




FEDERAL ELECTION COMMISSION
Washington, DC 20463

September, 25 2007

MEMORANDUM

To: Robert W. Biersack
Press Officer

From: Joseph F. Stoltz 
Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report on Richard Pombo for Congress

Attached please find a copy of the audit report on Richard Pombo for Congress, which was approved by the Commission on September 11, 2007.

The report may be released to the public.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library
/ DSDD Website



Report of the Audit Division on Richard Pombo for Congress

January 1, 2003 – December 31, 2004

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)

Richard Pombo for Congress (RPC) is the principal campaign committee for Richard Pombo, Republican candidate for the U.S. House of Representatives from the state of California, 11th District and is headquartered in Tracy, California. For more information, see the chart on Campaign Organization, p. 2.

Financial Activity (p. 2)

• Receipts

○ Contributions from Individuals	\$ 535,006
○ Contributions from Political Committees	556,167
○ Other Receipts	14,813
○ Total Receipts	\$1,105,986

• Disbursements

○ Operating Expenditures	\$ 861,793
○ Contribution Refunds	5,375
○ Contributions to Federal Candidates	10,000
○ Transfers to National Party Committee	147,500
○ Total Disbursements	\$1,024,668

Findings and Recommendations (p. 3)

- Personal Use of Campaign Funds (Finding 1)
- Receipt of Excessive Contributions (Finding 2)
- Receipt of Prohibited Contributions (Finding 3)
- Misstatement of Financial Activity (Finding 4)
- Disclosure of Occupation/Name of Employer (Finding 5)
- Reporting of Debts and Obligations (Finding 6)
- Inadequate Disclosure - Form 3Z-1 (Finding 7)
- Untimely Deposit of Contributions (Finding 8)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of Richard Pombo for Congress (RPC), 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 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. 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. 2 U.S.C. §438(b).

Scope of Audit

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 disbursements, debts and obligations.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Richard Pombo for Congress
• Date of Registration	February 20, 2003
• Audit Coverage	January 1, 2003- December 31, 2004
Headquarters	Tracy, California
Bank Information	
• Bank Depositories	1
• Bank Accounts	1 Checking
Treasurer	
• Treasurer When Audit Was Conducted	David Bauer
• Treasurer During Period Covered by Audit	Randall Pombo (through July 13, 2004); David Bauer (from July 14, 2004)
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff & Vendor

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2003	\$ 18,940
○ Contributions from Individuals	535,006
○ Contributions from Political Committees	556,167
○ Other Receipts	14,813
Total Receipts	\$ 1,105,986
○ Operating Expenditures	861,793
○ Contribution Refunds	5,375
○ Contributions to Federal Candidates	10,000
○ Transfers to National Party Committee	147,500
Total Disbursements	\$ 1,024,668
Cash on hand @ December 31, 2004	\$ 100,258

Part III

Summaries

Findings and Recommendations

Finding 1. Personal Use of Campaign Funds

In calendar year 2003, the candidate's spouse issued checks payable to herself totaling \$58,623. These payments were reported as either salary/compensation or as reimbursement of various expenses. However, it appeared that \$18,752 represents the personal use of campaign funds or additional salary. In response to the interim audit report recommendation, RPC provided an amended Form 1099 (Miscellaneous Income) for calendar year 2003 showing the additional \$18,752 in compensation previously omitted; indicated that an amended tax return would be filed; and, filed amended disclosure reports. (For more detail, see page 5.)

Finding 2. Receipt of Excessive Contributions

RPC accepted contributions from individuals and Native American tribes that exceeded the limitation by \$26,400. In response to the interim audit report recommendation, RPC provided documentation that it refunded excessive contributions totaling \$22,400; presumptively reattributed a \$2,000 excessive contribution; and, provided documentation that demonstrated one contribution (\$2,000) was not excessive. (For more detail, see page 7.)

Finding 3. Receipt of Prohibited Contributions

RPC received 21 apparent prohibited contributions from corporate entities totaling \$7,228. Subsequent to the exit conference, RPC indicated that it had refunded \$3,828 of the above contributions. In response to the interim audit report recommendation RPC provided copies of negotiated refund checks totaling \$4,853 and documentation establishing that contributions of \$2,375 were not from corporate sources. (For more detail, see page 10.)

Finding 4. Misstatement of Financial Activity

A comparison of RPC's reported financial activity to bank records revealed a misstatement of disbursements and ending cash on hand in calendar year 2003 and beginning cash on hand in 2004. In response to the recommendation, RPC filed amended reports that materially corrected its reported financial activity. For more detail, see page 11.)

