

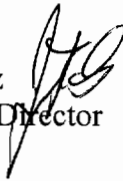


FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 22, 2007

MEMORANDUM

To: Robert W. Biersack
Press Officer

From: Joseph F. Stoltz 
Assistant Staff Director
Audit Division

Subject: Public Issuance of the Report of the Audit Division on Chicago Board
Options Exchange, Inc. PAC

Attached please find a copy of the audit report which was approved by the Commission on March 13, 2007.

The report may be released to the public on March 22, 2007.

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 the Chicago Board Options Exchange, Inc. PAC

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 Committee (p. 2)

The Chicago Board Options Exchange, Inc. PAC (CBOE) is the separate segregated fund of the Chicago Board Options Exchange, Inc. CBOE qualified for multi-candidate status on October 11, 1978 and is headquartered in Chicago, IL. For more information, see the chart on Committee Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - Contributions from Individuals \$ 468,961
 - Interest Income 4,739
 - **Total Receipts** \$ 473,700

- **Disbursements**
 - Contributions to Federal Candidate Committees and Other Political Committees \$ 432,400
 - Bank Charges 2,474
 - **Total Disbursements** \$ 434,874

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Inadequate Disclosure of Contributions to Political Committees (Finding 2)

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 Chicago Board Options Exchange, Inc. PAC (CBOE) 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 Committee

Committee Organization

Important Dates	CBOE
• Date of Registration	August 1, 1978
• Audit Coverage	January 1, 2003 – December 31, 2004
Headquarters	Chicago, Illinois
Bank Information	
• Bank Depositories	1
• Bank Accounts	1 Checking Account
Treasurer	
• Treasurer When Audit Was Conducted	Alan J. Dean
• Treasurer During Period Covered by Audit	Alan J. Dean
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	CBOE Staffer

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2003	\$ 478,081
○ Contributions from Individuals	\$ 468,961
○ Interest Income	4,739
Total Receipts	\$ 473,700
○ Contributions to Federal Candidate Committees and Other Political Committees	\$ 432,400
○ Bank Charges	2,474
Total Disbursements	\$ 434,874
Cash on hand @ December 31, 2004	\$ 516,907

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

On its reports as originally filed with the Commission, CBOE significantly underreported receipts and disbursements for calendar years 2003 and 2004. Prior to audit notification, CBOE discovered this error and filed amended reports which materially corrected this problem. In response to the interim audit report recommendation that CBOE provide any additional information or written comments that it considered relevant to this matter, CBOE stood by the explanation provided to the Commission at the time ADR-262 was resolved.

(For more detail, see p. 4)

Finding 2. Inadequate Disclosure of Contributions to Political Committees

CBOE did not adequately disclose the office sought, including the state and congressional district or the state in which senate candidates sought office for 111 contributions to federal candidate committees totaling \$180,000. An additional contribution (\$15,000) to a national party committee was disclosed using an incorrect name. In response to the interim audit report recommendation, CBOE filed amended reports that corrected the public record.

(For more detail, see p. 5)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

On its reports as originally filed with the Commission, CBOE significantly underreported receipts and disbursements for calendar years 2003 and 2004. Prior to audit notification, CBOE discovered this error and filed amended reports which materially corrected this problem. In response to the interim audit report recommendation that CBOE provide any additional information or written comments that it considered relevant to this matter, CBOE stood by the explanation provided to the Commission at the time ADR-262 was resolved.

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;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Background

An enforcement action was initiated by the Commission in response to the Reports Analysis Division's (RAD) referral of April 4, 2005, to address two specific instances of increased reported financial activity: (1) an additional \$64,500 in disbursements was reported on the amended 2003 August monthly report; and, (2) an additional \$75,518 in receipts was reported on the 2003 Year End report.

CBOE filed these reports with the Commission on October 20, 2004. This enforcement action resulted in Alternative Disputes Resolution (ADR) Matter #262 and was resolved on October 21, 2005. In the settlement agreement, CBOE acknowledged that some reports were filed during 2003-2004 with incomplete financial data due to an unknown software default problem apparently present when the software was installed. As a result of an internal audit, CBOE identified the errors and filed amended reports. CBOE also agreed to designate a "Committee Compliance Officer" and have the Compliance Officer attend a Commission campaign finance seminar for political action committees within twelve months of the settlement.²

Facts and Analysis

As illustrated below, the original disclosure reports filed by CBOE with the Commission for calendar years 2003 and 2004 underreported both receipts and disbursements. This

² The Compliance Officer has not yet attended the campaign finance seminar; the seminar had been canceled due to a budgetary shortfall.

underreporting occurred on the first twenty of twenty-four disclosure reports filed with the Commission for the audit period. The combined underreported amount for receipts was \$152,944 and for disbursements was \$202,374.

Comparison of Originally Reported 2003 Activity to Reconciled Bank Totals			
	Reported	Bank Records	Discrepancy
Receipts	\$7,177	\$127,543	\$120,366 understated
Disbursements	\$192,000	\$296,442	\$104,442 understated

Comparison of Originally Reported 2004 Activity to Reconciled Bank Totals			
	Reported	Bank Records	Discrepancy
Receipts	\$313,580	\$346,157	\$32,578 understated
Disbursements	\$40,500	\$138,432	\$97,932 understated

As noted previously, CBOE discovered the problem, and on its own initiative, filed amended reports which materially corrected the underreporting.

Subsequent to the exit conference, the Audit staff notified a CBOE representative of the inclusion of this finding.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that CBOE provide any additional information or comments that it considers relevant to this matter.

CBOE representatives believed that their explanation provided to the Commission in response to the ADR-262 was complete and accurately explained the reporting system malfunction that resulted in the underreporting.

Finding 2. Inadequate Disclosure of Contributions to Political Committees

Summary

CBOE did not adequately disclose the office sought, including the state and congressional district or the state in which senate candidates sought office for 111 contributions to federal candidate committees totaling \$180,000. An additional contribution (\$15,000) to a national party committee was disclosed using an incorrect

name. In response to the interim audit report recommendation, CBOE filed amended reports that corrected the public record.

Legal Standard

Reporting Contributions to Federal Candidates or Committees. When making contributions to federal candidates/committees or other political committees, the committee must report the:

- Full name;
- Complete address;
- Amount;
- Date when the contribution was made;

And in the case of candidate committees the:

- Candidate name and address;
- Office sought, (including state and Congressional district if applicable); and
- election designation. 2 U.S.C. §434(b)(6)(B)(i) and 11 CFR §104.3(b)(3)(v).

Facts and Analysis

CBOE's disbursements consisted almost exclusively of contributions to federal candidate committees and the congressional and senatorial committees of the two national parties. The Audit staff reviewed all of these transactions and identified 109 (\$195,000) disclosure errors. All but one, (108 errors totaling \$180,000) involved contributions to federal candidates which failed to adequately disclose office sought, and where applicable, congressional district and/or state.

The remaining error occurred as the result of CBOE incorrectly reporting a contribution of \$15,000 to the National Republican Congressional Committee on April 30, 2003. In fact, the check written on that date had been made out to National Republican Senatorial Committee (NRSC). This amount was reported received by the NRSC.

This matter was discussed at the exit conference. CBOE representatives acknowledged continuing difficulty with the software used to prepare its disclosure reports. They noted that they had tried to include the necessary information on the report memo line, but in many cases, the required information, though entered, had been truncated due to lack of space.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that CBOE amend its reports to correctly disclose these disbursements.

CBOE filed amended reports in response to the interim audit report which corrected the public record.