




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 27, 2004

MEMORANDUM

TO: ROBERT W. BIERSACK  
PRESS OFFICER  
PRESS OFFICE

FROM: JOSEPH F. STOLTZ   
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
VOTERS FOR CHOICE FRIENDS OF FAMILY PLANNING

Attached please find a copy of the final audit report and related documents on Voters for Choice Friends of Family Planning, which was approved by the Commission on September 10, 2004.

Informational copies of the report have been received by all parties involved and 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  
Web Manager



# Report of the Audit Division on Voters for Choice Friends of Family Planning January 1, 2001 – December 31, 2002

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## 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.<sup>1</sup> The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

## Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report

## About the Committee (p. 2)

Voters for Choice Friends of Family Planning (VFC) is a nonconnected political action committee. VFC qualified for multi-candidate status on April 25, 1979 and is headquartered in Washington, DC. VFC is in the process of terminating as a political action committee and since September 2003 has disclosed minimal financial activity. For more information, see chart on the Committee Organization, p. 2.

## Financial Activity (p. 2)

- **Receipts**
  - Contributions from Individuals \$ 577,573
  - Contributions from Political Committees 5,855
  - Other Receipts 123,363
  - **Total Receipts \$ 706,791**
  
- **Disbursements**
  - Operating Expenditures \$ 699,069
  - Contributions to Federal Candidates 18,588
  - Other Expenditures 78,806
  - **Total Disbursements \$ 796,463**

## Findings and Recommendations (p. 3)

- Disclosure of Operating Expenditures (Finding 1)
- Disclosure of Occupation and Name of Employer (Finding 2)
- Receipt of Contributions in Excess of the Limitation (Finding 3)

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<sup>1</sup> 2 U.S.C. §438(b).

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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of Voters for Choice Friends of Family Planning (VFC), 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 disclosure of expenses allocated between federal and non-federal accounts.
6. The consistency between reported figures and bank records.
7. The completeness of records.
8. Other committee operations necessary to the review.

### **Changes to the Law**

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for the period November 7, 2002, through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are primarily those that were in effect prior to November 7, 2002.

## Part II

### Overview of Committee

#### Committee Organization

<b>Important Dates</b>	<b>Voters for Choice Friends of Family Planning</b>
• Date of Registration	April 25, 1979
• Audit Coverage	January 1, 2001 – December 31, 2002
<b>Headquarters</b>	Washington, DC
<b>Bank Information</b>	
• Bank Depositories	2
• Bank Accounts	1 Checking , 1 Investment Account
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Mary Jean Collins
• Treasurer During Period Covered by Audit	Mary Jean Collins
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

#### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 1, 2001</b>	<b>\$ 84,370</b>
<b>Receipts</b>	
○ Contributions from Individuals	577,573
○ Contributions from Political Committees	5,855
○ Other Receipts	123,363
<b>Total Receipts</b>	<b>\$ 706,791</b>
<b>Disbursements</b>	
○ Operating Expenditures	699,069
○ Contributions to Fed. Candidates	18,588
○ Other Expenditures	78,806
<b>Total Disbursements</b>	<b>\$ 796,463</b>
<b>Cash on hand @ December 31, 2002</b>	<b>\$ -5,302</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Disclosure of Operating Expenditures**

A sample review of operating expenditures itemized on the disclosure reports filed with the Commission revealed that for approximately 21% of the sample items VFC did not disclose, or inadequately disclosed, the payees' addresses. In response to the Audit staff's recommendation, VFC filed amended reports that adequately disclosed the missing information.

(For more detail, see p. 4)

##### **Finding 2. Disclosure of Occupation and Name of Employer**

VFC failed to disclose occupation and/or name of employer for 36% of the contributions from individuals itemized on the disclosure reports filed with the Commission. The Audit staff recommended that VFC contact each contributor for whom such information was lacking, submit evidence of such contact, and disclose any information received in amended reports. In response, VFC provided evidence of its efforts to obtain the missing information and filed amended reports that corrected the public record.

