



Interim Audit Report of the Audit Division on Tony Cardenas for Congress

(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)

Tony Cardenas for Congress is the principal campaign committee for Tony Cardenas, Democratic candidate for the United States House of Representatives from the state of California, 29th District, and is headquartered in Washington, DC. For more information, see the Campaign Organization chart, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 678,652
○ Contributions from Political Committees	1,011,140
○ Other Receipts	3,883
Total Receipts	\$ 1,693,675
• Disbursements	
○ Operating Expenditures	\$ 1,544,050
○ Contribution Refunds	6,520
○ Other Disbursements	23,435
Total Disbursements	\$ 1,574,005

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)

¹ 52 U.S.C. §30111(b).

Interim Audit Report of the Audit Division on Tony Cardenas for Congress

(January 1, 2015 - December 31, 2016)



Table of Contents

	Page
Part I. Background	
Authority for Audit	1
Scope of Audit	1
Part II. Overview of Campaign	
Campaign Organization	2
Overview of Financial Activity	2
Part III. Summaries	
Findings and Recommendations	3
Part IV. Findings and Recommendations	
Finding 1. Misstatement of Financial Activity	4
Finding 2. Receipt of Contributions in Excess of the Limit	5

Part I

Background

Authority for Audit

This report is based on an audit of Tony Cardenas for Congress (TCFC), 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	July 13, 2011
• Audit Coverage	January 1, 2015 - December 31, 2016
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	One
• Bank Accounts	One Checking
Treasurer	
• Treasurer When Audit Was Conducted	Jennifer May (March 6, 2017 – Present)
• Treasurer During Period Covered by Audit	David Gould (September 16, 2011 - March 5, 2017)
Management Information²	
• Attended FEC Campaign Finance Seminar	Not Available
• Who Handled Accounting and Recordkeeping Tasks	Not Available

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2015	\$ 203,155
Receipts	
○ Contributions from Individuals	678,652
○ Contributions from Political Committees	1,011,140
○ Other Receipts	3,883
Total Receipts	\$ 1,693,675
Disbursements	
○ Operating Expenditures	1,544,050
○ Contribution Refunds	6,520
○ Other Disbursements	23,435
Total Disbursements	\$ 1,574,005
Cash-on-hand @ December 31, 2016	\$ 322,825

² During pre-audit, the Audit staff asked TCFC to complete an internal control questionnaire, which included these questions. To date, the questionnaire has not been returned by TCFC.

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of TCFC's reported financial activity with its bank records revealed misstatements of the ending cash balance for 2015 and the disbursements and ending cash balance for 2016. For 2015, TCFC understated the ending cash balance by \$10,237. For 2016, TCFC overstated disbursements by \$40,568, and understated the ending cash balance by \$38,999. The Audit staff recommends that TCFC file amended disclosure reports to correct these misstatements. (For more detail, see p. 4.)

Finding 2. 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 TCFC received apparent excessive contributions totaling \$74,302. These errors occurred as a result of TCFC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, obtaining signed redesignation letters from its contributors, or issuing refunds of the excessive portions of contributions in a timely manner. In response to the exit conference, TCFC materially resolved, albeit untimely, the apparent excessive contributions. The Audit staff recommends that TCFC provide evidence of negotiation for the one refund check provided in response to the exit conference. Further, the Audit staff recommends that TCFC provide any additional comments it deems relevant to the matter. (For more detail, see p. 5.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of TCFC's reported financial activity with its bank records revealed misstatements of the ending cash balance for 2015 and the disbursements and ending cash balance for 2016. For 2015, TCFC understated the ending cash balance by \$10,237. For 2016, TCFC overstated disbursements by \$40,568, and understated the ending cash balance by \$38,999. The Audit staff recommends that TCFC file amended disclosure reports to correct these misstatements.

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-to-date;
- the total amount of disbursements for the reporting period and for the election cycle-to-date; 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 TCFC's reported financial activity with its bank records for calendar years 2015 and 2016. The 2015 ending cash balance was understated by \$10,237. This discrepancy resulted from misstatements prior to 2015 as the beginning cash balance for 2015 was also understated.

The following chart outlines the 2016 discrepancies between TCFC's disclosure reports and its bank records, and the succeeding paragraphs explain why the discrepancies occurred.

