



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 2, 2003

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
JOHN SULLIVAN FOR CONGRESS

Attached please find a copy of the final audit report and related documents on John Sullivan for Congress that was approved by the Commission on March 26, 2003.

The report may be released to the public on April 2, 2003.

Attachment as stated

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



Final Report of the Audit Division on John Sullivan for Congress April 13, 2001 – March 31, 2002

Why the Audit Was Done

Federal law permits the Commission to conduct an audit and field investigation 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)

John Sullivan for Congress (JSFC) is the principal campaign committee for John Sullivan, Republican candidate for the U.S. House of Representatives from the state of Oklahoma, First District. JSFC is headquartered in Tulsa, Oklahoma. The Candidate participated in a special election held on January 8, 2002. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 3)

- Receipts
 - From Individuals \$405,454
 - From Political Committees 210,951
 - From Unregistered Organizations 4,919
 - Candidate Loans 10,000
 - In-kind Contributions 16,779
 - Other Receipts 1,625
 - **Total Receipts \$649,728**
- Disbursements
 - Operating Disbursements \$611,896
 - Other Disbursements 12,000
 - **Total Disbursements \$623,896**

Findings and Recommendations (p. 4)

- Receipt of Contributions from an Unregistered Organization (Finding 1)
- Misstatement of Financial Activity (Finding 2)

¹ 2 U.S.C. §438(b).

Final Report of the Audit Division on John Sullivan for Congress

April 13, 2001 – March 31, 2002



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Part I

Background

Authority for Audit

This report is based on an audit of John Sullivan for Congress (JSFC), 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

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 consistency between reported figures and bank records.
5. The completeness of records.
6. 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. The period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are those that were in effect during the audit period.

Part II

Overview of Campaign

Committee Organization

John Sullivan for Congress	
Important Dates	
• Date of Registration	June 4, 2001
• Audit Coverage	April 13, 2001 (the date of JSFC's initial deposit) through March 31, 2002
• Special Elections	December 11, 2001 (primary) January 8, 2002 (general)
Headquarters	
Tulsa, Oklahoma	
Bank Information	
• Bank Depositories	1
• Bank Accounts	1 Checking Account
Treasurers	
• Treasurer When Audit Was Conducted	Greggory T. Colpitts
• Treasurer During Period Covered by Audit	Greggory T. Colpitts
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Filed Reports Electronically	Yes
• Who Handled Accounting, Recordkeeping Tasks and Other Day-to-Day Operations	Volunteer Staff
• Staff Has Previous Campaign Finance And Accounting Experience	No Previous Campaign Finance Experience and Moderate Accounting Experience

Overview of Financial Activity (Audited Amounts)

Cash on hand @ April 13, 2001	\$ 0
Receipts	
• Contributions from individuals	\$405,454
• Contributions from political committees	210,951
• In-kind contributions	16,779
• Loans from candidate	10,000
• Contributions from unregistered organizations	4,919
• Other Receipts	1,625
Total Receipts	\$649,728
Disbursements	
• Operating Disbursements	\$611,896
• Other Disbursements	12,000
Total Disbursements	\$623,896
Cash on hand @ March 31, 2002	\$ 25,832

Part III Summaries

Findings and Recommendations

Finding 1. Receipt of Contributions from Unregistered Organizations

A review of all contributions from unregistered organizations indicated that JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund. JSFC refunded the excessive amount on February 19, 2002. Since the Audit Staff recommended that no further action be taken by JSFC, no additional information was provided relative to this matter. (For more detail, see p. 5)

Finding 2. Misstatement of Financial Activity

A comparison of JSFC's reported financial activity with its bank activity indicated that receipts were understated by \$19,144. The Audit staff recommended that JSFC file amendments to the applicable reports to correct the misstatements. The requested amended reports were filed. (For more detail, see p. 7)

Part IV

Findings and Recommendations

Finding 1. Receipt of Contributions from an Unregistered Organization

Summary

A review of all contributions from unregistered organizations indicated that JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund. JSFC refunded the excessive amount on February 19, 2002. Since the Audit Staff recommended that no further action be taken by JSFC, no additional information was provided relative to this matter.

Legal Standard

Contribution Limits. No individual or group (other than a multicandidate committee) may contribute more than a total of \$1,000, per election, to a federal candidate's² campaign (the campaign includes the candidate and his or her agents and authorized committees). 2 U.S.C. §441a (a)(1)(A).

Definition of Election. Each of the following is considered a separate election, with a separate limit:

- Primary election or a caucus or convention with authority to nominate the candidate for the general election.
- General election.
- Runoff.
- Special election.

