



Draft Final Audit Report of the Audit Division on Marsha Blackburn for Congress, Inc.

(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 any of the matters discussed in this report.

About the Campaign (p. 2)

Marsha Blackburn for Congress, Inc. is the principal campaign committee for Marsha Blackburn, Republican candidate for the United States House of Representatives from the state of Tennessee, 7th Congressional District, and is headquartered in Brentwood, Tennessee. For more information, see the Campaign Organization chart, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 901,473
○ Contributions from Political Committees	1,283,361
○ Offsets to Operating Expenditures	20,203
○ Other Receipts	36,194

Total Receipts \$ 2,241,231

• Disbursements

○ Operating Expenditures	\$ 1,514,739
○ Contribution Refunds	13,100
○ Other Disbursements	24,061

Total Disbursements \$ 1,551,900

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Disclosure of Occupation and Name of Employer (Finding 2)
- Receipt of Contributions in Excess of the Limit (Finding 3)

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 Marsha Blackburn for Congress, Inc.² (MBF), 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.

² On October 12, 2017, the Commission received a Statement of Organization from Marsha Blackburn for Congress, Inc. officially changing its name to Marsha for Senate.

Part II

Overview of Campaign

Campaign Organization

Important Dates	
• Date of Registration	April 25, 2002
• Audit Coverage	January 1, 2015 - December 31, 2016
Headquarters	Brentwood, TN
Bank Information	
• Bank Depositories	Three
• Bank Accounts	Two checking, One money market, One escrow account
Treasurer	
• Treasurer When Audit Was Conducted	Telisha Hoffmann 4/25/02-10/11/17 Ronald Gant 10/12/17-Present
• Treasurer During Period Covered by Audit	Telisha Hoffmann
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	\$ 1,862,627
Receipts	
○ Contributions from Individuals	901,473
○ Contributions from Political Committees	1,283,361
○ Offsets to Operating Expenditures	20,203
○ Other Receipts	36,194
Total Receipts	\$ 2,241,231
Disbursements	
○ Operating Expenditures	1,514,739
○ Contribution Refunds	13,100
○ Other Disbursements	24,061
Total Disbursements	\$ 1,551,900
Cash-on-hand @ December 31, 2016	\$ 2,551,958

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of MBF's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2016. MBF understated its receipts and disbursements by \$48,127 and \$46,895, respectively. In response to the Interim Audit Report recommendation, MBF said that it may be "overly burdensome or even impossible" to remedy the misstatements due to the departure of its compliance staff from the 2015-2016 cycle. MBF added that it made changes to its compliance operations which will ensure greater accuracy in future reports. As of the date of this report, no amended reports have been filed to correct the public record. Absent the filing of amended reports, MBF receipts and disbursements remain misstated. (For more detail, see p. 4.)

Finding 2. Disclosure of Occupation and Name of Employer

A review of contributions from individuals requiring itemization indicated that 180 contributions totaling \$160,880 lacked or had inadequate disclosure of occupation and/or name of employer. MBF did not sufficiently demonstrate "best efforts" to obtain, maintain and submit this information. In response to audit fieldwork, MBF provided some documentation of "best efforts", however, MBF had not filed amendments to provide the missing information and establish "best efforts". In response to the Interim Audit Report recommendation, MBF materially corrected the public record by including memo entries in its most recently filed disclosure report providing the missing contributor occupation and name of employer information relating to 165 contributions totaling \$156,900. (For more detail, see p. 6.)

Finding 3. 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 MBF received apparent excessive contributions totaling \$100,350. These errors occurred as a result of MBF not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, obtaining signed reattribution letters from its contributors, or issuing refunds of the excessive portions of contributions in a timely manner. In response to audit fieldwork and the exit conference, MBF untimely resolved excessive contributions from individuals totaling \$88,150. In response to the Interim Audit Report recommendation, MBF provided two completed reattribution letters from the contributors and copies of four refund checks which untimely resolved the remaining excessive contributions. (For more detail, see p. 10.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of MBF's reported financial activity with its bank records revealed a misstatement of receipts and disbursements for calendar year 2016. MBF understated its receipts and disbursements by \$48,127 and \$46,895, respectively. In response to the Interim Audit Report recommendation, MBF said that it may be "overly burdensome or even impossible" to remedy the misstatements due to the departure of its compliance staff from the 2015-2016 cycle. MBF added that it made changes to its compliance operations which will ensure greater accuracy in future reports. As of the date of this report, no amended reports have been filed to correct the public record. Absent the filing of amended reports, MBF receipts and disbursements remain misstated.

