deputy General Counsel - Law

Lorenzo Holloway *LH*  
Assistant General Counsel  
Compliance Advice

Margaret J. Forman *MJF*  
Attorney

**SUBJECT:** Proposed Interim Audit Report on the Joe Walsh for Congress Committee, Inc.  
(LRA 957)

**I. INTRODUCTION**

The Office of the General Counsel has reviewed the proposed Interim Audit Report ("IAR") on the Joe Walsh for Congress Committee, Inc ("JWFC"). The IAR contains two findings: Disclosure of Occupation/Name of Employer (Finding 1), and Receipt of Contributions in Excess of the Limit (Finding 2).<sup>1</sup> We concur with the findings, and comment on them below. If you have any questions, please contact Margaret J. Forman, the attorney assigned to this audit.

---

<sup>1</sup> We recommend that the Commission consider this document in Executive Session because the Commission may eventually decide to pursue an investigation of matters contained in the proposed IAR. 11 C.F.R. §§ 2.4(a) and (b)(6).

## II. ANALYSIS

In Finding 1 of the proposed IAR, the Audit Division determined that JWFC failed to comply with the "best efforts" requirement of the Federal Election Campaign Act (the "Act"). See 2 U.S.C. § 432(i). Committee treasurers are required to show that best efforts have been used to obtain, maintain, and submit the information required by the Act, including with respect to reporting the identification of each person whose contribution(s) to the political committee aggregate in excess of \$200 in a calendar year. 2 U.S.C. § 432(i); 11 C.F.R. § 104.7(a), (b). Here, JWFC apparently made efforts to obtain and maintain the requisite information under section 104.7(b) of the Commission's regulations but failed to "submit" the information to the Commission. JWFC maintained a paper file of letters it received from contributors who responded to its request for the required name, occupation, and name of employer information. Proposed IAR at 5; see 11 C.F.R. §§ 104.7(b); 100.12. JWFC, however, failed to disclose this information on its reports. Proposed IAR at 5. Therefore, JWFC has failed to "submit" this information as required by the Act. 2 U.S.C. § 432(i); 11 C.F.R. § 104.7(a), (b)(4). The Audit Division concludes that JWFC did not establish best efforts because it did not submit this information by amending its disclosure reports. Proposed IAR at 5. However, the language in the proposed IAR does not specify that the Act requires JWFC to submit this information. We recommend that the Audit Division clarify in its proposed IAR that the Act requires JWFC to submit the information.

In Finding 2 of the proposed IAR, the Audit Division determined that JWFC received apparent excessive contributions from 29 individuals totaling \$92,325. The Audit Division states that these apparent excessive contributions occurred because JWFC failed to redesignate or reattribute the excessive portions of contributions or issue a refund in a timely manner. Proposed IAR at 5-9; See 11 C.F.R. § 110.1(b)(3), (b)(5). The Audit Division recommends that JWFC resolve the apparent excessive contributions through refunds to the contributors, through disgorgement to the U.S. Treasury, or by issuing presumptive redesignation or reattribution letters. Proposed IAR at 5-9.

We concur generally with the finding but recommend that the Audit Division clarify and explain its recommended remedies. [REDACTED]

We also recommend that the Audit Division explain in the cover memorandum to the Commission why it is recommending that JWFC have the option of issuing presumptive redesignations or reattribution letters. For a presumptive redesignation or presumptive reattribution to be valid, it must meet certain requirements. See 11 C.F.R. § 110.1(b)(5)(ii)(B), (b)(5)(ii)(C), (k)(3)(ii)(B). One of these requirements is that the treasurer notify each contributor of the amount of the contribution that was redesignated or reattributed, and offer the contributor an

opportunity to request a refund within 60 days of the treasurer's receipt of the contribution. 11 C.F.R. § 110.1(b)(5)(ii)(B)(5), (b)(5)(ii)(B)(6), (b)(5)(ii)(C)(6), (b)(5)(ii)(C)(7), (k)(3)(ii)(B)(2), (k)(3)(ii)(B)(3). Since the audit period of JWFC covers January 1, 2011 through December 31, 2012, any contribution that JWFC attempts to redesignate at this point in time would not be timely, as the notification to the contributor would occur more than 60 days from the date of the contribution. *Id.* The Audit Division should explain why it is recommending presumptive redesignations and presumptive reattributions as a remedy, and the impact of such a remedy on the audit. The Audit Division should explain any relevant procedures in the audit program, error definitions, and materiality thresholds, and provide background on prior actions in other audits regarding untimely redesignations or reattributions, including whether the Audit Division has made such recommendations in the past, and whether the Commission approved those recommendations.