2016 Campaign Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2016	\$182,458	\$192,695	\$10,237 Understated
Receipts	\$1,087,161	\$1,075,355	\$11,806 Overstated
Disbursements	\$985,793	\$945,225	\$40,568 Overstated
Ending Cash Balance @ December 31, 2016	\$283,826	\$322,825	\$38,999 Understated

The overstatement of disbursements resulted from the following:

• Media expenses reported but never cleared bank	\$39,498
• Unexplained difference	<u>1,070</u>
Overstatement of Disbursements	<u>\$40,568</u>

The \$38,999 understatement of the 2016 ending cash balance resulted from the reporting discrepancies described above, as well as prior period reporting differences.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2015 and 2016 with TCFC representatives during the exit conference and provided copies of relevant work papers detailing the misstatements. In response, TCFC representatives stated that they intended to file amendments.

The Audit staff recommends that, within 30 calendar days of service of this report, TCFC amend its disclosure reports to correct the misstatements for both 2015 and 2016. In addition, the Audit staff recommends that TCFC amend its most recently filed disclosure report to correct the cash balance with an explanation that the change resulted from the prior period audit adjustment. Further, TCFC should reconcile the ending cash balance of its most recent report to identify any subsequent discrepancies that may affect the adjustment recommended by the Audit staff.

Finding 2. 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 TCFC received apparent excessive contributions totaling \$74,302. These errors occurred as a result of TCFC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors, obtaining signed redesignation letters from its contributors, or issuing refunds of the excessive portions of contributions in a timely manner. In response to the exit conference, TCFC materially resolved, albeit untimely, the apparent excessive contributions. The Audit staff recommends that TCFC provide evidence of negotiation for the one refund check

provided in response to the exit conference. Further, the Audit staff recommends that TCFC provide any additional comments it deems relevant to the matter.

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.

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).

Presumptive Reattribution - 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 presumptively 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 utilized sample testing and reviews of other contributions not included in the sample population to identify apparent excessive contributions from individuals.

Excessive Contributions – Testing Method	
Sample Projection Amount ³	\$51,802
Review of contributions not in the sample (error amount)	\$6,900
Review of contributions redesignated to the 2018 Primary election (error amount)	\$15,600
Total Amount of Excessive Contributions	\$74,302
Reasons for Excessive Contributions	
Contributions not resolved via presumptive letter or refund	\$58,702
Contributions not resolved via signed redesignation letter or refund	\$15,600
Total Amount of Excessive Contributions	\$74,302

B. Additional Information

The errors totaling \$6,900 were the result of TCFC not sending a presumptive letter to its contributors informing them how their contribution had been attributed or designated by TCFC. The errors totaling \$15,600 were the result of TCFC designating contributions to the 2018 Primary election without authorization from its contributors.

TCFC did not maintain a separate account for questionable contributions. However, based on its cash-on-hand at the end of the audit period (\$322,825), it appears that TCFC did maintain sufficient funds to make refunds of the apparent excessive contributions.

C. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter with TCFC representatives at the exit conference and provided schedules of the apparent excessive contributions. TCFC representatives asked questions regarding the documentation needed to resolve the excessive contributions. The Audit staff explained that the presumptive letters sent in response to the exit conference would untimely resolve most of the excessive contributions. For others, obtaining a signed redesignation letter would untimely resolve the excessive contributions.

³ The sample error projection (\$51,802) is based on a Monetary Unit Sample with a 95 percent confidence level. The sample estimate could be as low as \$34,528 or as high as \$74,141. A review of other contributions not included in the sample population identified excessive contributions totaling \$6,900.

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

Corrective Action Taken by Committee	
Presumptive Letters Sent <i>Untimely</i>	\$47,500
Signed Redesignation Letters Obtained <i>Untimely</i>	\$13,000
Refund Issued <i>Untimely</i> ⁴	\$2,600

The Audit staff concludes that, of the \$74,302 in excessive contributions, TCFC demonstrated that it resolved contributions totaling \$63,100 in an untimely manner. As such, TCFC has materially resolved the excessive contributions, albeit untimely.

The Audit staff recommends that, within 30 calendar days of service of this report, TCFC provide documentation which demonstrates that the refund check was negotiated for the untimely refund of \$2,600 (evidence should include copies of the front and back of the negotiated refund check). The Audit staff further recommends that TCFC provide any comments it deems relevant to this matter.

⁴ The Audit staff has requested documentation which verifies negotiation of the refund check. To date, this has not been provided by TCFC.