



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 7, 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 THE
BROTHERHOOD OF LOCOMOTIVE ENGINEERS PAC FUND

Attached please find a copy of the final audit report and related documents on the Brotherhood of Locomotive Engineers PAC Fund that was approved by the Commission on February 26, 2003.

The report may be released to the public on March 7, 2003.

Attachment as stated

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

**REPORT OF THE AUDIT DIVISION
ON THE
BROTHERHOOD OF LOCOMOTIVE
ENGINEERS PAC FUND**

Approved February 26, 2003



**FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.**

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

BROTHERHOOD OF LOCOMOTIVE ENGINEERS PAC FUND

EXECUTIVE SUMMARY

Brotherhood of Locomotive Engineers PAC Fund (BOLE) registered with the Clerk of the House of Representatives on July 10, 1978 as the separate segregated fund of the Brotherhood of Locomotive Engineers union (the Union).

The audit was conducted pursuant to 2 U.S.C. §438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission. The four findings from the audit were presented to BOLE at the completion of fieldwork on August 28, 2002 and later in the interim audit report. The relevant parts of BOLE's response to these findings are included in the audit report.

The following is an overview of the findings contained in the audit report.

Failure to Maintain Contributor Authorizations — 11 CFR 104.14(b)(1). A review of the Union members' written authorizations to have contributions automatically deducted from their paychecks revealed that approximately 50% of the required forms were not available. In response to the audit report, BOLE provided copies of letters with new authorization forms that had been sent to all contributors identified as lacking such forms, as well as newly completed authorizations for approximately 60% of those missing such forms. BOLE further indicated that it had instituted new procedures in this area.

Transmittal of Contributions by Collecting Agents — 11 CFR 102.6(b)(1) and 102.8(b). A review of the transmittal of contributions BOLE received from the Union determined that 24 of the 25 transmittals were not made timely. In response to the audit report, BOLE provided evidence of new procedures set up to ensure timely transmittals.

Itemization of Contributions from Individuals — 2 U.S.C. §434(b)(3). BOLE did not itemize a significant number of contributions on Schedules A (Itemized Receipts) as required. Amended reports were filed which corrected the public record.

Disclosure of Congressional District — 11 CFR 104.3(b)(3)(v). BOLE did not disclose the State and Congressional district for 27% of its itemized contributions, as required. Amended reports were filed which corrected the public record.



**REPORT OF THE AUDIT DIVISION
ON THE
BROTHERHOOD OF LOCOMOTIVE ENGINEERS PAC FUND**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of the Brotherhood of Locomotive Engineers PAC Fund (BOLE), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall 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.

B. AUDIT COVERAGE

The audit covered the period January 1, 1999, through December 31, 2000. During this period, BOLE reported a beginning cash balance of \$131,932; total receipts for the period of \$794,519; total disbursements for the period of \$830,871; and, an ending cash balance of \$95,580.

C. COMMITTEE ORGANIZATION

BOLE registered with the Clerk of the House of Representatives on July 10, 1978, as the separate segregated fund of the Brotherhood of Locomotive Engineers union (the Union)¹. The treasurer of BOLE during the period covered by the audit was Mr. Russell W. Bennett. On October 15, 2001, Mr. William C. Walpert replaced Mr. Bennett and continues to serve as treasurer. BOLE qualified for multi-candidate status on January 26, 1979, and maintains its headquarters in Cleveland, Ohio.

¹ BOLE's original name, as listed on the Statement of Organization received by the Commission on July 10, 1978, was B. of L. E. Voluntary Political Fund

To manage its financial activity, BOLE used one bank account. From this account, BOLE made approximately 1,180 disbursements totaling \$831,486. BOLE received contributions from individuals totaling \$792,402, the majority of which were received through payroll deductions. In addition, BOLE earned interest of \$1,823 and received a \$500 refund from a federal candidate.² BOLE utilized common accounting software and campaign management software to prepare and file its reports. Paid staff performed accounting, recordkeeping, and reporting functions and one staff member attended several Commission seminars.

