



Interim Audit Report of the Audit Division on Ted Cruz for Senate

(January 18, 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 Act¹ (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. 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)

Ted Cruz for Senate is the principal campaign committee for Ted Cruz, Republican candidate for the United States Senate from the state of Texas, and is headquartered in Austin, Texas. For more information, see the Campaign Organization Chart, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 12,044,368
○ Contributions from Political Committees	1,407,608
○ Transfers from Other Authorized Committees	175,347
○ Candidate Loans	1,430,000
○ Other Receipts	40,960
Total Receipts	\$ 15,098,283

• Disbursements

○ Operating Disbursements	\$ 13,814,542
○ Candidate Loan Repayments	587,000
○ Contribution Refunds	192,327
○ Other Disbursements	25,000
Total Disbursements	\$ 14,618,869

Finding and Recommendation (p. 3)

- Reporting of Candidate Loan as a Contribution

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 Ted Cruz for Senate (TCFS), 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 receipt of excessive contributions and loans;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of individual contributors' occupation and name of employer;
5. the consistency between reported figures and bank records;
6. the completeness of records; and
7. other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	February 2, 2011
• Audit Coverage	January 18, 2011 - December 31, 2012
Headquarters	Austin, Texas
Bank Information	
• Bank Depositories	Three
• Bank Accounts	Seven Checking
Treasurer	
• Treasurer When Audit Was Conducted	Bradley S. Knippa
• Treasurer During Period Covered by Audit	Bradley S. Knippa
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 18, 2011	\$ 0
Receipts	
○ Contributions from Individuals	12,044,368
○ Contributions from Political Committees	1,407,608
○ Transfers from Other Authorized Committees	175,347
○ Candidate Loans	1,430,000
○ Other Receipts	40,960
Total Receipts	\$ 15,098,283
Disbursements	
○ Operating Disbursements	13,814,542
○ Candidate Loan Repayments	587,000
○ Contribution Refunds	192,327
○ Other Disbursements	25,000
Total Disbursements	14,618,869
Cash-on-hand @ December 31, 2012	\$ 479,414

Part III

Summary

Finding and Recommendation

Reporting of Candidate Loan as a Contribution

During audit fieldwork, the Audit staff reviewed loans from the Candidate to TCFS for calendar years 2011 and 2012. The Candidate made three loans totaling \$1,030,000 to TCFS for the primary election, and, to date, TCFS has repaid the Candidate \$485,000. However, TCFS continued to report the remaining outstanding balance of \$545,000 as a loan payable to the Candidate instead of converting this balance to a personal contribution from the Candidate, as required. Subsequent to the exit conference, TCFS converted the loan from the Candidate to a personal contribution from the Candidate on its 2015 April Quarterly report. The Audit staff recommends that TCFS provide any comments it deems relevant with respect to this matter. (For more details, see p. 4.)

Part IV

Finding and Recommendation

Finding 1. Reporting of Candidate Loan as a Contribution

Summary

During audit fieldwork, the Audit staff reviewed loans from the Candidate to TCFS for calendar years 2011 and 2012. The Candidate made three loans totaling \$1,030,000 to TCFS for the primary election, and, to date, TCFS has repaid the Candidate \$485,000. However, TCFS continued to report the remaining outstanding balance of \$545,000 as a loan payable to the Candidate instead of converting this balance to a personal contribution from the Candidate, as required. Subsequent to the exit conference, TCFS converted the loan from the Candidate to a personal contribution from the Candidate on its 2015 April Quarterly report. The Audit staff recommends that TCFS provide any comments it deems relevant with respect to this matter.

Legal Standard

A. Personal Funds. Personal funds of a candidate mean the sum of assets, income, and jointly owned assets. 11 CFR §100.33.

B. Restriction on an Authorized Committee's Repayment of Personal Loans Exceeding \$250,000 Made by the Candidate to the Authorized Committee. Personal loans mean a loan or loans, including advance, made by a candidate, using personal funds, as defined in 11 CFR §100.33, to his or her authorized committee where the proceeds of the loan were used in connection with the candidate's campaign for election.