(For more detail, see p. 5)

##### **Finding 3. Receipt of Contributions in Excess of the Limitation**

A review of contributions from individuals indicated that VFC received contributions that appeared to exceed the limitation for contributions by \$23,953. This amount includes \$18,253 that was untimely transferred to the non-federal account, and \$5,700 that remains unresolved. The Audit staff recommended that VFC either provide evidence demonstrating that the contributions were not excessive, transfer the excessive contributions to the non-federal account or issue refunds to the contributors, as appropriate. In response, VFC provided copies of checks (fronts only) to the non-federal account in the amount of \$5,000 and to four contributors to issue refunds totaling \$2,900. The response stated that copies of the canceled checks would be provided when received from VFC's bank.

(For more detail, see p. 6)

## Part IV

# Findings and Recommendations

### Finding 1. Disclosure of Operating Expenditures

#### Summary

A sample review of operating expenditures itemized on the disclosure reports filed with the Commission revealed that for approximately 21% of the sample items VFC did not disclose, or inadequately disclosed, the payees' addresses. In response to the Audit staff's recommendation, VFC filed amended reports that adequately disclosed the missing information.

#### Legal Standard

**Reporting Operating Expenditures.** When operating expenditures to the same person exceed \$200 in a calendar year, 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)(5)(A) and 11 CFR §104.3(b)(3)(i).

#### Facts and Analysis

A sample review of disbursements itemized on Schedule B (Itemized Disbursements) revealed that for approximately 21% of the sample items VFC did not disclose, or failed to adequately disclose, the payees' addresses. Most of these disclosure errors occurred during the period January through April of 2001. A 100% review of disbursements reported in that time period determined that for 72 of 83 itemized disbursements (87%) the payee addresses were not disclosed or not adequately disclosed.

The Audit staff presented this matter to VFC representatives during the exit conference and provided a workpaper that showed the disbursements that were made during the period January through April of 2001 for which the payees' addresses were missing or inadequate. Representatives for VFC stated that amended reports would be filed to disclose the payee's addresses.

#### Interim Audit Report Recommendation and Committee Response

In response to the Audit staff's recommendation, VFC filed amended reports that adequately disclosed addresses for the disbursements noted above.

## **Finding 2. Disclosure of Occupation and Name of Employer**

### **Summary**

VFC failed to disclose occupation and/or name of employer for 36% of the contributions from individuals itemized on the disclosure reports filed with the Commission. The Audit staff recommended that VFC contact each contributor for whom such information was lacking, submit evidence of such contact, and disclose any information received in amended reports. In response, VFC provided evidence of its efforts to obtain the missing information and filed amended reports that corrected the public record.

### **Legal Standard**

**A. Required Information for Contributions from Individuals.** For each itemized contribution from an individual, the committee must provide the contributor's occupation and the name of his or her employer. 2 U.S.C. §431(13) and 11 CFR §§100.12.

**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
  - The 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**

The Audit staff reviewed all contributions from individuals itemized on Schedule A (Itemized Receipts) for adequate disclosure of occupation and name of employer. The review determined that VFC failed to disclose or did not fully disclose the contributor's occupation and name of employer for 185 (36%) of the 509 contributions required to be itemized. In addition, VFC did not maintain documentation that demonstrated that best efforts were exercised to obtain the missing information.

The Audit staff presented this matter to VFC representatives during the exit conference along with a schedule of contributors for whom the occupation and name of employer



information was missing. Representatives for VFC stated that the contributors would be contacted in an attempt to obtain the required information and that amended reports would be filed.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that VFC provide evidence that best efforts were exercised to obtain and submit the required contributor information. Absent such evidence, VFC must make an effort to contact those individuals for whom the required information is missing or incomplete, provide documentation of such contacts (such as copies of letters to the contributors and/or phone logs), and amend its reports to disclose any information obtained from those contacts.

In response, VFC provided evidence of its efforts to obtain the missing information and filed amended reports that corrected the public record.

