



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 12, 2009

MEMORANDUM

To: Judith Ingram
Press Officer

From: Joseph F. Stoltz
Assistant Staff Director
Audit Division

A handwritten signature in black ink, appearing to be "JF Stoltz", written over the printed name of Joseph F. Stoltz.

Subject: Public Issuance of the Audit Report on Joe Donnelly for Congress

Attached please find a copy of the audit report on Joe Donnelly for Congress, which was approved by the Commission on April 30, 2009.

All parties involved have received informational copies of the report and the report may be released to the public on May 12, 2009.

Attachment as stated

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



Report of the Audit Division on Joe Donnelly For Congress

January 1, 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)

Joe Donnelly for Congress is the principal campaign committee for Joe Donnelly, Democratic candidate for the U.S. House of Representatives from the state of Indiana, 2nd District, and is headquartered in South Bend, IN. For more information, see chart on the Campaign Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 917,547
○ Contributions from Political Party Committees and PACs	589,008
○ Candidate Loans	105,283
○ Transfers from Other Authorized Committees and Other Receipts	18,074
Total Receipts	\$ 1,629,912
• Disbursements	
○ Operating Expenditures	\$ 1,495,683
○ Loan Repayment, Refunds and Other Disbursements	106,820
Total Disbursements	\$ 1,602,503

Findings and Recommendations (p. 3)

- Disclosure of Loans (Finding 1)
- Misstatement of Financial Activity (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 Joe Donnelly for Congress (JDC), 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 consistency between reported figures and bank records.
5. The completeness of records.
6. Other committee operations necessary to the review.

Part II

Overview of Campaign Campaign Organization

Important Dates	Joe Donnelly for Congress
• Date of Registration	December 18, 2003
• Audit Coverage	January 1, 2005 – December 31, 2006
Headquarters	South Bend, Indiana
Bank Information	
• Bank Depositories	1
• Bank Accounts	1
Treasurer	
• Treasurer When Audit Was Conducted	James A. Masters
• Treasurer During Period Covered by Audit	Peter Mullen
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid and volunteer staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2005	\$ 116
○ Contributions from Individuals	917,547
○ Contributions from Political Party Committees and PACs	589,008
○ Candidate Loans	105,283
○ Transfers from Other Authorized Committees and Other Receipts	18,074
Total Receipts	\$ 1,629,912
○ Operating Expenditures	1,495,683
○ Loan Repayment, Refunds and Other Disbursements	106,820
Total Disbursements	\$ 1,602,503
Cash on hand @ December 31, 2006	\$ 27,525

Part III

Summaries

Findings and Recommendations

Finding 1. Disclosure of Loans

During the period covered by the audit, the Candidate made loans to JDC totaling \$109,930. These loans consisted of payments made directly from the Candidate's personal account to vendors, a loan made from funds in a credit union account, and a bank loan secured by property owned by the Candidate and his spouse. These loans were either not reported or incorrectly reported by JDC. In response to the interim audit report JDC filed amended reports correctly disclosing the loans. (For more detail, see p. 4)

Finding 2. Misstatement of Financial Activity

A comparison of JDC's reported financial activity to its bank records revealed a material misstatement of financial activity in calendar years 2005 and 2006. In calendar year 2005; beginning and ending cash on hand was overstated \$4,718 and \$105,107 respectively; reported receipts were overstated \$34,460; and, reported disbursements were understated \$65,929. In calendar year 2006, reported receipts were understated \$105,797; and, ending cash on hand was understated \$25,540. The Audit staff recommended that JDC amend its reports to correct the misstatements. In response, Counsel for JDC stated that JDC relied on volunteers and campaign staff who were not sufficiently familiar with Commission regulations to ensure compliance with federal campaign laws. JDC filed amended reports that materially corrected the above misstatements. (For more detail, see p. 6)

Part IV

Findings and Recommendations

Finding 1. Disclosure of Loans

Summary

During the period covered by the audit, the Candidate made loans to JDC totaling \$109,930. These loans consisted of payments made directly from the Candidate's personal account to vendors, a loan made from funds in a credit union account, and a bank loan secured by property owned by the Candidate and his spouse. These loans were either not reported or incorrectly reported by JDC. In response to the interim audit report JDC filed amended reports correctly disclosing the loans.

Legal Standard

A. Contents of Reports. Each report must disclose for the reporting period and for the election cycle, the total amount of loans made by or guaranteed by the candidate and the identification of each person who makes, endorses or guarantees a loan to the committee. 2 U.S.C. §434(b)(2)(G), (3)(E) and 4(D).

B. Itemizing Loans. Each person who makes a loan to the political committee during the reporting period must be disclosed with the following information:

- Identification of any endorser or guarantor of the loan;
- The date the loan was made;
- The amount of the loan. 11 CFR §104.3(a)(4)(iv).