Finding 5. Disclosure of Occupation/Name of Employer

Contributions from individuals were reviewed on a sample basis. For contributions requiring itemization, the review indicated that RPC failed to disclose or inadequately disclosed the contributor's occupation and/or name of employer for about 28% of the contributions. There was no documentation to indicate that RPC used "best efforts" to

obtain, maintain and submit this information. In response, RPC provided copies of letters, dated July 12, 2005, sent to contributors requesting their occupation and/or name of employer. RPC also filed amended reports correctly disclosing the contributor information. (For more detail, see page 13.)

Finding 6. Reporting of Debts and Obligations

The Audit staff identified debts and obligations totaling \$42,336 from various vendors that were not disclosed on Schedules D (Debts and Obligations). In response to the interim audit report recommendation, RPC filed amended Schedules D to disclose its debts. (For more detail, see page 14.)

Finding 7. Inadequate Disclosure - Form 3Z-1

RPC failed to provide the requested information on Form 3Z-1 (Consolidated Report of Gross Receipts for Authorized Committees) with its 2003 July 15th Quarterly Report. In addition, Form 3Z-1 filed with the 2003 Year End Report was materially incorrect. In response to the interim audit report recommendation, RPC stated that its Form 3Z-1 was not correctly filed due to software problems. (For more detail, see page 15.)

Finding 8. Untimely Deposit of Contributions

A review of deposits of contributions from individuals and political committees identified \$671,045 in untimely deposits. In response, RPC stated that, in many instances, the date of the check rather than the date received was disclosed as the receipt date. RPC further stated that it did not have postmarked envelopes to confirm the actual receipt date. (For more detail, see page 16.)

Part IV

Findings and Recommendations

Finding 1. Personal Use of Campaign Funds

Summary

In calendar year 2003, the candidate's spouse issued checks payable to herself totaling \$58,623. These payments were reported as either salary/compensation or as reimbursement of various expenses. However, it appeared that \$18,752 represents the personal use of campaign funds or additional salary. In response to the interim audit report recommendation, RPC provided an amended Form 1099 (Miscellaneous Income) for calendar year 2003 showing the additional \$18,752 in compensation previously omitted; indicated that an amended tax return would be filed; and, filed amended disclosure reports.

Legal Standard

A. Required Records for Disbursements. For each disbursement, the treasurer of a political committee must keep records on the:

- Amount;
- Date;
- Name and address of the payee²;
- Purpose (a brief description of why the disbursement was made); and
- If the disbursement was made on behalf of a candidate, the candidate's name and the office sought by the candidate.
- If the disbursement was in excess of \$200, the records must include a receipt or invoice from the payee, or a cancelled check or share draft to the payee. If the disbursement was by credit card, the record must include the monthly statement or customer receipt and the cancelled check used to pay the credit card bill. 2 U.S.C. §432(c)(5) and 11 CFR §§102.9(b).

B. Reporting Operating Expenditures. When operating expenditures to the same person exceed \$200 in an election cycle, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made). 2 U.S.C. §434(b)(6)(A) and 11 CFR §104.3(b)(4)(i).

Use of Campaign Funds. Using campaign funds for personal use is prohibited. 2 U.S.C. §439a(b)(1)

² The payee is usually the person providing the goods or services to the committee. In the case of travel advances, however, the payee is the person receiving the advance. 11 CFR §102.9(b)(2).

Personal Use Defined. Personal use is defined as any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder.

If a committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign or office related activities, the incremental expenses that result from the personal activities are personal use, unless the person(s) benefiting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses. 11 CFR §113.1(g)(1)

Facts and Analysis

Prior to July 2004, the candidate's brother was RPC's treasurer, while the candidate's wife, Annette Pombo, handled the campaign checkbook. In calendar year 2003, Annette Pombo issued checks to herself, totaling \$58,623. Of that amount, \$25,900 was disclosed as salary/compensation and included on Annette Pombo's Form 1099. The remaining amount, \$32,723, was disclosed as either travel, fundraising or reimbursed expenses (\$30,859) or food and decorations for meeting (\$1,864).

Based on documentation made available, the following chart represents a breakdown for payments totaling \$32,723.

