




FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 19, 2007

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ, 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE REPORT OF THE AUDIT DIVISION ON
THE COMMITTEE TO ELECT KEVIN SCOTT.

Attached please find a copy of the audit report on the Committee to Elect Kevin Scott, which was approved by the Commission on December 4, 2007.

All parties involved have received informational copies of the report and the report may be released to the public on December 19, 2007.

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 the Committee to Elect Kevin Scott

August 17, 2005 – December 31, 2006

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)

Committee to Elect Kevin Scott is the principal campaign committee for Kevin Paul Scott, Republican candidate for the U.S. Senate from the state of Massachusetts and is headquartered in Wakefield, Massachusetts. For more information, see the chart of the Campaign Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - Contributions From Individuals \$ 328,962
 - Contributions From Political Party Committees 250
 - Loans – Made by the Candidate 47,100
 - **Total Receipts** \$ 376,312
- **Disbursements**
 - Operating Expenditures \$ 369,616
 - Loan Repayments 4,350
 - **Total Disbursements** \$ 373,966

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Disclosure of Occupation and Name of Employer (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 Committee to Elect Kevin Scott (CKS), 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, the scope of this audit was limited to the following:

1. The consistency between reported figures and bank records;
2. The disclosure of individual contributors' occupation and name of employer; and,
3. The receipt and permissibility of loans.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Committee to Elect Kevin Scott
• Date of Registration	August 17, 2005
• Audit Coverage	August 17, 2005 – December 31, 2006
Headquarters	Wakefield, Massachusetts
Bank Information	
• Bank Depositories	2
• Bank Accounts	2 Checking Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Barry Greenspan
• Treasurer During Period Covered by Audit	David Elliot Cohen (8/17/05 – 4/2/06); Tom Jay Cinq-Mars (4/3/06 – 6/12/06); Barry Greenspan (6/13/06 – present)
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	No
• Who Handled Accounting and Recordkeeping Tasks	Kevin Scott

Overview of Financial Activity (Audited Amounts)

Cash on hand @ August 17, 2005	\$ 288
○ Contributions From Individuals	328,962
○ Contributions From Political Party Committees	250
○ Loans – Made by the Candidate	47,100
Total Receipts	\$ 376,312
○ Operating Expenditures	369,616
○ Loan Repayments	4,350
Total Disbursements	\$ 373,966
Cash on hand @ December 31, 2006	\$ 2,634

Part III Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

In calendar year 2006, CKS overstated receipts and disbursements by \$106,977 and \$93,300 respectively. It appears that most of the misstatements were due to double reporting of unitemized amounts. Subsequent to the exit conference, CKS amended its reports to materially correct the misstatements. (For more detail, see p. 4.)

Finding 2. Disclosure of Occupation and Name of Employer

CKS did not adequately disclose contributor's occupation and/or name of employer for 25 contributions totaling \$9,167. CKS did not use "best efforts" to obtain, maintain and submit the required contributor information. In response to the interim audit report, CKS filed the necessary amended reports to materially comply with the recommendation. (For more detail, see p. 5.)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

In calendar year 2006, CKS overstated receipts and disbursements by \$106,977 and \$93,300 respectively. It appears that most of the misstatements were due to double reporting of unitemized amounts. Subsequent to the exit conference, CKS amended its reports to materially correct 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;
- 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).

Facts and Analysis

The Audit staff reconciled reported activity to bank records for calendar year 2006 and determined there was a material misstatement of receipts, disbursements, and ending cash. The following chart outlines the discrepancies between the totals on CKS's disclosure reports and the bank records.

2006 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$731	\$591	\$140 Overstated
Receipts	\$461,449	\$354,472	\$106,977 Overstated
Disbursements	\$445,728	\$352,428	\$93,300 Overstated
Ending Cash Balance	\$22,187	\$2,635	\$19,522 Overstated

Explanation of Discrepancies

Opening Cash Balance - The \$140 overstatement was the result of minor reporting errors from the previous year.

Receipts

The overstatement for receipts was due to the following:

• Candidate loans deposited but not reported	+	\$ 11,400
• Unitemized receipts apparently reported in both the itemized and unitemized totals	-	<u>118,377</u>
Net overstatement		<u>\$ 106,977</u>

Disbursements

The overstatement of disbursements was due to the following:

• Disbursements reported twice	-	\$ 10,842
• Bank fees not reported	+	463
• Two disbursements over reported	-	4,447
• Unitemized disbursements apparently reported in both the itemized and unitemized totals	-	<u>78,474</u>
Net overstatement		<u>\$ 93,300</u>

Ending Cash Balance - The misstated cash balance at December 31, 2006 was the result of the errors described above.

This matter was discussed at the exit conference. CKS stated that it may have unintentionally reported itemized and unitemized receipts and disbursements incorrectly. Subsequent to the exit conference, CKS filed amended disclosure reports that materially corrected the misstatements noted above.

Finding 2. Disclosure of Occupation and Name of Employer

Summary

CKS did not adequately disclose contributor's occupation and/or name of employer for 25 contributions totaling \$9,167. CKS did not use "best efforts" to obtain, maintain and submit the required contributor information. In response to the interim audit report, CKS filed the necessary amended reports to materially comply with the recommendation.

Legal Standard

A. Itemization Required for Contributions from Individuals. An authorized candidate committee must itemize any contribution from an individual if it exceeds \$200

per election cycle, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. Required Information for Contributions from Individuals. For each itemized contribution from an individual, 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;
- The date of receipt (the date the committee received the contribution);
- The amount of the contribution; and
- The election cycle-to-date total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

C. 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).

D. 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 included:
 - 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

The Audit staff reviewed contributions from individuals for disclosure of occupation and/or name of employer. The review identified 25 contributions (42%), totaling \$9,167, where CKS did not properly disclose the contributor’s occupation and/or name of employer. Of the 25 errors, the occupation and/or name of employer were either blank (16) or incomplete (9). The records provided the Audit staff did not contain any follow up requests for the missing contributor information.

In response to the exit conference, CKS agreed that no follow-up attempts were made to obtain the information. As such, CKS did not use “best efforts” to obtain, maintain and submit this information.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that CKS make an effort to contact those individuals for whom the required information was missing or incomplete; provide documentation of

such contacts; and, amend its reports to disclose any information obtained from those contacts.

In response, CKS provided copies of letters sent to the majority of contributors and filed amended reports disclosing the contributor information received as a result of its efforts. CKS materially complied with the recommendation.