For personal loans that, in the aggregate, exceed \$250,000 in connection with an election, the authorized committee may:

- Repay the entire amount of the personal loans using contributions to the candidate or the candidate's authorized committee provided that those contributions were made on the day of election or before;
- May repay up to \$250,000 of the personal loans from contributions made to the candidate or the candidate's authorized committee after the date of the election; and
- Must not repay, directly or indirectly, the aggregate amount of the personal loans that exceeds \$250,000 from contributions to the candidate or the candidate's authorized committee if those contributions were made after the date of the election.

If the aggregate outstanding balance of the personal loans exceeds \$250,000 after the elections, the authorized political committees must comply with the following conditions:

- If the authorized committee uses the amount of cash-on-hand as of the day after the election to repay all or part of the personal loans, it must do so within 20 days of the election.

- Within 20 days of the election date, the authorized committee must treat the portion of the aggregate outstanding balance of the personal loans that exceeds \$250,000 minus the amount of cash-on-hand as of the day after the election used to repay the loan as a contribution by the candidate.
- The candidate's principal campaign committee must report the transactions in paragraphs (c) (1) and (c) (2) of this section in the first report scheduled to be filed after the election pursuant to 11 CFR §104.5(a) or (b).
- This section applies separately to each election. 11 CFR §116.11(a), (b), (c) and (d).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed loans from the Candidate to TCFS. The Candidate made three personal loans to TCFS for the primary election totaling \$1,030,000.² The following chart outlines the amounts and dates of these loans for the primary election and the repayments that TCFS has made to the Candidate within 20 days of the primary election on May 29, 2012:

Date	Amount	Transaction	Running Balance
3/21/2012	\$70,000	Primary Loan	\$70,000
5/18/2012	\$400,000	Primary Loan	\$470,000
5/22/2012	\$560,000	Primary Loan	\$1,030,000
6/16/2012 ³	\$(235,000)	Loan Repayment	\$795,000
		Repayment Limit	(\$250,000) ⁴
	Primary Loan Balance to Report as Candidate Contribution		\$545,000

As noted above, the balances of the Candidate's loans for the primary election totaled \$795,000 on the twentieth day following the election. TCFS may repay up to \$250,000 of the personal loans for the primary election from contributions made to the Candidate after the date of the election. Also, TCFS was required to treat as a contribution the amount of \$545,000 (\$795,000 - \$250,000) which is equal to the outstanding balance of the Candidate primary loans less the repayment limit. TCFS was required to report the contribution of \$545,000 on the first report scheduled to be filed after the election (2012 July Quarterly). TCFS, however, continued to report the remaining balance as an outstanding primary loan from the Candidate on Schedule C (Loans) instead of converting the loan to a personal contribution from the Candidate on Schedule A, Line 11(d) (Contributions from the Candidate).

² The Candidate also loaned TCFS \$400,000 for the run-off election. TCFS repaid this amount in full and in accordance with 11 CFR §116.11(a), (b), and (c).

³ Single payment made within the 20 day period after the primary election.

⁴ In accordance with 11 CFR §116.11(b)(2), the Candidate was repaid a total of \$250,000 for the primary election loans with contributions made to the TCFS after the May 29, 2012 primary date.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this issue with TCFS at the exit conference and subsequently provided a detailed schedule outlining amounts loaned to TCFS, its repayments to the Candidate, and the loan balance outstanding. TCFS's legal counsel (Counsel) commented that TCFS should be allowed to pay off the balance of the loan and questioned the necessity of the loan conversion. However, in response to the exit conference, Counsel stated that TCFS reviewed the Audit staff's schedule of loans, compared it to its accounting records, and concluded that the schedule of loans was correct.

Counsel further stated that TCFS will report the loan balance of \$545,000 as a contribution from the Candidate per 11 CFR §116.11 (c). Counsel also noted that the Candidate may wish to note on the report his belief that the statute establishing limits on the amount of personal debt that may be repaid to a candidate, is unconstitutional.

Subsequent to the exit conference, TCFS disclosed the conversion of the loan to a contribution by the Candidate on Schedule A of its 2015 April Quarterly report. TCFS also disclosed that it reserves the right to challenge the constitutionality of this provision of the law. Per 11 CFR §116.11 (c)(3), the Audit staff considers the disclosure of the Candidate contribution to the 2012 primary election as untimely.

The Audit staff recommends that, within 30 calendar days of service of this report, TCFS provide any comments it deems relevant with respect to this matter.