



FEDERAL ELECTION COMMISSION  
WASHINGTON, D. C. 20463

November 17, 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  
CLAY JR. FOR CONGRESS

Attached please find a copy of the final audit report and related documents on Clay Jr. for Congress that was approved by the Commission on November 14, 2003.

The report may be released to the public on November 21, 2003.

Attachment as stated

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



# Report of the Audit Division on Clay Jr. For Congress

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)

Clay Jr. For Congress (CJFC) is the principal campaign committee for William Lacy Clay, Jr., Democratic candidate for the U.S. House of Representatives from the state of Missouri, First District. CJFC is headquartered in St. Louis, MO. For more information, see chart on the Campaign Organization, p. 2.

## Financial Activity (p. 2)

- **Receipts**
  - From Individuals \$ 125,501
  - From Political Party Committees and PACs 224,930
  - Other Receipts 2,827
  - **Total Receipts** \$ 353,258
- **Disbursements**
  - Operating Expenditures \$ 279,666
  - Other Disbursements 72,227
  - **Total Disbursements** \$ 351,893

## Findings and Recommendations (p. 3)

- Disclosure of Receipts (Finding 1)
- Disclosure of Disbursements (Finding 2)
- Itemization of Disbursements (Finding 3)
- Misstatement of Financial Activity (Finding 4)

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<sup>1</sup> 2 U.S.C. §438(b).

**Report of the Audit Division  
on  
Clay Jr. For Congress**

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January 1, 2001 – December 31, 2002



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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of Clay Jr. For Congress, 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 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 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 those that were in effect prior to November 7, 2002.

## Part II

### Overview of Campaign

#### Campaign Organization

<b>Important Dates</b>	<b>Clay Jr. For Congress</b>
• Date of Registration	June 15, 1999
• Audit Coverage	January 1, 2001 – December 31, 2002
<b>Headquarters</b>	
• Correspondence Address	St. Louis, MO Silver Spring, MD
<b>Bank Information</b>	
• Bank Depositories	3
• Bank Accounts	2 Checking, 4 Savings
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Charles A. Stewart, Jr., CPA
• Treasurer During Period Covered by Audit	Rochelle D. Tilghman (until 2/6/01) Charles A. Stewart, Jr., CPA
<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

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

<b>Cash on hand @ January 1, 2001</b>	<b>\$ 46,916</b>
○ From Individuals	125,501
○ From Political Party Committees and PACs	224,930
○ From Other Receipts	2,827
<b>Total Receipts</b>	<b>\$ 353,258</b>
○ Operating Expenditures	279,666
○ Other Disbursements	72,227
<b>Total Disbursements</b>	<b>\$ 351,893</b>
<b>Cash on hand @ December 31, 2002</b>	<b>\$ 48,282</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Disclosure of Receipts**

CJFC failed to properly disclose 16% of contributions received from political action committees (PACs), totaling \$36,050. The majority of the errors resulted from reporting incorrect election cycle-to-date totals and missing or incorrect contributor addresses. CJFC also failed to disclose occupation and name of employer 44% of the time for itemized contributions from individuals. CJFC complied with the Audit staff's recommendation by filing amended reports to correct the disclosure errors. (For more detail, see p. 4)

##### **Finding 2. Disclosure of Disbursements**

A review of credit card disbursements showed that CJFC failed to disclose as memo entries the actual vendors for disbursements made by credit card. A sample review of operating disbursements revealed that for 24% of the disbursements tested, CJFC did not disclose acceptable purposes. CJFC complied with the Audit staff's recommendation by filing amended Schedules B itemizing as memo entries the vendors paid by credit card and by disclosing acceptable purposes for disbursements. (For more detail, see p. 6)

##### **Finding 3. Itemization of Disbursements**

A sample review of disbursements revealed that CJFC did not itemize 23% of those required to be itemized. CJFC complied with the Audit staff's recommendation by filing amended reports that included Schedules B to itemize the disbursements. (For more detail, see p. 7)

##### **Finding 4. Misstatement of Financial Activity**

A comparison of CJFC's reported financial activity to bank records revealed a misstatement of cash on hand, receipts, and disbursements in calendar year 2001 and a misstatement of cash on hand and disbursements in 2002. CJFC complied with the Audit staff's recommendation by filing amended reports for calendar years 2001 and 2002 correcting the misstatements. (For more detail, see p. 8)

## Part IV

# Findings and Recommendations

### Finding 1. Disclosure of Receipts

#### Summary

CJFC failed to properly disclose 16% of contributions received from political action committees (PACs), totaling \$36,050. The majority of the errors resulted from reporting incorrect election cycle-to-date totals and missing or incorrect contributor addresses. CJFC also failed to disclose occupation and name of employer 44% of the time for itemized contributions from individuals. CJFC complied with the Audit staff's recommendation by filing amended reports to correct the disclosure errors.

