



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 13, 2005

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ *JFS*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE AUDIT REPORT ON
THE NATIONAL ITALIAN AMERICAN POLITICAL ACTION
COMMITTEE

Attached please find a copy of the audit report and related documents on the National Italian American Political Action Committee, which was approved by the Commission on January 5, 2005.

The report may be released to the public on January 13, 2005.

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 the National Italian American Political Action Committee

January 1, 2001 - December 31, 2002

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 Committee (p. 2)

The National Italian American Political Action Committee is a non-connected committee headquartered in Philadelphia, Pennsylvania. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - Contributions from Individuals \$ 146,429
 - Loans Received 10,000
 - Contributions from Other Political Committees 4,100
 - Interest Received 207
 - **Total Receipts** \$ 160,736
- **Disbursements**
 - Operating Expenditures \$ 125,510
 - Contributions to Nonfederal Political Committees 31,500
 - **Total Disbursements** \$ 157,010

Finding and Recommendation (p. 3)

- Receipt of Contributions that Exceed Limits

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 the National Italian American Political Action Committee (NIAPAC), 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.

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

| | |
|--|---|
| Important Dates | National Italian American Political Action Committee |
| • Date of Registration | March 14, 2000 |
| • Audit Coverage | January 1, 2001 – December 31, 2002 |
| Headquarters | Philadelphia, PA |
| Bank Information | |
| • Bank Depository | 1 |
| • Bank Account | 1 Federal Checking Account |
| Treasurer | |
| • Treasurer When Audit Was Conducted | Mr. Anthony Mallace |
| • Treasurer During Period Covered by Audit | Mr. Vincent Lasorsa |
| Management Information | |
| • Attended FEC Campaign Finance Seminar | No |
| • Used Commonly Available Campaign Management Software Package | Yes |
| • Who Handled Accounting and Recordkeeping Tasks | Volunteers |

Overview of Financial Activity (Audited Amounts)

| | |
|--|----------------|
| Cash on hand @ January 1, 2001 | \$ 2,959 |
| Receipts | |
| ○ Contributions from Individuals | 146,429 |
| ○ Loans Received | 10,000 |
| ○ Contributions from Other Political Committees | 4,100 |
| ○ Interest Received | 207 |
| Total Receipts | 160,736 |
| Disbursements | |
| ○ Operating Expenditures | 125,510 |
| ○ Contributions to Nonfederal Political Committees | 31,500 |
| Total Disbursements | 157,010 |
| Cash on hand @ December 31, 2002 | \$ 6,685 |

Part III

Summary

Finding and Recommendation

Receipt of Contributions that Exceed Limits

The Audit staff identified two individuals whose aggregate contributions (including loans) exceeded the contribution limits by \$15,350. In March 2004, NIAPAC repaid loans to untimely resolve a portion of the excessive contributions, but has taken no action with respect to the rest. In the interim audit report the Audit staff recommended that NIAPAC submit documentation to show that the contributions were not excessive or refund the remaining amount. In response, a letter was submitted from the first individual confirming repayment of the loans he had made to NIAPAC. No action was taken with regard to the second individual. (For more detail, see p.4)

Part IV

Finding and Recommendation

Receipt of Contributions that Exceed Limits

Summary

The Audit staff identified two individuals whose aggregate contributions (including loans) exceeded the contribution limits by \$15,350. In March 2004, NIAPAC repaid loans to untimely resolve a portion of the excessive contributions, but has taken no action with respect to the rest. In the interim audit report the Audit staff recommended that NIAPAC submit documentation to show that the contributions were not excessive or refund the remaining amount. In response, a letter was submitted from the first individual confirming repayment of the loans he had made to NIAPAC. No action was taken with regard to the second individual.

Legal Standard

A. Non-Connected Committee Limits. A non-connected 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).

B. Contribution. The term contribution includes any loans (excluding a bank loan), a guarantee, endorsement, and any other form of security. A loan which exceeds the contribution limitations of 2 U.S.C. §441a and 11 CFR §110 shall be unlawful whether or not it is repaid. A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. 11 CFR §100.7(a)(1)(i)(A)(B).

C. 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;

D. 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

The Audit staff reviewed all receipts and identified two individuals whose aggregate contributions exceeded the contribution limits by \$15,350.

In 2001, NIAPAC received \$10,100 from an individual as follows: a loan of \$2,500 (January 2001); a contribution of \$100 (March 2001); and, a loan of \$7,500 (June 2001). The two loans were itemized on Schedules A when received and properly disclosed on Schedules C until repaid in March 2004. However, since a loan is defined as a contribution and is therefore subject to contribution limitations, this individual exceeded the \$5,000 limit by \$5,100 (\$10,100 - \$5,000) from June 2001 until March 2004.

NIAPAC received contributions in 2002 from another individual totaling \$15,250 as follows: \$10,000 (June 2002); \$5,000 (September 2002); and \$250 (October 2002). The aggregate amount of these contributions, \$15,250, exceeded the contribution limit by \$10,250 (\$15,250 - \$5,000).

At the exit conference, the Audit staff brought these matters to the attention of the NIAPAC representatives who explained that the first individual was the founder of NIAPAC and that he made the loans when funds coming in to NIAPAC were not sufficient to pay its obligations. They added that he wanted to ensure that the local businesses were paid what they were owed by NIAPAC. Officials provided no additional information relative to the second individual. At the exit conference, NIAPAC representatives agreed to refund the remaining excessive portion to the second individual.

No separate account was maintained by NIAPAC for questionable contributions and NIAPAC did not consistently maintain a sufficient balance to cover the refund of these contributions during the period in question.

Interim Audit Report Recommendation and Committee Response

In the interim audit report, the Audit staff recommended that NIAPAC:

- Provide evidence demonstrating that the contributions in question were not excessive; or
- Refund \$10,250 to the second individual discussed above, providing evidence of such refund (copy of the front and back of the negotiated refund check); and
- If funds were not available to make the necessary refund, it was further recommended that the refund due be disclosed on Schedule D (Debts and Obligations) until funds became available to make the refund.

In response, a letter was submitted from the first individual confirming repayment of the loans he had made to NIAPAC. No action was taken with regard to the second individual.