



Interim Audit Report of the Audit Division on the Friends of Erik Paulsen

(January 1, 2015 - December 31, 2016)

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 the matter discussed in this report.

About the Campaign (p. 2)

Friends of Erik Paulsen is the principal campaign committee for Erik Paulsen, Republican candidate for the United States House of Representatives from the state of Minnesota, 3rd District, and is headquartered in Eden Prairie, Minnesota. For more information, see the Campaign Organization Chart, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 2,505,856
○ Contributions from Other Political Committees	2,431,879
○ Other Receipts	16,698
Total Receipts	\$ 4,954,433

• Disbursements

○ Operating Expenditures	\$ 5,713,973
○ Transfers to Other Authorized Committees	48,102
○ Refunds of Contributions	14,150
Total Disbursements	\$ 5,776,225

Finding and Recommendation (p. 3)

- Receipt of Contributions in Excess of the Limit

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 Friends of Erik Paulsen (FEP), 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;
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	October 15, 2007
• Audit Coverage	January 1, 2015 - December 31, 2016
Headquarters	
Eden Prairie, Minnesota	
Bank Information	
• Bank Depositories	Three
• Bank Accounts	2 checking; 1 savings; 3 investment
Treasurer	
• Treasurer When Audit Was Conducted	David Asp (12/28/2016 – Present)
• Treasurer During Period Covered by Audit	Reid LeBeau (10/15/2007 – 12/27/2016) David Asp (12/28/2016 – Present)
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2015	\$ 1,194,961
Receipts	
○ Contributions from Individuals	2,505,856
○ Contributions from Other Political Committees	2,431,879
○ Other Receipts	16,698
Total Receipts	\$ 4,954,433
Disbursements	
○ Operating Expenditures	5,713,973
○ Transfers to Other Authorized Committees	48,102
○ Refunds of Contributions	14,150
Total Disbursements	\$ 5,776,225
Cash-on-hand @ December 31, 2016	\$ 373,169

Part III

Summary

Finding and Recommendation

Receipt of Contributions in Excess of the Limit

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that FEP received apparent excessive contributions totaling \$185,386. These errors occurred as a result of FEP not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors or issuing a refund of the excessive portion of contribution in a timely manner. In response to the exit conference, FEP untimely resolved excessive contributions from individuals totaling \$50,600. The Audit staff recommends that for the remaining \$134,786, FEP provide evidence demonstrating that the contributions were not excessive or were resolved in a timely manner. Absent such a demonstration, FEP should send letters to those contributors whose contributions are eligible for presumptive redesignation and/or reattribution or refund any remaining excessive amounts. (For more detail, see p. 4.)

Part IV

Finding and Recommendation

Receipt of Contributions in Excess of the Limit

Summary

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that FEP received apparent excessive contributions totaling \$185,386. These errors occurred as a result of FEP not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors or issuing a refund of the excessive portion of contribution in a timely manner. In response to the exit conference, FEP untimely resolved excessive contributions from individuals totaling \$50,600. The Audit staff recommends that for the remaining \$134,786, FEP provide evidence demonstrating that the contributions were not excessive or were resolved in a timely manner. Absent such a demonstration, FEP should send letters to those contributors whose contributions are eligible for presumptive redesignation and/or reattribution or refund any remaining excessive amounts.

Legal Standard

- A. Authorized Committee Limits.** An authorized committee may not receive more than a total of \$2,700 per election from any one person or \$5,000 per election from a multicandidate political committee. 52 U.S.C. §§30116; 11 CFR §§110.1(a) and (b) and 110.9(a).
- 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 or establish a separate account in a campaign depository for such contributions;
 - 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 reattribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reattribution and redesignation); and
 - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).
- C. Joint Contributions.** Any contribution made by more than one person, except for a contribution made by a partnership, must include the signature of each contributor on

the check, money order, or other negotiable instrument or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

D. Reattribution of Excessive Contributions. The Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

- The reattribution must be signed by both contributors;
- The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(ii)(B).

E. 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:

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

Within 60 days after 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).

When an individual makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR §110.1(b)(5)(ii)(B)(1)-(4).