C. Reporting In-Kind Contributions. Each in-kind contribution must be reported as a contribution and an expenditure at the same usual and normal value on the date received. 11 CFR §104.13(a)(1)(2).

D. Schedule C. On a Schedule C, both the original loan and payments to reduce principal must be reported each reporting period until the loan is repaid. The committee need only list the candidate as the source of the loan. Also, the type of loan the candidate receives (i.e. bank loan, brokerage account, credit card, home equity line of credit) must be disclosed in either the first box for endorsers and guarantors with a notation for loan type or in the box for "Loan Source" after the candidate's name. 11 CFR §104.3(d) and §104.11.

E. Reporting Bank Loans, Home Equity Loans and Other Lines of Credit. A political committee must disclose in the report covering the period when the loan was obtained on Schedules C-1:

- The date, amount, and interest rate of the loan;
- The name and address of the lending institution; and
- The types and value of the collateral or other sources of repayment that secure the loan, if any. 11 CFR §104.3(d)(4).

Facts and Analysis

During the period covered by the audit, the Candidate made loans to JDC totaling \$109,930. The loans consisted of payments made directly from the Candidate's personal account to vendors, a loan made from funds in a credit union account, and a bank loan secured by property owned by the Candidate and his spouse. A description of these loans follows:

Payments to Vendors by the Candidate – During 2005, the Candidate made 22 payments from his personal account, totaling \$19,430, directly to vendors for campaign related services such as polling and media buys. JDC disclosed only \$14,783 as in-kinds contributions from the Candidate; the remaining \$4,647 was not itemized as in-kind contributions on Schedules A (Itemized Receipts) and B (Itemized Disbursements). Further, since JDC considered these transactions to be loans they should have reported \$19,430 in loans on Schedule C.

Personal loans – The Candidate made two loans to JDC, totaling \$90,500. Based on the documentation provided, the Audit staff determined that personal funds of the Candidate were used to make each loan.

- On 10/31/06, the Candidate loaned \$15,500 to JDC. Funds were withdrawn from a credit union account in the name of the Candidate and spouse and deposited into the JDC's bank account. The receipt of these funds was not reported by JDC. This loan should have been reported and also itemized on Schedules A and C.
- On 10/27/06, the Candidate loaned \$75,000 to JDC.² The source of these funds was a home equity loan secured by property owned by the Candidate and his spouse. The receipt of these funds was not reported by JDC. This loan should have been reported and also itemized on Schedules A and C. Further, since the original source of this loan was a home equity loan obtained by the Candidate, the loan should have been disclosed on Schedule C-1 (Loans and Lines of Credit from Lending Institutions).

JDC repaid the Candidate \$101,400. However, JDC only reported \$33,100, leaving \$68,300 (\$32,900 in 2005 and \$35,400 in 2006) in loan repayments not reported. It should be noted that in 2006 JDC disclosed 2 other loan repayments to the Candidate totaling \$11,900, however, there was no canceled checks or debits to JDC's bank account documenting these payments.

Finally, on June 30, 2005, and September 30, 2005, JDC reported receiving \$11,000 and \$12,000 respectively from the Candidate. However, there were no Candidate check copies or JDC bank deposits/credits supporting the loans.

² Based on the documents submitted, there was sufficient equity in the property to cover the loan made by the Candidate.

This matter was discussed at the exit conference. Counsel for JDC (Counsel) indicated that all necessary amendments would be filed to accurately disclose the Candidate loans.

Interim Audit Report Recommendation and Committee's Response

The Audit staff recommended that JDC amend its reports to accurately disclose the loan transactions discussed above. In response, Counsel stated that because JDC's lack of trained compliance personnel and informal processes at the time, JDC did not properly report loans made by the Candidate. In addition to filing amendments to its reports to conform to the recommendation and subsequent conversations with the Audit staff, JDC has instituted policies and procedures to achieve more uniform compliance during subsequent election cycles.

JDC filed amended reports that correctly disclosed the payments made directly to vendors by the Candidate as in-kind receipts on Schedule A and debts owed by JDC on Schedule D. The amendments also correctly disclosed all other loans received and repayments made.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JDC's reported financial activity to its bank records revealed a material misstatement of financial activity in calendar years 2005 and 2006. In calendar year 2005; beginning and ending cash on hand was overstated \$4,718 and \$105,107 respectively; reported receipts were overstated \$34,460; and, reported disbursements were understated \$65,929. In calendar year 2006, reported receipts were understated \$105,797; and, ending cash on hand was understated \$25,540. The Audit staff recommended that JDC amend its reports to correct the misstatements. In response, Counsel for JDC stated that JDC relied on volunteers and campaign staff who were not sufficiently familiar with Commission regulations to ensure compliance with federal campaign laws. JDC filed amended reports that materially corrected the above 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;
- The total amount of disbursements for the reporting period and for the election cycle; and
- 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 the reported financial activity to the bank records and determined there were material misstatements of activity in calendar years 2005 and 2006. The following charts outline the discrepancies.