#### Legal Standard

**When to Itemize.** Authorized candidate committees must itemize:

- Any contribution from an individual if it exceeds \$200 per election cycle either by itself or when aggregated with other contributions from the same contributor; and
- Every contribution from any political committee, regardless of the amount.
- Every transfer from another political party committee, regardless of whether the committees are affiliated. 2 U.S.C. §434(b)(3)(A), (B) and (D).

**Required Information for Contributions.** For each itemized contribution, the committee must provide the following information:

- The contributor's full name and address (including zip code);
- The contributor's occupation and the name of his or her employer (if individual);
- The date of receipt (the date the committee received the contribution);
- The amount of the contribution; and
- The aggregate election-to-date total of all contributions from the same individual or political committee. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

**Election Cycle.** The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. 11 CFR §100.3(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).

#### 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 include:
  - 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**

### **A. PAC Contributions**

A review of all contributions from PACs determined that CJFC failed to adequately disclose 16% of such contributions, totaling \$36,050. A majority of these reporting errors resulted from incorrect election cycle-to-date totals and missing or incorrect contributor addresses. The Audit staff determined there were three main reasons why CJFC reported the wrong aggregate election cycle-to-date total for contributions from PACs, all related to their use of electronic filing software:

1. During the audit period CJFC created three separate data files to file FEC reports rather than one file updated for the current reporting period.
2. CJFC did not always use the same spelling of the name for each PAC. CJFC alternated in the reports between the acronym for the PAC and the full name of the PAC.
3. CJFC did not include contributions from the first day after the general election for 2000 when calculating the aggregate election cycle-to-date totals. CJFC performed aggregation of the contributions on a calendar-year-to-date basis.

At the exit conference, the Audit staff provided CJFC representatives a workpaper that identified each PAC contribution disclosure error. Representatives for CJFC stated that they were aware of the issue and have worked with the Commission to combine the three files so that the necessary amendments could be made.

### **B. Omission of Occupation and Name of Employer**

A sample review of itemized contributions from individuals determined that CJFC failed to disclose occupation and name of employer 44% of the time. All of the solicitation devices examined by the Audit staff contained the necessary request for the information. CJFC also provided a log, which was a record of CJFC's attempt to obtain the missing information. The log consisted of a listing of the occupation and name of employer for some of the contributors. In cases where the contributor had not responded, the log showed CJFC sent follow up letters. The follow up letters were dated January 24, 2003.

Although CJFC took the proper steps to obtain the missing occupation and name of employer information, it did not amend its reports to include the information. Best efforts is not demonstrated if the treasurer obtains the missing information through follow up communication but does not report the information. This matter was discussed at the exit conference. Representatives for CJFC said the reports would be amended.

## **Committee Response to Recommendation and Audit Staff's Assessment**

In response to the interim report, CJFC filed amended reports for the period covered by the audit. The reports corrected the disclosure of PAC contributions and also corrected the omission of occupation and name of employer.

## **Finding 2. Disclosure of Disbursements**

### **Summary**

A review of credit card disbursements showed that CJFC failed to disclose as memo entries the actual vendors for disbursements made by credit card. A sample review of operating disbursements revealed that for 24% of the disbursements tested, CJFC did not disclose acceptable purposes. CJFC complied with the Audit staff's recommendation by filing amended Schedules B itemizing as memo entries the vendors paid by credit card and by disclosing acceptable purposes for disbursements.

### **Legal Standard**

**Reporting Operating Expenditures.** When operating expenditures to the same person exceed \$200 in an election cycle, 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)(4)(i).

### **Examples of Purpose**

- Adequate Descriptions. Examples of adequate descriptions of "purpose" include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, catering costs, loan repayment, or contribution refund. 11 CFR §104.3(b)(4)(i)(A).
- Inadequate Descriptions. The following descriptions do not meet the requirement for reporting "purpose": advance, election day expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3(b)(4)(i)(A).

**Credit Card Transactions.** In the case of operating expenditures charged on a credit card, a committee must itemize a payment to a credit card company if the payment exceeds the \$200 aggregate threshold for itemization. The committee must also itemize, as a memo entry, any specific transaction charged on a credit card if the payment to the actual vendor exceeds the \$200 threshold. The memo entry must include the name and address of the vendor, the purpose, and the amount of the disbursement. 11 CFR §§102.9(b)(2) and 104.9.

### **Facts and Analysis**

#### **A. Omission of Memo Entries for Credit Card Disbursements**

The Audit staff reviewed all disbursements to American Express Co. and found that for 21 payments totaling \$22,690, CJFC failed to disclose as memo entries on Schedules B payments to

actual vendors. CJFC disclosed American Express as the payee. The credit card disbursements were for meals, travel, and entertainment for the candidate, the candidate's spouse, and an independent contractor of CJFC.

### **B. Inadequate Purpose For Disbursements**

A sample review of disbursements revealed that for 24% of the entries, CJFC did not disclose an acceptable purpose on Schedules B (Itemized Disbursements). Most of the inadequate purposes reported for disbursements were "canvassing fees" and "professional fees." The Audit staff explained to CJFC representatives that the reports have to include more detailed purposes of why the disbursements were made.