Amount	Comment
\$12,107	Timely reimbursement of campaign related materials supported by vendor receipts.
\$11,722	Additional salary/compensation paid to Annette Pombo but not included on Form 1099 (Miscellaneous Income).
\$7,030	Reported reimbursements of expenses supported only by canceled checks.
\$1,864	Reimbursements for food and decorations for meetings but actually represents reimbursements to two members of the Candidate's congressional staff for attending meetings of behalf of the candidate.

At issue was the \$11,722 that represented additional salary/compensation not included on Form 1099 and disclosed as various reimbursements and the \$7,030 also disclosed as reimbursements but supported only by a canceled check. Absent documentation supporting the additional salary/compensation and reimbursed expenses, the Audit staff considered these payments to be personal use of campaign funds.

This matter was discussed at the exit conference. Subsequent to the exit conference, RPC representatives acknowledged that the \$11,722 represents salary to the candidate's wife and not reimbursements as previously disclosed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC provide evidence/documentation that demonstrated payments totaling \$7,030 represented reimbursements of campaign related materials.

With respect to the salary payments totaling \$11,722, RPC was to provide:

- an explanation of the work performed and why this amount was exempt from inclusion on Form 1099 or Form W-2 (Wage and Tax Statement) or
- evidence that an amended Form 1099 has been issued to Annette Pombo for calendar year 2003 and filed with the Internal Revenue Service.

Absent such documentation, the Audit staff recommended that the candidate's wife reimburse RPC \$18,752 and provide evidence of such reimbursement (a copy of the both front and back of the canceled check used to reimburse RPC). In addition, RPC was to file amended reports disclosing the correct payee and/or purpose of these disbursements.

In response to the interim audit report recommendation, RPC provided an amended Form 1099 for year 2003 showing the additional compensation of \$18,752 (\$11,722 + \$7,030) previously omitted. Further, by letter, Annette Pombo stated that an amended tax return would be filed upon receipt of the amended Form 1099. In addition, RPC filed amended reports disclosing these payments to Annette Pombo as compensation for services.

Finding 2. Receipt of Excessive Contributions

Summary

RPC accepted contributions from individuals and Native American tribes that exceeded the limitation by \$26,400. In response to the interim audit report recommendation, RPC provided documentation that it refunded excessive contributions totaling \$22,400; presumptively reattributed a \$2,000 excessive contribution; and, provided documentation that demonstrated one contribution (\$2,000) was not excessive.

Legal Standard

A. Authorized Committee Limits: An authorized committee may not receive more than a total of \$2,000 per election from any one person. 2 U.S.C. §441a(a)(1)(A) and 11 CFR §§110.1(a) and (b).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- return the questionable contribution to the donor; or
- deposit the contribution into its federal account and keep enough money on account to cover all potential refunds until the legality of the contribution is established. 11 CFR §103.3(b)(3) and (4).

The excessive portion may also be redesignated to another election or reattributed to another contributor as explained below.

C. Redesignation of Excessive Contributions. The committee may ask the contributor to redesignate the excess portion of the contribution for use in another election.

- The committee must, within 60 days of receipt of the contribution, obtain and retain a signed redesignation letter which informs the contributor that a refund of the excessive portion may be requested; or
- refund the excessive amount. 11 CFR §§110.1(b)(5), 110.1(l)(2) and 103.3(b)(3).

Notwithstanding the above, when an authorized political committee receives an excessive contribution from an individual or a non-multi-candidate committee, the committee 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.

Also, the committee may presumptively redesignated the excessive portion of a general election contribution back to the primary election if the amount redesignated does not exceed the committee's primary net debt position.

The committee is required to notify the contributor in writing 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. For this action to be valid, the committee must retain copies of the notices sent. 11 CFR §110.1(b)(5)(ii)(B) & (C) and (l)(4)(ii). Presumptive redesignations apply only within the same election cycle.

D. Reattribution of Excessive Contributions. When an authorized committee receives an excessive contribution, the committee may ask the contributor if the contribution was intended to be a joint contribution from more than one person.

- The committee must, within 60 days of receipt of the contribution, obtain and retain a reattribution letter signed by all contributors; or
- refund the excessive contribution. 11 CFR §§110.1(k)(3), 110.1(l)(3) and 103.3(b)(3).

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
- that the contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(ii)(B).

For this action to be valid, the committee must retain copies of the notices sent. 11 CFR §110.1(l)(4)(ii).

E. Refund or Disgorge Questionable Contributions. If the identity of the original contributor is known, the committee must either refund the funds to the source of the original contribution or pay the funds to the U.S. Treasury. AO 1996-5.