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
2. The receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. Proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as the completeness and accuracy of the information disclosed (see Finding II.C.);
4. Proper disclosure of disbursements including the itemization of disbursements when required, as well as the completeness and accuracy of the information disclosed (see Finding II.D.);
5. Proper disclosure of debts and obligations, including loans;
6. The accuracy of total reported receipts, disbursements and cash balances as compared to bank records;
7. Adequate recordkeeping for all transactions (see Finding II.A); and
8. Other audit procedures that were deemed necessary in the situation (see Findings II B.)

Unless specifically discussed below, no material non-compliance with statutory or regulatory requirements was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

² The Audit staff noted minor differences between bank activity and reported activity for both receipts and disbursements.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. FAILURE TO MAINTAIN CONTRIBUTOR AUTHORIZATIONS

Section 104.14(b)(1) of Title 11 of the Code of Federal Regulations states that each political committee required to file any report or statement under this subchapter shall maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness.

Members of the Union fill out written authorizations to have contributions to BOLE automatically deducted from their paychecks. These authorization forms were not maintained with the rest of BOLE's records in Cleveland, Ohio, but rather were kept in BOLE's Washington, D.C. office. A review of selected contributors revealed that approximately 50% of the required forms were not available.

The lack of a complete set of contributor authorization cards prevented the Audit staff from verifying whether some contributions were permissibly received. We were also unable to fully verify the quality of the data entry of BOLE's receipts database or to fully test the disclosure of information included on reports filed with the Commission. When informed of the missing contribution authorization cards, a BOLE representative was unable to provide an explanation.

In the interim audit report, the Audit staff recommended that BOLE locate the missing contributor authorizations and make them available to the Audit staff. If unable to locate the missing authorizations, it was further recommended that BOLE obtain replacement authorizations and implement procedures to ensure that the required authorizations are obtained and maintained for each contributor. Copies of replacement authorizations and any written procedures implemented were to be provided to the Audit staff.

In response to the interim audit report, BOLE provided copies of letters with new authorization forms attached that were mailed to all contributors identified by the Audit staff as lacking such forms. Each letter requested that the contributor complete the contribution authorization form and return it to BOLE. BOLE provided copies of such forms, completed by the contributors, for approximately 60% of the forms noted as missing in the review. Further, BOLE's response stated that it has instituted procedures to ensure that contribution authorizations are properly accounted for and maintained with current contributor information.

B. TRANSMITTAL OF CONTRIBUTIONS BY COLLECTING AGENTS

Section 102.6(b)(1) of Title 11 of the Code of Federal Regulations defines a "collecting agent" as an organization or committee that collects and transmits

contributions to one or more separate segregated funds to which the collecting agent is related. Further, 11 CFR §102.6(c)(1) and (4) require that the separate segregated fund be responsible for ensuring that the recordkeeping, reporting and transmittal requirements are met. The full amount of each contribution collected by a collecting agent on behalf of a separate segregated fund shall be transmitted to that fund within 10 or 30 days as required by 11 CFR §102.8.

Section 102.8(b) of Title 11 of the Code of Federal Regulations states, in part, that every person who receives a contribution of \$50 or less for a political committee which is not an authorized committee shall forward such contribution to the treasurer of the political committee no later than 30 days after receipt. Every person who receives a contribution in excess of \$50 for a political committee which is not an authorized committee shall, no later than 10 days after receipt of the contribution, forward to the treasurer of the political committee: the contribution; the name and address of the contributor; and, the date of receipt of the contribution.

BOLE officials provided a copy of written procedures that explains how the Union members' contributions were transmitted to BOLE. The payroll departments of the companies where the members work remit the contributions (withheld via payroll deduction) to the Union by the 7th of each month. The Union's Compliance Department then prepares a report that indicates the amount of funds to be transmitted to BOLE.