The Audit staff presented these matters to CJFC during the exit conference along with workpapers to show the credit card disbursements in question and a list of acceptable purposes. Representatives for CJFC stated that amended reports would be prepared and submitted to disclose the vendors paid by credit card and more descriptive purposes.

### **Committee Response to Recommendation and Audit Staff's Assessment**

In response to the interim report, CJFC filed amended reports that included as memo entries on Schedules B the actual vendors paid \$200 or more using the American Express card, and more descriptive purposes for disbursements aggregating greater than \$200.

## **Finding 3. Itemization of Disbursements**

### **Summary**

A sample review of disbursements revealed that CJFC did not itemize 23% of those required to be itemized. CJFC complied with the Audit staff's recommendation by filing amended reports that included Schedules B to itemize the disbursements.

### **Legal Standard**

**Reporting Operating Expenditures.** When operating expenditures to the same person exceed \$200 in an election cycle, 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)(4)(i).

### **Facts and Analysis**

The Audit staff reviewed disbursements on a sample basis and determined that CJFC did not itemize 23% of the disbursements that required itemization. As stated earlier, CJFC used three separate data files to prepare its FEC reports as well as different spellings of names of the payees. As a result, disbursements were not correctly aggregated for itemization on Schedules B (see Finding 1, p. 4). The Audit staff presented this matter to CJFC representatives at the exit conference and provided a workpaper that CJFC can use to identify which disbursements are required to be itemized.

**Committee Response to Recommendation and Audit Staff's Assessment**  
 CJFC complied with the Audit staff's recommendation by filing amended reports that included Schedules B to itemize the disbursements.

## **Finding 4. Misstatement of Financial Activity**

### **Summary**

A comparison of CJFC's reported financial activity to bank records revealed a misstatement of cash on hand, receipts, and disbursements in calendar year 2001 and a misstatement of cash on hand and disbursements in 2002. CJFC complied with the Audit staff's recommendation by filing amended reports for calendar years 2001 and 2002 correcting the misstatements.

### **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 election cycle; and
- The total amount of disbursements for the reporting period and for the election cycle.  
 2 U.S.C. §434(b)(1), (2) and (4).

### **Facts and Analysis**

The Audit staff reconciled the reported activity to the bank records and determined there was a misstatement of cash on hand, receipts, and disbursements in calendar year 2001 and a misstatement of cash on hand and disbursements in 2002. The following chart details the discrepancies between the totals on CJFC's disclosure reports and the bank records. The chart lists the amount CJFC reported, the amount listed on the bank statements, and the differences.

### **Comparison of Disclosure Reports and Bank Records**

<b>2001 Activity</b>			
	<b>Reported</b>	<b>Bank Records<sup>2</sup></b>	<b>Discrepancy</b>
Opening Cash Balance	\$40,839	\$46,916	\$6,077 Understated
Receipts	\$157,203	\$164,178	\$6,975 Understated
Disbursements	\$107,157	\$110,317	\$3,160 Understated
Ending Cash Balance	\$90,884	\$100,778	\$9,894 Understated

<sup>2</sup> Net of interaccount transfers.

<b>2002 Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Disbursements	\$228,374	\$241,576	\$13,202 Understated
Ending Cash Balance	\$55,001	\$48,282	\$6,719 Overstated

### **Explanation of Discrepancies**

#### **Opening Cash Balance - 2001**

The understatement of beginning cash on hand was the result of an unexplained misstatement of ending cash at December 31, 2000 in the amount of \$6,077.

#### **Receipts – 2001**

The understatement of receipts was the result of the following:

• Unreported receipts from Political Committees	+ 5,775
• Unreported receipts from Individuals and Interest Income	+ 1,110
• Unexplained difference	+ 90
• <b>Understatement</b>	<u>\$ 6,975</u>

#### **Disbursements – 2001**

The understatement of disbursements was the result of the following:

• Unreported disbursements	+ \$ 1,350
• Unexplained difference	+ 1,810
• <b>Understatement</b>	<u>\$ 3,160</u>

#### **Ending Cash Balance – 2001**

The understatement of ending cash on hand in the amount of \$9,894 was the result of the misstatements described above.

#### **Disbursements – 2002**

The understatement of disbursements was the net result of the following:

• Unreported disbursements	+ \$ 17,209
• Over reported disbursements	- 6,900
• Unexplained difference	+ 2,893
• <b>Net Understatement</b>	<u>\$ 13,202</u>

#### **Ending Cash Balance – 2002**

The overstatement of ending cash on hand in the amount of \$6,719 was the net result of the misstatements described above, and a minor discrepancy in reported receipts.

During the exit conference the Audit staff provided CJFC representatives a workpaper detailing the misstatements of financial activity.

### **Committee Response to Recommendation and Audit Staff's Assessment**

CJFC complied with the Audit staff's recommendation by filing amended reports for calendar years 2001 and 2002 correcting the misstatements.