Facts and Analysis

RPC accepted contributions from individuals and Native American tribes that exceeded the contribution limitation by \$26,400. The excessive portion of the contributions were either presumptively reattributed to another individual or presumptively redesignated to the general election.

Two of the excessive contributions could not be presumptively reattributed or redesignated because such action created additional excessive contributions. Further, RPC could not provide evidence that the contributors were notified of such action or offered a refund of the excessive portion of the contributions.

RPC did not deposit the excessive portions into a separate account but did maintain sufficient funds in its bank account to make the necessary refunds.

The Audit staff discussed this matter at the exit conference. RPC representatives inquired if the correct procedures were followed would the identified contributions be considered excessive. RPC was informed that if the correct procedures were followed, the contributions would not have been excessive.

Subsequent to the exit conference, RPC indicated that the excessive contributions were refunded and disclosed making the refunds.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC:

- Provide evidence demonstrating that the contributions in question were refunded. Such evidence should include copies of front and back of negotiated refund checks);
- If a refund check had not been negotiated and the contribution could have been presumptively reattributed under 11 CFR 110.1(k)(3)(ii)(B), send a letter to each contributor informing them that their contribution has been reattributed and offer a refund. A copy of such letter should be made available to the Audit staff.
- Absent such evidence, the Audit staff recommended that the value of the non-negotiated refund checks be paid to the United States Treasury.

In response to the interim audit report recommendation, RPC provided copies of negotiated refund checks totaling \$22,400. RPC also provided a copy of a letter sent to one contributor indicating the excessive portion (\$2,000) was presumptively redesignated to the general election. The letter also offered a refund. In addition, RPC provided documentation demonstrating that a contribution (\$2,000) was not excessive.

Finding 3. Receipt of Prohibited Contributions

Summary

RPC received 21 apparent prohibited contributions from corporate entities totaling \$7,228. Subsequent to the exit conference, RPC indicated that it had refunded \$3,828 of the above contributions. In response to the interim audit report recommendation RPC provided copies of negotiated refund checks totaling \$4,853 and documentation establishing that contributions of \$2,375 were not from corporate sources.

Legal Standard

A. Receipt of Prohibited Corporate Contributions. Political campaigns may not accept contributions made from the general treasury funds of corporations. This prohibition applies to any type of corporation including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 2 U.S.C. §441b.

B. Questionable Contributions. If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).
3. The committee must keep a written record explaining why the contribution may be prohibited and must include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

The Audit staff determined that RPC received 21 apparent prohibited contributions totaling \$7,228. The contributions were received from 12 corporate entities. The corporate status of each entity was verified with the respective Secretary of State. Although RPC did not maintain a separate account to deposit such contributions, it

maintained sufficient funds, at all times, to refund both the excessive contributions noted in Finding 2 and these prohibited contributions.

Although, no documentation was made available, RPC indicated that one of the entities was actually a partnership and another was an LLC.

This matter was discussed at the exit conference. In response, RPC stated that it had refunded \$3,828 of the prohibited contributions. A review of RPC's disclosure reports also indicated that the refunds were reported.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC provide evidence that the remaining contributions (\$3,400) were not prohibited. Such evidence was to include documentation from each entity that demonstrated it was not a corporation at the time the contribution was made.

Absent such evidence, it was recommended that RPC refund the remaining \$3,400 (\$7,228 – \$3,828) in contributions and provide copies (front and back) of all negotiated refund checks.

In response to the interim audit report recommendation, RPC provided copies of negotiated refund checks totaling \$4,853 and signed statements from representatives of two of the entities stating that their contributions (\$2,375) were from non-incorporated sources.

Finding 4. Misstatement of Financial Activity

Summary

A comparison of RPC's reported financial activity to bank records revealed a misstatement of disbursements and ending cash on hand in calendar year 2003 and beginning cash on hand in 2004. In response to the recommendation, RPC filed amended reports that materially corrected its reported financial activity.

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 calendar year; and
 - The total amount of disbursements for the reporting period and for the calendar year.
- 2 U.S.C. §434(b)(1), (2) and (4).

Facts and Analysis

The Audit staff reconciled the reported activity to the bank records and determined there was a significant misstatement of disbursements and ending cash on hand in calendar year 2003 and the cash on hand balance in 2004. The following chart details the discrepancies between the totals on RPC's disclosure reports and the bank records.