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). 52 U.S.C. §30104(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled MBF's reported financial activity with its bank records for calendar years 2015 and 2016. For the 2016 bank reconciliation, the Audit staff identified a misstatement of receipts and disbursements. The following chart details the discrepancies between MBF's disclosure reports and bank activity. The succeeding paragraphs explain why the discrepancies occurred.

2016 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2016	\$2,222,029	\$2,220,797	\$1,232 Overstated
Receipts	\$1,261,100	\$1,309,227	\$48,127 Understated
Disbursements	\$931,171	\$978,066	\$46,895 Understated
Ending Cash Balance @ December 31, 2016	\$2,551,958	\$2,551,958	\$0

The understatement of receipts resulted from the following:

• Offsets from a payroll processing company not reported	+ \$19,137
• Contributions from individuals not reported	+ 14,100
• Erroneously deposited funds not reported	+ 12,500
• In-kind contributions not reported as a receipt	+ \$1,026
• Contribution from PAC not reported	+ 1,000
• Unexplained differences	+ <u>364</u>
Understatement of Receipts	<u>\$48,127</u>

The understatement of disbursements resulted from the following:

• Payroll not reported or reported incorrectly	+ \$18,451
• Disbursements not reported or reported incorrectly	+ 13,101
• Erroneously deposited funds transferred and not reported	+ 12,500
• Credit card payments not reported or reported incorrectly	+ 10,253
• Credit card processing fees not reported	+ 8,376
• In-kind contributions not reported as a disbursement	+ 1,026
• Bank service fees not reported	+ \$179
• Credit card processing fees reported but did not clear bank	- 9,604
• Credit card payment reported but did not clear bank	- 4,962
• Contribution refunds reported but did not clear bank	- 2,525
• Unexplained differences	+ <u>100</u>
Net Understatement of Disbursements	<u>\$46,895</u>

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff discussed the misstatements for calendar year 2016 with MBF's representatives and provided schedules detailing the misstatements. MBF representatives did not provide any comments at the time.

In response to the exit conference, MBF stated that it may follow up with the Audit staff regarding the best and most efficient manner to correct the public record after its new compliance team thoroughly reviews the misstatements. MBF also stated that it has made changes in its compliance efforts to help ensure accuracy for all future reports.

The Interim Audit Report recommended that MBF amend its disclosure reports to correct the misstatements noted above and reconcile the cash balance on its most recently filed report to identify any subsequent discrepancies, as necessary, that may affect the recommended adjustments.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, MBF stated that it takes compliance and reporting obligations very seriously. MBF acknowledged that the Interim Audit Report identified misstatements of financial activity in the disclosure reports but MBF noted that the cash-on-hand balance was reported correctly. In addition, MBF commented that its new compliance team continues to assess the recommendation to amend its disclosure reports with regards to the identified misstatements. Furthermore, MBF said that, with the departure of its compliance staff from the 2015-2016 cycle, it may be “overly burdensome or even impossible” for MBF to remedy the misstatements. However, MBF stated that the changes made in its compliance operations will ensure greater accuracy in future reports. It is noted that MBF did not provide any detail pertaining to the changes it made with the compliance operations. As of the date of this report, no amended reports have been filed to correct the misstatements.

Absent the filing of amended reports, MBF’s 2016 receipts remain understated by \$48,127 and its 2016 disbursements remain understated by \$46,895.

Finding 2. Disclosure of Occupation and Name of Employer

Summary

A review of contributions from individuals requiring itemization indicated that 180 contributions totaling \$160,880 lacked or had inadequate disclosure of occupation and/or name of employer. MBF did not sufficiently demonstrate “best efforts” to obtain, maintain and submit this information. In response to audit fieldwork, MBF provided some documentation of “best efforts”, however, MBF had not filed amendments to provide the missing information and establish “best efforts”. In response to the Interim Audit Report recommendation, MBF materially corrected the public record by including memo entries in its most recently filed disclosure report providing the missing contributor occupation and name of employer information relating to 165 contributions totaling \$156,900.

