



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 22, 2008

MEMORANDUM

To: Robert W. Biersack
Press Officer

From: Wanda J. Thomas *WJ*
Acting Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report on Christine Jennings for Congress

Attached please find a copy of the audit report on Christine Jennings for Congress, which was approved by the Commission on December 15, 2008.

All parties involved have received informational copies of the report and the report may be released to the public on December 22, 2008.

Attachment as stated

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



Report of the Audit Division on Christine Jennings for Congress

February 23, 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)

Christine Jennings for Congress is the principal campaign committee for Christine Jennings, Democratic candidate for the U.S. House of Representatives from the state of Florida, 13th District, and is headquartered in Sarasota, Florida. For more information, see the chart on the Campaign Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 2,365,817
○ Contributions from Other Political Committees	663,059
○ Candidate Loans	110,000
○ Other Receipts	41,044
○ Total Receipts	\$ 3,179,920
• Disbursements	
○ Operating Expenditures	\$ 3,048,014
○ Loan Repayments	100,000
○ Other Disbursements	665
○ Total Disbursements	\$ 3,148,679

Findings and Recommendations (p. 3)

- Receipt of Contributions that Exceed Limits (Finding 1)
- Misstatement of Financial Activity (Finding 2)
- Failure to File 48-Hour Notices (Finding 3)
- Itemization of Contributions from Other Political Committees (Finding 4)

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 Christine Jennings for Congress (JFC), 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 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.
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Part II

Overview of Campaign Campaign Organization

Important Dates	Christine Jennings for Congress
• Date of Registration	February 22, 2005
• Audit Coverage	February 23, 2005 – December 31, 2006
Headquarters	Sarasota, Florida
Bank Information	
• Bank Depositories	One
• Bank Accounts	Three checking accounts and one money market account
Treasurer	
• Treasurer When Audit Was Conducted	Susan K. Flynn
• Treasurer During Period Covered by Audit	Susan K. Flynn
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ February 23, 2005	\$ 0
o Contributions from Individuals	\$ 2,365,817
o Contributions from Other Political Committees	663,059
o Candidate Loans	110,000
o Other Receipts	41,044
Total Receipts	\$ 3,179,920
o Operating Expenditures	\$ 3,048,014
o Loan Repayments	100,000
o Other Disbursements	665
Total Disbursements	\$ 3,148,679
Cash on hand @ December 31, 2006	\$ 31,241

Part III

Summaries

Findings and Recommendations

Finding 1. Receipt of Contributions that Exceed Limits

JFC accepted 111 contributions from individuals that exceeded the limit by \$95,897. Of these excessive contributions, contributions amounting to \$93,797 were eligible for presumptive election designation and contributor attribution. However, there was no evidence that the required notices had been sent to contributors. The remaining excessive contribution, \$2,100, was not eligible for presumptive redesignation and/or reattribution and must be refunded. In response to the interim audit report, JFC sent the required presumptive redesignation and/or reattribution letters and refunded the remaining excessive contribution of \$2,100. (For more detail, see p. 4)

Finding 2. Misstatement of Financial Activity

A comparison of JFC's reported financial activity to its bank records revealed that, for 2006, receipts were understated by \$193,005 and disbursements were understated by \$196,791. Much of the misstated activity involved a loan from, and associated payments to, the Candidate. In response to the interim audit report, JFC filed amended reports that materially corrected the problems noted above. In addition, JFC amended the 2008 April 15 Quarterly report to correct the ending cash on hand. (For more detail, see p. 7)

Finding 3. Failure to File 48-Hour Notices

JFC failed to file required 48-hour notices for 27 contributions totaling \$43,700, received prior to both the primary and general elections. In response to the interim audit report, JFC acknowledged that it may have failed to completely report all contributions that were subject to the 48-hour reporting requirements, but has now instituted policies and procedures to achieve uniform compliance. (For more detail, see p. 9)

Finding 4. Itemization of Contributions from Other Political Committees

JFC failed to itemize 30 contributions from 24 political committees totaling \$43,310 on Schedules A (Itemized Receipts) of its disclosure reports. In response to the interim audit report, JFC filed amended reports which materially disclosed these contributions. (For more detail, see p. 10)

Part IV

Findings and Recommendations

Finding 1. Receipt of Contributions that Exceed Limits

Summary

JFC accepted 111 contributions from individuals that exceeded the limit by \$95,897. Of these excessive contributions, contributions amounting to \$93,797 were eligible for presumptive election designation and contributor attribution. However, there was no evidence that the required notices had been sent to contributors. The remaining excessive contribution, \$2,100, was not eligible for presumptive redesignation and/or reattribution and must be refunded. In response to the interim audit report, JFC sent the required presumptive redesignation and/or reattribution letters and refunded the remaining excessive contribution of \$2,100.