2003 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2003	\$18,940	\$18,940	\$0
Receipts	\$585,954	\$592,288	\$6,334 Understated
Disbursements	\$325,272	\$337,494	\$12,222 Understated
Ending Cash Balance @ December 31, 2003	\$279,622	\$273,734	\$5,888 Overstated

Explanation of Discrepancies

Receipts

• In-kind contribution not reported	+	\$ 6,274
• Unexplained difference	+	60
Understatement		<u>\$ 6,334</u>

Disbursements

• Returned contributor checks reported as contribution refunds.	-	\$ 3,650
• Disbursements not reported	+	11,100
• In-kind contribution not reported	+	6,372
• Over reporting of disbursements	-	1,417
• Unexplained difference	-	183
Net Understatement		<u>\$12,222</u>

2003 Ending Cash-on-Hand / 2004 Beginning Cash on Hand Balances

The overstatement of the cash on hand balances resulted from the receipt and disbursement reporting discrepancies noted above. Further, minor reporting errors in calendar year 2004 resulted in the ending cash balance as reported to be materially correct.

At the exit conference, RPC representatives were provided schedules detailing the above adjustments and indicated they would research the errors.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC file amended reports for the applicable reporting periods in calendar year 2003. RPC should also have amended its most recent disclosure, reducing ending cash on hand by \$1,350 with an explanation that it resulted from audit adjustments from a prior period. In response to the recommendation, RPC filed amended reports that materially corrected its reported financial activity.

Finding 5. Disclosure of Occupation/Name of Employer

Summary

Contributions from individuals were reviewed on a sample basis. For contributions requiring itemization, the review indicated that RPC failed to disclose or inadequately disclosed the contributor's occupation and/or name of employer for about 28% of the contributions. There was no documentation to indicate that RPC used "best efforts" to obtain, maintain and submit this information. In response, RPC provided copies of letters, dated July 12, 2005, sent to contributors requesting their occupation and/or name of employer. RPC also filed amended reports correctly disclosing the contributor information.

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 aggregate election-to-date (or aggregate election cycle-to-date in the case of authorized candidate committees) total of all contributions from the same individual. 2 U.S.C. §434(b)(3)(A) and 11 CFR §§100.12 and 104.3(a)(4).

B. Best Efforts Ensures 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. 2 U.S.C. §432(h)(2)(i).

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
 - A statement that such reporting is required by Federal law.
- Within 30 days after the 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

Contributions from individuals required to be itemized on Schedule A (Itemized Receipts) were reviewed on a sample basis. The review indicated that RPC failed to disclose or inadequately disclosed the contributor's occupation and/or name of employer

for about 28% of the contributions tested. There was no documentation made available that indicated “best efforts” were used to obtain, maintain and submit this information.

The Audit staff discussed this matter at the exit conference. The treasurer asked if the prior reports were checked to see if the information was previously disclosed. The Audit staff subsequently reviewed the items in questions and informed RPC that the results did not change. The treasurer also stated that RPC had changed software and that the new software had problems with the contributor’s occupation and/or name of employer data fields.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC take the following action:

- Provide documentation that it exercised “best efforts” to obtain, maintain and submit the required contributor information; or
- Make an effort to contact those individuals for whom the required information was missing or incomplete, provide documentation of such efforts (such as copies of letters to the contributors and/or phone logs), and file amended reports to disclose any information obtained from such efforts.

In response to the interim audit report, RPC provided copies of letters, dated July 12, 2005, sent to contributors requesting this information. RPC also filed amended reports correctly disclosing the contributor information.

Finding 6. Reporting of Debts and Obligations

Summary

The Audit staff identified debts and obligations totaling \$42,336 from various vendors that were not disclosed on Schedules D (Debts and Obligations). In response to the interim audit report recommendation, RPC filed amended Schedules D to disclose its debts.

Legal Standard

A. Continuous Reporting Required. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C §434(b)(8) and 11 CFR §§104.3(d) and 104.11(a).

B. Separate Schedules. A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 CFR §104.11(a).

C. Itemizing Debts and Obligations.

- A debt of \$500 or less must be reported once it has been outstanding 60 days from the date incurred (the date of the transaction); the committee reports it on the next regularly scheduled report.

- A debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 CFR §104.11(b).

Facts and Analysis

The Audit staff identified debts and obligations, totaling \$42,336, from various vendors throughout the audit period which should have been disclosed on Schedule D, but were not. RPC had not disclosed any debts owed prior to its filing of the 2004 year end report. All of the debts should have been disclosed in reports filed prior to the year end report. Approximately, \$18,000 of the debts related to the lease of a vehicle by the candidate and his wife.