## **Finding 3. Receipt of Contributions in Excess of the Limitation**

### **Summary**

A review of contributions from individuals indicated that VFC received contributions that appeared to exceed the limitation for contributions by \$23,953. This amount includes \$18,253 that was untimely transferred to the non-federal account, and \$5,700 that remains unresolved. The Audit staff recommends VFC either provide evidence demonstrating that the contributions were not excessive, transfer the excessive contributions to the non-federal account or issue refunds to the contributors, as appropriate. In response, VFC provided copies of checks (fronts only) to the non-federal account in the amount of \$5,000 and to four contributors to issue refunds totaling \$2,900. The response stated that copies of the canceled checks would be provided when received from VFC's bank.

### **Legal Standard**

**Political Committee Limits.** A political committee may not receive more than a total of \$5,000 per year from any one contributor. 2 U.S.C. §§441a(a)(1)(C), (2)(C) and (f); 11 CFR §§110.1(a) and (d) and 110.9(a).

**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:
  - o Keep enough money in the account to cover all potential refunds;
  - o Keep a written record explaining why the contribution may be illegal;
  - o Include this explanation on schedule A if the contribution has to be itemized before its legality is established;
  - o Seek a reattribution of the excessive portion, following the instructions provided in Commission regulations; and

- o If the committee does not receive a proper reattribution 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).

**Reattribution of Excessive Contributions.** 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:

1. The reattribution must be signed by both contributors;
2. The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
3. 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).

**Revised Regulations Applied.** The Commission recently adopted new regulations that allow committees greater latitude to reattribute contributions to joint account holders and has decided to apply these regulations to current matters. The Audit staff has evaluated the excessive contributions discussed below using the new regulations.

### **Facts and Analysis**

A review of contributions from individuals indicated VFC received contributions from eight individuals that appeared to exceed contribution limits by \$23,953. Seven of the contributions in question were either credit card contributions or written on a check that identified only one account holder. The other was a contribution of stock owned by a single individual. Documentation that the contributions were reattributed to other individuals was not made available during audit fieldwork.

VFC deposited the funds into the federal account and untimely transferred \$18,253 to the non-federal account. The transfers to the non-federal account were made between October 2002 and August 2003, more than a year after VFC received the contributions. Of the \$18,253 in transfers, \$16,053 was designated by contributors for non-federal activity; the remaining \$2,200 was undesignated. In addition, there remained \$5,700 (\$23,953 - \$18,253) in excessive contributions from three individuals that was not transferred to the nonfederal account. The \$5,700 includes one contribution for \$5,000 that was designated by the contributor for non-federal activity; the remaining \$700 was undesignated. VFC maintained sufficient funds in the federal account to refund most of the excessive contributions when they were received.

The Audit staff presented this matter to VFC representatives during the exit conference along with a schedule of possible excessive contributions. Representatives for VFC

stated that the remaining excessive contribution amount would be transferred to the non-federal account.

### **Interim Audit Report Recommendation and Committee Response**

The Audit staff recommended that VFC take the following action:

- Provide evidence demonstrating that the contributions in question were not excessive or that they were timely reattributed, refunded, or transferred to the non-federal account.
- Absent such evidence, transfer the \$5,000 designated by the contributor for non-federal activity from the federal account to the non-federal account and provide evidence of the transfer (photocopies of the front and back of the negotiated instrument); and refund \$2,900 (\$2,200 + \$700), to four contributors and provide evidence of such refunds (copies of front and back of negotiated refund checks);<sup>2</sup> and
- If funds were not available to make the necessary transfer and refunds, disclose the amounts due as debts on Schedules D (Debts and Obligations) until funds become available to make the transfer and refunds.<sup>3</sup>

In response, VFC provided copies of checks (fronts only) to the non-federal account to make the \$5,000 transfer and to the four contributors to issue refunds totaling \$2,900. The response stated that copies of the canceled checks would be provided when received from VFC's bank.

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<sup>2</sup> In the case of the excessive contributions untimely transferred (\$2,200) to the non-federal account, the Committee may reverse these transfers.

<sup>3</sup> VFC reported a cash-on-hand-balance on May 31, 2004, of \$5,446.