Legal Standard

A. Required Information for Contributions from Individuals. For each itemized contribution from an individual, the committee must provide the following information:

- the contributor’s full name and address (including zip code);
- the contributor’s occupation and the name of his or her employer;
- the date of receipt (the date the committee received the contribution);
- the amount of the contribution; and

- the election cycle year-to-date total of all contributions from the same individual. 52 U.S.C. §30104(b)(3)(A) and 11 CFR §§100.12 and 104.3(a)(4)(i).

B. Best Efforts Ensure Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee's reports and records will be considered in compliance with the Act. 52 U.S.C. §30102(i) and 11 CFR §104.7(a).

C. Definition of Best Efforts. The treasurer and the committee will be considered to have used "best efforts" if the committee satisfied all of the following criteria.

- All written solicitations for contributions included:
 - a clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - the statement that such reporting is required by Federal law.
- Within 30 days of receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

Facts and Analysis

A. Facts

MBF did not disclose occupation and/or name of employer for contributions requiring itemization on its FEC reports, as of the date of the audit notification letter.

Contribution Lacking Occupation and/or Name of Employer	
Number of Contributions	180
Dollar Value of Contributions	\$160,880
Percent of Contributions	20%

1. Contributor Information Obtained but Amendments Not Filed:

MBF had the required contributor occupation and/or name of employer information, however MBF did not file the required amendments for the following:

Amendments Not Filed by Committee	
Number of Contributions	63 ³
Dollar Value of Contributions	\$52,100

2. Best Efforts Documentation Not Provided:

MBF did not provide the Audit staff records to document follow-up best efforts for the following:

Best Efforts Documentation Not Provided by Committee	
Number of Contributions	117
Dollar Value of Contributions	\$108,780

3. Additional Information:

MBF disclosed the following on Schedule A (Itemized Receipts):

- “Information Requested” for 171 errors totaling \$153,930,
- Inadequate occupation and/or name of employer for six errors totaling \$3,850, and
- No occupation and/or name of employer information for three errors totaling \$3,100.

MBF stated that “campaign staff would either call the contributor and explain the “best efforts” requirement to request and obtain the occupation and name of employer information, or would send letters explaining the requirements and requesting the information.”

B. Interim Audit Report and Audit Division Recommendation

The Audit staff provided schedules and discussed the disclosure of the contributors’ occupation and name of employer with MBF representatives both during the audit and at the exit conference. MBF representatives did not provide any comments at the time.

In response to the exit conference, MBF stated that it now emphasizes the timely sending of best efforts letters and the maintenance of records demonstrating its follow-up correspondence. MBF also provided the Audit staff copies of best efforts letters and a spreadsheet with the occupation and name of employer information it received. However, in response to the exit conference, amended disclosure reports were not filed.

³ MBF’s database contained the occupation and name of employer information for 63 contributions totaling \$52,100.

In response to the exit conference, MBF submitted the following:

Corrective Action Taken in Response to the Exit Conference	
Number of Best Efforts Letters sent to Contributors- <i>Untimely</i>	117
Dollar Value of Best Efforts Letters sent to Contributors- <i>Untimely</i>	\$108,780
Number of Contributor Responses Received from Best Efforts Letters	100
Dollar Value of Contributor Responses from Best Efforts Letters	\$99,105
Dollar Value of Amendments filed	\$0
Dollar Value of Amendments Still Required to be filed with Best Efforts Information	\$151,205⁴

The Interim Audit Report recommended that MBF amend its report to disclose the occupation and name of employer information relating to the 163⁵ contributions totaling \$151,205 received from its contributors.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, MBF stated that it takes compliance and reporting obligations very seriously. MBF also reiterated that its new compliance team is emphasizing the timely sending of best efforts letters and maintaining records to document written and oral follow-up correspondence. MBF included amended memo entries on Schedule A in its 2018 July Quarterly Report that disclosed the missing occupation and name of employer information, including the contributions noted above.

Corrective Action Taken in Response to the Interim Audit Report	
Number of Contributions	165
Dollar Value of Amendments filed	\$156,900

As such, MBF materially corrected the public record by amending the most recently filed disclosure report to include the missing occupation and name of employer information on Schedule A.