RPC was provided a schedule of the unreported debts. The treasurer did not offer any comment.

Interim Audit Report Recommendation and Committee Response

In response to the interim audit report recommendation, RPC filed amended reports disclosing \$42,336 in debts.

Finding 7. Inadequate Disclosure - Form 3Z-1

Summary

RPC failed to provide the requested information on Form 3Z-1 (Consolidated Report of Gross Receipts for Authorized Committees) with its 2003 July 15th Quarterly Report. In addition, Form 3Z-1 filed with the 2003 Year End Report was materially incorrect. In response to the interim audit report recommendation, RPC stated that its Form 3Z-1 was not correctly filed due to software problems.

Legal Standard

Special Reporting Requirements. Principal campaign committees of candidates for the U.S. House and the U.S. Senate must file FEC Form 3Z-1 as part of their July Quarterly and Year-End Reports in the year preceding the year in which the general election for the office sought is held. The information in this form allows opposing candidates to compute their “gross receipts advantage” used to determining whether a candidate is entitled to an increased contribution limit. The following information must be disclosed:

1. Gross receipts to date for the primary and general elections,
2. Aggregate amount of contributions from personal funds of the candidate for the primary and general elections, and,
3. A calculation of gross receipts less the candidate’s personal contributions for each election. 11 CFR §104.19.³

³ This regulation became effective January 27, 2003; as such, this audit cycle is the first that required filing of this form.

Facts and Analysis

RPC failed to provide any information on Form 3Z-1 filed with its 2003 July 15th Quarterly Report. The Audit staff determined gross receipts for the primary election of \$329,304 and for the general election of \$12,500 should have been disclosed.

In addition, the activity disclosed on Form 3Z-1 filed with the 2003 Year End Report was materially incorrect. The Audit staff determined gross receipts for the primary election of \$524,308 and for the general election of \$18,108 should have been disclosed. There were no personal contributions made by the Candidate for either election.

The Audit staff discussed this matter at the exit conference. RPC representatives offered no relevant comments.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC demonstrate that Forms 3Z-1 were correctly filed or provide any relevant information as to why the errors occurred. In response to the interim audit report recommendation, RPC stated that the Form 3Z-1 was not correctly filed due to software problems.

Finding 8. Untimely Deposit of Contributions

Summary

A review of deposits of contributions from individuals and political committees identified \$671,045 in untimely deposits. In response, RPC stated that, in many instances, the date of the check rather than the date received was disclosed as the receipt date. RPC further stated that it did not have postmarked envelopes to confirm the actual receipt date.

Legal Standard

Deposit of Receipts. The treasurer of a political committee must deposit contributions (or return them to the contributors without being deposited) within 10 days of the treasurer's receipt. 11 CFR §103.3(a).

Facts and Analysis

A review of deposits of contributions from individuals and political committees indicated that RPC failed to deposit contributions totaling \$671,045 in a timely manner. The Audit staff used the date recorded in RPC's database as the date of receipt. The review indicated that the contributions from individuals (\$338,608) and political committees (\$331,437) were deposited, on average, 66 days late.

The above contributions were received between January 2003 and April 2004. During this period, RPC did not make daily deposits. The number of days between deposits in 2003 was 27 and in 2004 was 22. RPC also changed treasurers in July 2004. Subsequent contributions were deposited in a timely manner.

This matter was developed subsequent to the exit conference. RPC responded that there was no reason for the checks being deposited so long after being received. They believe

the date on the check was almost always the date reported as received. In addition, RPC noted that contributions from PACs will have a cover letter that will be dated differently from the date on the check. Also, fundraising events managed by others are frequently held by the organizer until the completion of the event and then forwarded to RPC.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that RPC provide documentation that demonstrates the contributions were deposited timely or provide any comments it may wish to make. In response, RPC again stated that, in many instances, the date of the check, rather than the date received was disclosed as the receipt date. RPC stated further, that it did not have postmarked envelopes to confirm the actual receipt date.

It appears that, in many instances, RPC disclosed the check date as the date of receipt. However, this is not the reason that the contributions were not deposited timely. As previously stated, deposits for the above contributions were made three to four weeks apart. Further, after allowing sufficient time for the contributions to reach RPC's headquarters, the above contributions were deposited, on average, 66 days late.