




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 19, 2004

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
CHELLIE PINGREE FOR U.S. SENATE

Attached please find a copy of the final audit report and related documents on Chellie Pingree for U.S. Senate, which was approved by the Commission on May 6, 2004.

Informational copies of the report have been received by all parties involved and the report may be released to the public on May 18, 2004.

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 Chellie Pingree for U.S. Senate

April 24, 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 Campaign (p. 2)

Chellie Pingree for U.S. Senate is the principal campaign committee of Chellie Pingree, Democratic candidate for the U.S. Senate from the state of Maine and is headquartered in Portland, Maine. For more information see chart on the Campaign Organization, p. 2

Financial Activity (p. 2)

• Receipts

○ From Individuals	\$ 3,463,404
○ From Political Party Committees	21,750
○ From Other Political Committees	359,687
○ Other Receipts	52,993
○ Total Receipts	\$ 3,897,834

Disbursements

○ Total Operating Expenditures & Other Disbursements	\$ 3,827,729
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Findings and Recommendations (p. 3)

- Disclosure of Earmarked Contributions (Finding 1)
- Transfers From Maine Senate 2002 (Finding 2)

¹ 2 U.S.C. §438(b)

Report of the Audit Division on Chellie Pingree for U.S. Senate

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Part I

Background

Authority for Audit

This report is based on an audit of Chellie Pingree for U.S. Senate, 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 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. 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 those that were in effect prior to November 7, 2002.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Chellie Pingree for U.S. Senate
• Date of Registration	May 15, 2001
• Audit Coverage	April 24, 2001 – December 31, 2002
Headquarters	Portland, Maine
Bank Information	
• Bank Depositories	3
• Bank Accounts	3
Treasurer	
• Treasurer When Audit Was Conducted	Daniel Crewe
• Treasurer During Period Covered by Audit	Daniel Crewe
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	FECFile
• Who Handled Accounting and Recordkeeping Tasks	Paid Consultants

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2001	\$ 0
○ From Individuals	3,463,404
○ From Political Party Committees	21,750
○ From Other Political Committees	359,687
○ Other Receipts	52,993
Total Receipts	3,897,834
○ Operating Expenditures & Other Disbursements	3,827,729
Total Disbursements	3,827,729
Cash on hand @ December 31, 2002	\$70,105

Part III

Summaries

Findings and Recommendations

Finding 1. Disclosure of Earmarked Contributions

CPS received earmarked contributions through several conduits. For the most part, CPS did not disclose all the required information on Schedule A for line 11(a) and (c). In response to the recommendation in the interim audit report, CPS filed amended disclosure reports that materially corrected the public record. (For more detail, see p. 4)

Finding 2. Transfers From Maine Senate 2002

CPS participated in a joint fundraising event. CPS incorrectly reported its net share of the proceeds (\$17,561), as contributions received from individuals rather than transfers from the joint fundraising representative. In response to the recommendation in the interim audit report, CPS filed amended disclosure reports that corrected the public record. (For more detail, see p. 6)

Part IV

Findings and Recommendations

Finding 1. Disclosure of Earmarked Contributions

Summary

CPS received earmarked contributions through several conduits. For the most part, CPS did not disclose all the required information on Schedule A [Itemized Receipts] for line 11(a) [Individual/Persons Other Than Political Committee] and (c) [Other Political Committees]. In response to the recommendation in the interim audit report, CPS filed amended disclosure reports that materially corrected the public record.

Legal Standard

Definition of a Conduit. Anyone who receives and forwards an earmarked contribution to a candidate committee is considered a conduit. 11 CFR §110.6(b)(2)

Definition of an Earmarked Contribution. An earmarked contribution is one which the contributor directs (either orally or in writing) to a clearly identified candidate or his or her authorized committee through an intermediary or conduit. 11 CFR §110.6(b)(1)

Required Information for Contributions from Individuals Received From a Conduit. For each itemized contribution from an individual forwarded by a conduit, the recipient committee must report 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;
- The date of receipt (the date the conduit received the contribution);
- The amount of the contribution;
- The election cycle-to-date total of all contributions from the same individual;
- The full name and address of the conduit; and
- The date and total amount of earmarked contributions received from the conduit

11 CFR §§100.12, 104.3(a)(4), 110.6(c) and 2 U.S.C. §434(b)(3)(A).

Facts and Analysis

The Audit staff's review of CPS's receipt records and conduit reports filed with the FEC indicate that CPS received earmarked contributions from the following sources:

Conduit Name	Transferred Amount
Emily's List	\$319,995
Council for a Livable World	47,315
Next Generation	20,000
National Jewish Democratic Council Political Action Committee	2,342
League of Conservation Voters Action Fund	5,000
MoveOn.org PAC	\$150,188
Total conduit contributions received:	\$544,840

The disclosure requirements for contributions received through conduits are flexible. The recipient committee may either:

1. Itemize all transfers received from the conduit on Schedule A, line 11(c) (Other Political Committees) and include memo entries on Schedule A, line 11(a) (Individuals/Persons Other Than Political Committees) for only those individual contributions that aggregate greater than \$200; or,
2. Report all contributions received through the conduit on Schedule A, line 11(a) (both itemized and unitemized) as contributions from individuals and provide memo entries on Schedule A, line 11(c) for the amount of the conduit transfers.

In either case, the disclosure of the itemizable individual contributions on Schedule A, line 11(a) must include the contributor's name, full identification, date the contribution was received by the conduit and the amount. Further, all contributions received from a conduit and itemized on line 11(a) must also include the identification of the conduit, and the date and amount of the conduit's transfer.