2005 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2005	\$4,834	\$116	\$4,718 Overstated
Receipts	\$251,742	\$217,282	\$34,460 Overstated
Disbursements	\$65,624	\$131,553	\$65,929 Understated
Ending Cash Balance @ December 31, 2005	\$190,952	\$85,845	\$105,107 Overstated

Beginning cash on hand was overstated by \$4,718 and is unexplained, but likely resulted from prior period reporting errors.

The overstatement of receipts was the result of the following:

• Candidate loan reported on 6/30/05 – see next line	-	\$11,000
• Candidate loan reported on 9/30/05 – neither loan was supported by a deposit or credit to JDC's bank account or a copy of the transmittal check	-	12,000
• In-kind contributions from the Candidate not reported	+	4,647
• Receipt reported with the incorrect amount	-	50
• Contributions received but not reported	+	990
• Contributions from individual that were reported but not deposited in bank ³	-	18,248
• Unexplained difference	+	1,201
	Net Overstatement	<u>\$34,460</u>

The understatement of disbursements was the result of the following:

• Loan repayments made but not reported	+	\$32,900
• Disbursements not reported (mostly salary)	+	26,893
• In-kind contributions from the Candidate not reported	+	4,647
• Bank charges and fees not reported	+	320
• Unexplained difference	+	1,169
	Understatement	<u>\$65,929</u>

The overstatement of the ending cash on hand balance at December 31, 2005 (\$105,107) resulted from the discrepancies noted above, along with the beginning cash discrepancy.

³ The Audit staff noted a number of contributions that were reported in calendar year 2005 but deposited between January 9, 2006 and March 27, 2006. The contributions addressed above (\$18,248) may have also been deposited in 2006.

2006 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2006	\$190,952	\$85,845	\$105,107 Overstated
Receipts	\$1,306,832	\$1,412,629	\$105,797 Understated
Disbursements	\$1,495,800	\$1,470,950	\$24,850 Overstated
Ending Cash Balance @ December 31, 2006	\$1,984	\$27,524	\$25,540 Understated

The understatement of receipts was the result of the following:

• Earmarked contributions received but not reported	+ \$ 13,032
• Candidate loans received but not reported	+ 90,500
• In-kind contributions not reported	+ 4,468
• Unexplained difference	- 2,203
Net Understatement	<u>\$105,797</u>

The overstatement of disbursements was the result of the following:

• Loan repayment made but not reported	+ \$35,400
• Loan repayment reported but not supported by canceled check or debit	- 11,900
• Other disbursements reported but not supported by canceled check or debit – the majority of which was reported as salary, taxes, insurance and media production.	- 48,040
• Bank fees not reported	+ 1,689
• Contribution refund not reported	+ 5,000
• Reimbursement not reported correctly - incorrect amount	+ 222
• Disbursements not reported	+ 16,064
• Media disbursements overreported – (reported \$285,299 – supported by wire transfer \$272,033)	- 13,266
• Unexplained difference	- 10,019
Net Overstatement	<u>\$24,850</u>

The understatement of the closing cash balance at December 31, 2006 (\$25,540) resulted from all the discrepancies noted above.

Counsel was informed of this matter and was provided schedules at the exit conference and in subsequent meetings. In addition to the reporting errors discussed above, the Audit staff expressed concerns regarding contributions reported but not deposited in JDC's bank account (\$18,248). In addition to filing amended reports, Counsel agreed to address this matter.

Interim Audit Report Recommendation and Committee's Response

The Audit staff recommended that JDC:

- File amended reports to correct the misstatements described above.
- Amend its most recently filed report to correct the cash on hand balance with an explanation that the change resulted from a prior period audit adjustment. It was also recommended that JDC reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may have impacted adjustments recommended by the Audit staff.
- Provide an explanation for contributions reported but not deposited in JDC's bank account (\$18,248).

In response, Counsel stated that for much of the 2006 election cycle, JDC relied on volunteers and campaign staff who were not sufficiently familiar with Commission regulations to ensure compliance with federal campaign laws. Inexperienced campaign staff members were ill-equipped to adequately address the complexities of federal campaign finance law and lacked the necessary procedures to ensure that timely and accurate reporting and recordkeeping for receipts and disbursements occurred on a consistent basis.

JDC hired PCMS, LLC, to provide professional compliance and accounting services and to prepare amended reports for the 2006 and subsequent election cycles. With respect to the contributions that were reported but not deposited in the bank account, Counsel stated that "the Committee has determined that the contributions were never received and should not have been reported. Five of the contributions at issue were pledged but never deposited, and hence erroneously reported."

JDC has filed amended reports that materially corrected the misstatements discussed above. In addition, JDC has amended its most recent filed report to correct the ending cash on hand balance.