⁴ \$151,205 = \$99,105 + \$52,100 (see Section A.1).

⁵ 163 = 63 +100

Finding 3. 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 MBF received apparent excessive contributions totaling \$100,350. These errors occurred as a result of MBF not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, obtaining signed reattribution letters from its contributors, or issuing refunds of the excessive portions of contributions in a timely manner. In response to audit fieldwork and the exit conference, MBF untimely resolved excessive contributions from individuals totaling \$88,150. In response to the Interim Audit Report recommendation, MBF provided two completed reattribution letters from the contributors and copies of four refund checks which untimely resolved the remaining excessive contributions.

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. 52 U.S.C §30116(a)(1); 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 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 contributors 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)(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).

Presumptive Redesignation- 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 by any written method, including electronic mail, 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. 11 CFR §110.1(b)(5)(ii)(B)(5) and (6).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reviewed contributions from individuals and identified apparent excessive contributions as noted below.

Excessive Contributions	
Contributions from Individuals Errors	\$100,350
Total Amount of Excessive Contributions	\$100,350
Reasons for Excessive Contributions	
Contributions not resolved via presumptive letter	\$82,550
Contributions not resolved with a signed reattribution letter or refund	\$17,800
Total Amount of Excessive Contributions	\$100,350

B. Additional Information

The errors totaling \$82,550 were the result of MBF not resolving the excessive portion of contributions by timely forwarding a presumptive letter to its contributors informing them how their contribution had been redesignated or reattributed.

The errors totaling \$17,800 were the result of MBF reattributing the excessive portion of contributions written on checks imprinted with a single account holder to another individual without a signed authorization from its contributors as required by 11 CFR 110.1(k). These errors also include credit card contributions that exceeded the per election limit for individuals. MBF did not provide the Audit staff documentation supporting how it determined who to reattribute the excessive portion of the contribution.

MBF did not maintain a separate account for questionable contributions. However, MBF did maintain a sufficient balance in its bank accounts to make refunds of the apparent excessive contributions.

C. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with MBF representatives during audit fieldwork as well as at the exit conference and provided a schedule of the apparent excessive contributions. MBF representatives did not provide any comments at the time.

In response to the audit fieldwork and the exit conference, MBF sent contributors redesignation and reattribution letters with an offer of a refund. However, MBF did not receive a signed reattribution from these contributors with excessive contributions totaling \$12,200. MBF refunded one of the apparent excessive contributions totaling \$2,500 and provided untimely signed reattribution letters for contributions totaling \$3,100.

MBF also submitted untimely presumptive redesignation and reattribution letters that were sent to the contributors with excessive contributions totaling \$82,550. It is noted MBF believes it previously received timely authorizations from all the contributors to redesignate or reattribute the contributions. But MBF did not provide the Audit staff with any telephone logs or timely letters to support this statement. The Audit staff considers these contributions untimely resolved.

In response to audit fieldwork and the exit conference, MBF submitted the following documentation:

Corrective Action Taken in Response to Audit Fieldwork and Exit Conference	
Presumptive Letters Sent- <i>Untimely</i>	\$82,550
Contribution Refunded- <i>Untimely</i>	\$2,500 ⁶
Signed Reattribution Letters Submitted- <i>Untimely</i>	\$3,100
Amount of Excessive Contributions –<i>Not Resolved</i>	
	\$12,200

The Interim Audit Report recommended that MBF provide evidence which would demonstrate the unresolved excessive contributions in question, totaling \$12,200, were timely resolved. Absent such demonstration, it was further recommended that MBF refund the contributions and provide evidence of such refunds or disgorge the funds to a governmental entity or to a qualified charitable organization.

⁶ MBF provided a copy of the front of the refund check but did not provide evidence that this refund check was negotiated.

D. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, MBF stated that it takes compliance and reporting obligations very seriously and reiterated that it believes it had previously obtained timely authorizations from the contributors to redesignate or reattribute the excessive contributions. Of the remaining \$12,200 excessive contributions, MBF provided the Audit staff with copies of two signed reattribution letters for \$3,800 and copies of four refund checks for \$8,400 of the excessive contributions. As such, all the excessive contributions have been resolved by MBF, albeit untimely.

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