



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2007 MAR -2 P 2: 36

March 1, 2007

**MEMORANDUM**

**TO:** The Commissioners

**THROUGH:** Patrina M. Clark *Jud for*  
Staff Director *PMC*

Margarita Maisonet *mm*  
Chief Compliance Officer

**FROM:** Joseph F. Stoltz *JFS*  
Assistant Staff Director  
Audit Division

Martin L. Favin *MLF*  
Audit Manager

Terrence J. O'Brien *TJO*  
Lead Auditor

**SUBJECT:** Final Audit Report – LaRouche in 2004

Attached for your approval is the subject final audit report. The Office of General Counsel has informally reviewed this report and concurs with all issues presented. There was a continuing to campaign situation but unlike the one in Kucinich for President, Inc., no matching funds were used to defray these expenses (see Finding 1, Net Outstanding Campaign Obligations).

With respect to the amount owed for stale-dated checks, LaRouche in 2004 made the required payment to the United States Treasury (see Finding 2, Stale-Dated Checks). No other amounts are owed.

**Recommendation**

The Audit staff recommends that the report be approved.

**AGENDA ITEM**

For Meeting of: 03-08-07

**SUBMITTED LATE**

It is recommended that the report be considered at the next regularly scheduled open session meeting. If you have any questions, please contact Terry O'Brien or Marty Favin at 694-1200.

Attachment:

Final Audit Report on LaRouche in 2004



# Report of the Audit Division on LaRouche in 2004

January 5, 2001 – December 31, 2004

---

## Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a Presidential candidate who receives public funds for the primary campaign.<sup>1</sup> The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

## 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)

LaRouche in 2004 is the principal campaign committee for Lyndon H. LaRouche, Jr., a candidate for the Democratic Party's nomination for the office of President of the United States. The Committee is headquartered in Leesburg, VA. For more information, see chart on the Campaign Organization, p. 2.

## Financial Activity (p. 3)

- **Receipts**
  - Contributions from Individuals \$ 8,315,592
  - Matching Funds Received 1,456,019
  - Contributions from Political Committees 3,846
  - Offsets to Operating Expenditures 4,879
  - Other Receipts 1,118
  - **Total Receipts** \$ 9,781,454
- **Disbursements**
  - Operating Expenditures \$ 9,618,799
  - Contribution Refunds 103,997
  - Other Disbursements 1,375
  - **Total Disbursements** \$ 9,724,171

## Findings and Recommendations (p. 4)

- Net Outstanding Campaign Obligations (Finding 1)
- Stale-Dated Checks (Finding 2)

---

<sup>1</sup> 26 U.S.C. §9038(a).

# **Report of the Audit Division on LaRouche in 2004**

---

January 5, 2001 – December 31, 2004



# Table of Contents

	<b>Page</b>
<b>Part I. Background</b>	
Authority for Audit	1
Scope of Audit	1
Inventory of Campaign Records	1
<b>Part II. Overview of Campaign</b>	
Campaign Organization	2
Overview of Financial Activity	3
<b>Part III. Summaries</b>	
Findings and Recommendations	4
Amounts Owed to the U.S. Treasury	4
<b>Part IV. Findings and Recommendations</b>	
Finding 1. Net Outstanding Campaign Obligations	5
Finding 2. Stale-Dated Checks	7

# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of LaRouche in 2004 (LaRouche 04), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states “After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037.” Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission’s Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

### **Scope of Audit**

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The receipt of transfers from other authorized committees.
4. The disclosure of contributions and transfers received.
5. The disclosure of disbursements, debts and obligations.
6. The recordkeeping process and completeness of records.
7. The consistency between reported figures and bank records.
8. The accuracy of the Statement of Net Outstanding Campaign Obligations.
9. The campaign’s compliance with spending limitations.
10. Other campaign operations necessary to the review.

### **Inventory of Campaign Records**

The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. LaRouche 04’s records were materially complete and the fieldwork began immediately.

## Part II

# Overview of Campaign

## Campaign Organization

<b>Important Dates</b>	<b>LaRouche in 2004</b>
• Date of Registration	January 10, 2001
• Eligibility Period <sup>2</sup>	October 8, 2003 – March 4, 2004
• Audit Coverage	January 5, 2001 – December 31, 2004 <sup>3</sup>
<b>Headquarters</b>	Leesburg, VA
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	One - checking
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Kathy A. Magraw
• Treasurer During Period Covered by Audit	Kathy A. Magraw
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

<sup>2</sup> This period began with the date the candidate satisfied matching fund eligibility requirements and ended when the candidate received insufficient votes as determined by the Commission. See 11 CFR §9033.

<sup>3</sup> Limited reviews of receipts and expenditures were performed up until March 31, 2006 to determine whether the Candidate was eligible to receive additional matching funds.

## Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 5, 2001</b>	<b>\$ 0</b>
o Contributions from Individuals	8,315,592
o Matching Funds Received	1,456,019
o Contributions from Political Committees	3,846
o Offsets to Operating Expenditures	4,879
o Other Receipts	1,118
<b>Total Receipts</b>	<b>\$ 9,781,454</b>
o Operating Expenditures	9,618,799
o Contribution Refunds	103,997
o Other Disbursements	1,375
<b>Total Disbursements</b>	<b>\$ 9,724,171</b>
<b>Cash on hand @ December 31, 2004</b>	<b>\$57,283</b>



## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Net Outstanding Campaign Obligations**

Based on its financial activity through December 31, 2006, and estimated winding down costs necessary to terminate the campaign, LaRouche 04 did not receive matching fund payments in excess of the Candidate's entitlement. (For more detail, see p. 5)

##### **Finding 2. Stale-Dated Checks**

The Audit staff identified 42 stale-dated checks (checks not cashed by the recipients) totaling \$6,087 issued by LaRouche 04. In the preliminary audit report the Audit staff recommended that LaRouche 04 provide evidence that the checks were not outstanding or make a payment of \$6,087 to the U.S. Treasury. In response to the preliminary audit report, LaRouche 04 documented that seven of these checks totaling \$2,568 had been reissued and cashed by the recipients. Finally, LaRouche 04 submitted a payment to the United States Treasury totaling \$3,219. (For more detail, see p. 7)

#### **Amounts Owed to the U.S. Treasury**

No amounts are owed to the United States Treasury.

## Part IV

# Findings and Recommendations

### Finding 1. Net Outstanding Campaign Obligations

#### Summary

Based on its financial activity through December 31, 2006, and estimated winding down costs necessary to terminate the campaign, LaRouche 04 did not receive matching fund payments in excess of the Candidate's entitlement.

#### Legal Standard

**Net Outstanding Campaign Obligations (NOCO).** Within 15 days after the candidate's date of ineligibility (see definition below), the candidate must submit a statement of "net outstanding campaign obligations." This statement must contain, among other things:

- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding-down costs. 11 CFR §9034.5(a).

**Date of Ineligibility.** The date of ineligibility is whichever of the following dates occurs first:

- The day on which the candidate ceases to be active in more than one state;
- The 30th day following the second consecutive primary in which the candidate receives less than 10 percent of the popular vote;
- The end of the matching payment period, which is generally the day when the party nominates its candidate for the general election; or
- In the case of a candidate whose party does not make its selection at a national convention, the last day of the last national convention held by a major party in the calendar year. 11 CFR §§9032.6 and 9033.5.

**Entitlement to Matching Payments after Date of Ineligibility.** If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

**Continuing To Campaign after Date of Ineligibility.** If the candidate continues to campaign after becoming ineligible, the candidate may only receive matching funds based on net outstanding campaign obligations as of the candidate's date of ineligibility. The statement of net outstanding campaign obligations shall only include costs incurred before the candidate's date of ineligibility for goods and services to be received before the date of ineligibility and for which written arrangement or commitment was made on or before the candidate's date of ineligibility, and shall not include winding down costs until

the date on which the candidate qualifies to receive winding down costs. Contributions dated after the candidate's date of ineligibility may be used to continue to campaign, and may be submitted for matching fund payments. Payments from the matching payment account that are received after the candidate's date of ineligibility may be used to defray the candidate's net outstanding campaign obligations, but shall not be used to defray any costs associated with continuing to campaign unless the candidate reestablishes eligibility. 11 CFR §9034.4(a)(3)(ii).

**Entitlement to Matching Payments after Date of Ineligibility.** If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that on the day when the matching payments are made the sum of contributions plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. 11 CFR §9034.1(b).

**Post-ineligibility Expenditures.** Any expenses incurred after a candidate's date of ineligibility are not qualified campaign expenses except for winding down expenses permitted under 11 CFR §9034.4(a)(3)(i). 11 CFR §9034.4(b)(3).