CPS elected to report individual contributions on Schedule A, line 11(a) and the conduit transfers as memo entries on line 11(c). However, CPS failed to disclose any information relative to the conduit on Schedule A, line 11(a) on its July Quarterly 2002 report. For all other reporting periods, CPS disclosed the name and address of the conduit on line 11(a), but did not disclose the date and amount of the conduit's transfer. Further, of the total \$544,840 in conduit transfers, CPS failed to file memo entries on line 11(c) for \$27,775 in transfers received from Emily's List; \$26,829 in transfers received from Council for a Livable World; and all of the transfers received from Next Generation (\$20,000),

National Jewish Democratic Council Political Action Committee (\$2,342) and League of Conservation Voters Action Fund (\$5,000).²

This matter was discussed at the exit conference. The CPS representatives related they utilized FECfile software to aggregate, itemize and report contributions received during the audit period, but experienced difficulties disclosing the required information relative to the receipt of earmarked contributions.

Since CPS does not file electronically, the required information may be disclosed on a spreadsheet that can be attached to amended reports. The spreadsheet for each reporting period should include the contributor's full name, the conduit's full identification, and the date and amount of the transfer in which the earmarked contribution was received.

Interim Audit Report Recommendation

The Audit staff recommended that CPS file amended reports for every period in which earmarked contributions were received, and disclose the earmarked contributions, as follows:

- For all contributions received through a conduit that required itemization on Schedule A, line 11(a), the description field for the itemized entry should include the following: "Earmarked contribution. See attached spreadsheet". The attached spreadsheet for each reporting period should include the contributor's last and first name, the conduit's full identification, and the date and amount of the transfer in which the contribution was received³; and,
- On Schedule A, line 11(c), disclose, as memo entries, the name of the conduit, along with the date and amount of each transfer⁴.

Committee Response to Recommendation and Audit Staff's Assessment

In response CPS filed the necessary amended reports that materially corrected the disclosure errors with respect to the receipt of earmarked contributions. Nevertheless, Counsel for CPS (Counsel) questions the fairness of penalizing CPS for mistakes because of inefficiencies in the Commission's own software; that CPS reasonably relied on advice from the Reports Analysis Division (RAD) staff in reporting such contributions; and, that only one Request For Additional Information (RFAI) from the RAD requested an amendment for earmarked contributions.

² CPS itemized 4 memo entries on line 11(c) totaling \$155,906 pertaining to conduit transfers received from MoveOn.org PAC. Records made available by CPS pertaining to MoveOn.org PAC did not resolve the overreporting discrepancy of \$5,718 (\$155,906 - \$150,188)

³ Due to the volume of conduit transfers made through Emily's List and MoveOn.org PAC and the extensive amendment requirements that will be necessary to comply with this recommendation, CPS should aggregate the total amount received from each entity by month and disclose this amount on line 11(a) for the appropriate itemized contributions; the date received should be the month and year.

⁴ For those conduit transfers received from Emily's List and MoveOn.org PAC, CPS should apply the same procedure as described in footnote 3 above.

With respect to the Commission's free electronic filing software, Counsel primarily complains that it lacks an import feature that would have allowed CPS to file printed reports more easily. With respect to advice from the RAD staff, they did discuss the reporting of earmarked contributions with CPS. However, CPS still failed to materially disclose all of the required information. Counsel's assertion that CPS reasonably assumed that its disclosure was adequate given that the issue was raised in only one RFAI is incorrect. A review of the record shows that five RFAI's addressed the issue and requested amended reports. Finally, Counsel argues that MoveOn.org does not meet the definition of a conduit. However, the Commission considered that issue and concluded the contrary at the time of the interim audit report.

Finding 2. Transfers From Maine Senate 2002

Summary

CPS participated in a joint fundraising event. CPS incorrectly reported its net share of the proceeds (\$17,561), as contributions received from individuals rather than transfers from the joint fundraising representative. In response to the recommendation in the interim audit report, CPS filed amended disclosure reports that corrected the public record.

Legal Standard

Itemization Required. Political committees must itemize:

- Any contribution from an individual if it exceeds \$200 per calendar year (or per election cycle in the case of authorized candidate committees) either by itself or when aggregated with other contributions from the same contributor. 11 CFR §104.3(A)(4)(I); and
- Every contribution from any political committee, regardless of the amount 2 U.S.C. §434(b)(3)(A) and (B).

Itemization of Contributions From Joint Fundraising Efforts. Each participating political committee reports its share of the net proceeds as a transfer-in from the fundraising representative. Using the records received from the fundraising representative, a participating committee itemizes its share of gross receipts as contributions from the original donors on memo entry Schedules A. 11 CFR §102.17(c)(8)(i)(B).

When itemizing gross contributions, the participant must report the date of receipt as the day the fundraising representative received the contribution. 11 CFR §102.17(c)(3)(iii).

Facts and Analysis

CPS participated in a joint fundraising event. The joint fundraising representative was Maine Senate 2002, a registered political committee. CPS received proceeds totaling \$17,561 but incorrectly disclosed this amount as being received from various individual contributors. CPS should have disclosed this amount (\$17,561) as being received from

Maine Senate 2002 and itemized its share of gross receipts (\$18,055) as contributions from the original donors as memo entries on Schedules A.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that CPS file amended Schedules A disclosing the net proceeds received from Maine Senate 2002 (\$17,561) and memo Schedules A itemizing the gross amount received from each contributor whose contributions aggregate greater than \$200. In response, CPS filed the necessary amended reports to correct the disclosure errors noted above.