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer's receipt of the contribution, and must offer the contributor the option to receive a refund instead.

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff utilized sample testing and a review of other contributions not included in the sample population to identify apparent excessive contributions from individuals.

Excessive Contributions-Testing Method	
Sample Projection Amount ²	\$153,586
High Dollar Contribution Error Amount	\$31,800
Total Amount of Excessive Contributions	\$185,386
Reasons for Excessive Contributions	
Contributions not resolved via presumptive letter or refund	\$182,686
Contributions resolved-Untimely	\$2,700 ³
Total Amount of Excessive Contributions	\$185,386

² The sample error amount (\$153,586) was projected using a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$88,215 or as high as \$247,564

³ The Audit staff was able to trace this refund to FEP's disbursement database. However, FEP has not provided evidence that this refund check has actually been negotiated.

B. Additional Information

FEP did not maintain a separate account for questionable contributions. However, based on its cash-on-hand balance at the end of the cycle (\$373,169), it appears that FEP maintained sufficient funds to make refunds of the apparent excessive contributions.

C. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with the FEP Treasurer (Treasurer) at the exit conference and provided schedules of the apparent excessive contributions along with descriptions of actions necessary to resolve each.

In response to the exit conference, the Treasurer submitted presumptive reattribution and redesignation letters that were sent to all the contributors identified by the Audit staff.⁴ Many timely presumptive letters were also submitted in response to the exit conference. The excessive contributions resolved by these letters are not included in the amounts presented in this report. The Treasurer stated he would review contribution records to identify other contributions requiring presumptive letters along with descriptions of actions necessary to resolve each.

The Treasurer also expressed FEP's commitment to resolving the issue of apparent excessive contributions and stated that during the campaign "contributors received solicitations with language informing them that their contributions could be reattributed" or "redesignated to comply with the federal limits." The Treasurer provided a signed letter from a former committee employee stating that she was the person responsible for "sending reallocation and redesignation letters on behalf of the Committee" during the cycle. The former employee stated that, consistent with her practice at the time, she sent presumptive letters to all individuals she determined to have given an excessive contribution, including those identified by the Audit staff. She believes that the reason copies of these letters are not available is because they were among letters she "inadvertently saved over when drafting new letters to be sent to other contributors."

In response to the exit conference, FEP submitted the following documentation:

Corrective Action Taken by Committee	
Presumptive Letters Sent- <i>Untimely</i>	\$50,600
Amount of Excessive Contributions - <i>Not Resolved</i>	\$134,786

The Audit staff recommends that, within 30 calendar days of service of this report, FEP:

⁴ FEP sent untimely presumptive letters in response to the audit to excessive contributions identified by the Audit staff in the high dollar review (\$31,800) and the sample errors (\$18,800).

- Provide evidence demonstrating that the contributions totaling \$134,786 were not excessive or were timely resolved. This evidence should include documentation that was not made available to the Audit staff during the audit, including copies of solicitation cards completed by the contributors at the time of their contribution that clearly inform the contributors of the limitations; timely letters sent to contributors eligible for presumptive redesignation and/or reattribution; or timely refunds (copies of the front and back of negotiated refund checks), redesignations, or reattributions for excessive contributions.
- Absent evidence that the contributions were not excessive or were timely resolved, FEP should review its contributions to determine which are excessive and how each can be resolved. For any excessive contributions that FEP could have resolved by sending presumptive redesignation and/or reattribution letter, it may now send letters to inform the contributors how the committee designated and/or reattributed the contribution and offer a refund. FEP must provide evidence of such refunds (copies of front and back of negotiated checks). For a reattribution, both the contributor and the individual to whom a contribution was reattributed must be notified. Absent the contributor's request for a refund, these letters will obviate the need to refund the contributions or disgorgement to a governmental entity or to a qualified charitable organization.⁵
- If funds are not available to make the necessary refunds, FEP should disclose the contributions requiring refunds on Schedule D (Debts and Obligations) until funds become available to make such refunds.
- Provide any comments it deems relevant to this matter.

⁵ See 26 U.S.C. §170(c).