A review of all contributions BOLE received from the Union (the collecting agent) was performed to determine the number of days between the collection of contributions by the collecting agent and the transmittal of the contributions to BOLE. It was determined that 24 of the 25 transmittals of contributions to BOLE made during the audit period were not made timely. The average length of time for transmittal of the contributions was 93 days, with one transmittal taking 466 days.³

At the exit conference, the Audit staff presented this matter to BOLE representatives who indicated that they are in the process of correcting the procedures in this area.

In the interim audit report, the Audit staff recommended that BOLE develop new procedures for the timely transmittal of contributions from its collecting agent; and, provide a copy or other written description of these procedures to the Audit staff.

In response to the interim audit report, BOLE provided the Audit staff with a copy of written procedures implemented in September 2002, which will ensure that all contributor authorizations are accounted for and maintained with current contributor information. Evidence of new procedures set up to ensure that contributions are transmitted timely to BOLE was also submitted

³ This transmittal, in the amount of \$33,922, was deposited on May 10, 2000 and was made up entirely of contributions from December 1998.

C. ITEMIZATION OF CONTRIBUTIONS FROM INDIVIDUALS

Section 434(b)(3)(A) of Title 2 of the United States Code requires, in part, a political committee to report the identification of each person (other than a political committee) who makes a contribution to the committee in an aggregate amount or value in excess of \$200 per calendar year, together with the date and amount of any such contribution.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to be, in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and, in the case of any other person, the full name and address of such person.

The Audit staff reviewed contributions from individuals on a sample basis and determined that BOLE did not itemize a significant number of contributions on Schedules A (Itemized Receipts) as required. All of the identified errors were related to contributions from individuals received in 1999. BOLE did not itemize any contributions from individuals during that calendar year.

At the exit conference, the Audit staff presented this matter to BOLE representatives who indicated that they would file the necessary Schedules A to correct this problem. No explanation was provided for the omission of these items.

In the interim audit report, the Audit staff recommended that BOLE file amended Schedules A, by reporting period, to properly disclose contributions received in 1999 that were not itemized as required. In response to the interim audit report, BOLE filed the recommended schedules, which corrected the public record.

D. DISCLOSURE OF CONGRESSIONAL DISTRICT

Section 104.3(b)(3)(v) of Title 11 of the Code of Federal Regulations states, in relevant part, that a political committee, other than an authorized committee, shall report each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution, and, in the case of a contribution to an authorized committee, the candidate's name and office sought (including State and Congressional district, if applicable).

The Audit staff performed a sample review of contributions made by BOLE to federal candidates/committees and determined that BOLE did not disclose the State and Congressional district for 27% of the items tested. All errors noted occurred in 1999.

At the exit conference, the Audit staff presented this matter to BOLE representatives who indicated that they recently corrected this problem and agreed to file

amended Schedules B (Itemized Disbursements) to disclose the missing State and Congressional district information.

In the interim audit report, the Audit staff recommended that BOLE file amended Schedules B, by reporting period, to disclose the missing State and Congressional district information. In response to the interim audit report, BOLE filed the recommended schedules, which corrected the public record.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

February 27, 2003

Mr. William C. Walpert, Treasurer
Brotherhood of Locomotive Engineers PAC Fund
1370 Ontario Street, Standard Bldg.
Cleveland, OH 44113-1702

Dear Mr. Walpert:

Attached please find the Report of the Audit Division on Brotherhood of Locomotive Engineers PAC Fund (Final Audit Report). The Commission approved the report on February 26, 2003.

The Commission-approved Final Audit Report will be placed on the public record on March 7, 2003. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Robert Morcomb or Marty Favin of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph F. Stoltz".

Joseph F. Stoltz
Assistant Staff Director
Audit Division

Attachment as stated

BROTHERHOOD OF LOCOMOTIVE ENGINEERS PAC FUND

CHRONOLOGY

Audit Fieldwork	August 19, 2002 – August 28, 2002
Interim Audit Report to the Committee	November 27, 2002
Response Received to the Interim Audit Report	January 14, 2003
Final Audit Report to Commission	February 20, 2003
Final Audit Report Approved	February 26, 2003