2 U.S.C. §431(1) and 11 CFR §§100.2, 110.1(j)(1), and 110.2(i)(1).

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

1. Return the questionable check to the donor; or
2. Deposit the check into its federal account and:
 - Keep enough money in the account to cover all potential refunds;
 - 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 redesignation of the excessive portion, following the instructions provided in FEC regulations; and

²A federal candidate is one who runs for the U.S. Presidency or for a seat in the U.S. Senate or the U.S. House of Representatives.

- If the committee does not receive a proper 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).

Unregistered Organizations Financing Federal Political Activity. When any organization makes a contribution but does not qualify as a political committee³, it must either:

1. Establish a separate account for permissible funds to make contributions and keep records of deposits (records must be kept and made available for examination by the Commission upon request); or
2. Demonstrate through a reasonable accounting method that it has received sufficient permissible funds to make contributions (records must be kept and made available for examination by the Commission upon request). 11 CFR §102.5(b)

Facts and Analysis

JSFC received \$4,500 in excessive contributions from the Miami Tribe of Oklahoma Business Development Fund (\$3,000 Primary; \$1,500 General). This unregistered organization gave JSFC a total of \$6,500 as follows:

- \$2,500 on September 25, 2001 for the Primary election;
- \$1,500 on November 19, 2001 for the Primary election; and
- \$2,500 on December 31, 2001 for the General election.

The date of the Primary election was December 11, 2001. The date of the General election was January 8, 2002.

Under the Act, an unregistered organization (one that has not become a political committee) may not contribute more than \$1,000 per candidate, per election. JSFC refunded the excessive portion of the contributions in one check (\$4,500) on February 19, 2002. This action occurred too late to cure the two excessive Primary contributions⁴ but it met the 60-day requirement for refunds with regard to the December 31, 2001 contribution. JSFC also consistently maintained a sufficient balance to cover the amounts deposited in excess of the limitation until just prior to the General election, January 8, 2002. It appears that the Miami Tribe of Oklahoma Business Development Fund thought that it was a multicandidate committee and therefore eligible to contribute up to \$5,000 per election to JSFC.

At the exit conference the Audit staff presented this matter to JSFC officials. JSFC gave no response.

³ Political committee means any committee, club, association, or other group of persons which receives contributions in excess of \$1,000 or which makes expenditures in excess of \$1,000 during a calendar year. 11 CFR §100.5

⁴ Based on an analysis of the contribution and disbursement databases provided by JSFC, the Primary activity was not funded by contributions designated for the General.

Interim Audit Report Recommendations

The Audit staff recommended that JSFC provide evidence that the excessive contributions were refunded timely or any additional information or explanation it believed to be relevant. Otherwise, the Audit staff recommended no further action be taken.

Committee Response to Recommendations and Audit Staff's Assessment

JSFC submitted a letter that explained that since the Audit Staff recommended that no further action be taken by JSFC, nothing additional was provided.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JSFC's reported financial activity with its bank activity indicated that JSFC had understated its receipts by \$19,144. The Audit staff recommended that JSFC file amendments to the applicable reports to correct the misstatements. The requested amended reports were filed.

Legal Standard

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

A comparison between JSFC's reported financial activity and its bank records indicated that JSFC's reports understated receipts by \$19,144. Disbursements were understated by \$7,308, not considered significant. The Ending Cash Balance was understated by \$11,836 as a result of the discrepancies in receipts and disbursements.

	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$ 0	\$ 0	\$ 0
Receipts	630,584	649,728	19,144 understated
Disbursements	616,588	623,896	7,308 understated
Ending Cash Balance	\$ 13,996	\$ 25,833	\$11,836 understated

Explanation of Receipts Discrepancy

The understatement of receipts was the result of the following:

• Unreported in-kind contributions	\$ 1,694
• Unreported individual contributions	14,800
• Unreported political committee contribution	100
• Uncorrected math error on detail summary page	250
• Unexplained difference	<u>2,300</u>
	<u>\$19,144</u>

At the exit conference the Audit staff informed JSFC officials of these misstatements and provided them relevant work papers. JSFC stated that they understood the finding.

Interim Audit Report Recommendations

The Audit staff recommended that JSFC file complete amended electronic reports for each reporting period to correct the misstatements noted above.

Committee Response to Recommendations and Audit Staff's Assessment

On March 12, 2003, JSFC filed complete amended electronic reports for the period covered by the audit. These reports corrected the financial misstatement.