### **Facts and Analysis**

The Candidate's date of ineligibility (DOI) was March 4, 2004. The Audit staff reviewed LaRouche 04's financial activity through December 31, 2006, analyzed estimated winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations that appears on the next page:

**LaRouche in 2004**  
**Statement of Net Outstanding Campaign Obligations**  
**As of March 4, 2004**  
**Prepared December 31, 2006**

**Assets**

Cash in Bank	\$(25,588)	[a]	
Accounts Receivable	<u>5,166</u>		
<b>Total Assets</b>			<b><u>\$(20,422)</u></b>

**Liabilities**

Accounts Payable for Qualified Campaign Expenses at 3/4/04	643,647		
Winding Down Costs:			
Paid 7/30/04 – 12/31/06	37,139	[b]	
Amount Payable to the U.S. Treasury for:			
Stale-Dated Checks (See Finding 2)	<u>3,219</u>		
<b>Total Liabilities</b>			<b><u>\$684,005</u></b>
<b>Net Outstanding Campaign Obligations (Deficit) as of March 4, 2004</b>			<b><u>(\$704,427)</u></b>

**Footnotes to NOCO Statement:**

- [a] This amount is negative due to checks that were written prior to March 5, 2004 that had not yet been cashed, but exceeded the amount of cash available at that time. The negative amount represents the Committee's book balance. The actual amount in the Committee's bank account on March 4, 2004 was \$75,867.88.
- [b] This amount does not include expenses incurred between March 5, 2004 and July 29, 2004, the period during which the Candidate continued to campaign.
- [c] The Audit staff will review LaRouche 04's disclosure reports to compare actual figures with the estimates and make adjustments accordingly.
- [d] In its response to the preliminary audit report, LaRouche 04 settled this liability by submitting a payment to the United States Treasury in the amount of \$3,219. As a result, no amounts are owed to the United States Treasury.

The Statement of Net Outstanding Campaign Obligations as of March 4, 2004 presented above shows LaRouche 04 to be in a deficit position in the amount of \$704,427.

Presented below are adjustments for funds received after March 4, 2004:

Net Outstanding Campaign Obligations (Deficit) as of 3/4/04	(\$704,427)
Private Contributions Received 7/30/04 through 9/1/04 <sup>4</sup>	42,211
Matching Funds Received 3/5/04 through 9/1/04	<u>451,652</u>
Net Outstanding Campaign Obligations (Deficit) Remaining as of 9/1/04	(\$210,564)

As presented above, LaRouche 04 did not receive matching fund payments in excess of the amount to which the Candidate was entitled.

The Candidate continued to campaign after March 4, 2004, his date of ineligibility. No matching fund payments received were used to defray continuing to campaign expenses.

## **Finding 2. Stale-Dated Checks**

### **Summary**

The Audit staff identified 42 stale-dated checks (checks not cashed by the recipients) totaling \$6,087 issued by LaRouche 04. In the preliminary audit report the Audit staff recommended that LaRouche 04 provide evidence that the checks were not outstanding or make a payment of \$6,087 to the U.S. Treasury. In response to the preliminary audit report, LaRouche 04 documented that seven of these checks totaling \$2,568 had been reissued and cashed by the recipients. Finally, LaRouche 04 submitted a payment to the United States Treasury totaling \$3,219.

### **Legal Standard**

**Handling Stale-Dated (Un-cashed) Checks.** If a committee has issued checks that the payees (creditors or contributors) have not cashed, the committee must notify the Commission of its efforts to locate the payees and encourage them to cash the outstanding checks. The committee must also submit a check payable to the U. S. Treasury for the total amount of the outstanding checks. 11 CFR §9038.6.

### **Facts and Analysis**

The Audit staff's reconciliation of LaRouche 04's bank accounts through December 31, 2004, and review of financial activity through April 30, 2005, identified 42 stale-dated checks totaling \$6,087 issued by LaRouche 04. The checks were dated between January 5, 2004 and August 27, 2004, and had not been cashed as of March 17, 2006.

<sup>4</sup> LaRouche 04 received its final matching fund payment on September 1, 2004.

The Audit staff provided LaRouche 04 a schedule of stale-dated checks at the exit conference.

### **Preliminary Audit Report Recommendation & Committee Response**

The Audit staff recommended that LaRouche 04 provide evidence that:

- The checks were not outstanding by providing copies of the front and back of the negotiated checks along with bank statements; or
- The outstanding checks had been voided by providing either:
  - Copies of the voided check with evidence that no obligation exists, or
  - Copies of the front and back of the negotiated replacement checks along with bank statements.
- Absent such evidence, the Audit staff recommended that \$6,087 be paid to the U.S. Treasury; and
- The amount due should have been disclosed on Schedule D-P (Debts and Obligations) until paid.

In response to the preliminary audit report, LaRouche 04 provided documentation that seven checks totaling \$2,568 had been reissued and cashed by the recipients. Finally, LaRouche 04 submitted a payment to the United States Treasury for the remaining stale-dated checks totaling \$3,219.<sup>5</sup> The Audit staff concludes that LaRouche 04 has materially complied with the recommendation and no further action is warranted.

---

<sup>5</sup> LaRouche 04 documented that a check in the amount of \$300 included on the stale-dated check list was actually \$20 and as a result made a \$300 adjustment (\$6,087 - \$2,568 - \$300).