Legal Standard

A. Authorized Committee Limits. For the 2006 election, an authorized committee may not receive more than a total of \$2,100 per election from any one person as adjusted by the Consumer Price Index (CPI). 2 U.S.C. §441a(a)(1)(A), (c) and (f); 11 CFR §110.1(a) and (b) and 110.9(a).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable contribution to the donor; or
- Deposit the contribution into a campaign depository and keep enough money on account to cover all potential refunds until the legality of the contribution is established. 11 CFR §103.3(b)(3) and (4).

The excessive portion of contributions may also be redesignated to another election or reattributed to another contributor as explained below.

C. Redesignation of Excessive Contributions. The committee may ask the contributor to redesignate the excess portion of the contribution for use in another election.

- The committee must, within 60 days of receipt of the contribution, obtain and retain a signed redesignation letter which informs the contributor that a refund of the excessive portion may be requested; or
- Refund the excessive amount. 11 CFR §§110.1(b)(5), 110.1(l)(2) and 103.3(b)(3).

Notwithstanding the above, when an authorized political committee receives an excessive contribution from an individual or a non-multi-candidate committee, the committee may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;

- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit.

Also, the committee may presumptively redesignate the excessive portion of a general election contribution back to the primary election if the amount redesignated does not exceed the committee's primary net debt position.

The committee is required to notify the contributor in writing of the redesignation within 60 days of the treasurer's receipt of the contribution and must offer the contributor the option to receive a refund instead. For this action to be valid, the committee must retain copies of the notices sent. Presumptive redesignations apply only within the same election cycle. 11 CFR §110.1(b)(5)(ii)(B) & (C) and (l)(4)(ii).

D. Reattribution of Excessive Contributions. When an authorized committee receives an excessive contribution, the committee may ask the contributor if the contribution was intended to be a joint contribution from more than one person.

- The committee must, within 60 days of receipt of the contribution, obtain and retain a reattribution letter signed by all contributors; or
- Refund the excessive contribution. 11 CFR §§110.1(k)(3), 110.1(l)(3) and 103.3(b)(3).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- That the contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(ii)(B).

For this action to be valid, the committee must retain copies of the notices sent. 11 CFR §110.1(l)(4)(ii).

E. Refund or Disgorge Questionable Contributions. If the identity of the original contributor is known, the committee must either refund the funds to the source of the original contribution or pay the funds to the U.S. Treasury. AO 1996-5

Facts and Analysis

Contributions from individuals were reviewed to determine if excessive contributions were received. The Audit staff identified 111 contributions that exceeded the limit by \$95,897. During this review, it was noted that JFC routinely redesignated contributions to another election or reattributed contributions to another individual. However, JFC did not provide evidence of written reattributions or redesignations, or provide evidence that the contributors were notified of any presumptive reattribution or redesignation.

Of the excessive contributions, \$93,797 could be resolved by JFC sending presumptive redesignation and/or reattribution letters. The one remaining excessive contribution (\$2,100) appeared resolvable only by refund. JFC did not maintain sufficient funds in its bank account to refund the excessive contributions.

Prior to the exit conference, the Audit staff provided JFC representatives with a schedule of excessive contributions noted above. The issue was discussed at the exit conference with JFC representatives who agreed to review the schedule and concentrate on sending the necessary letters as soon as possible.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JFC:

- Provide evidence demonstrating that the contributions were not excessive. Evidence should have included documentation that was not made available to the Audit staff during the audit, including copies of solicitation cards completed by the contributors at the time of their contribution that clearly informed the contributors of the limitations; timely notifications sent to contributors eligible for presumptive redesignation and/or reattribution; or, timely refunds (copies of the front and back of negotiated refund checks), redesignations, or reattributions for excessive contributions; or,
- Absent such evidence, JFC was to send notices to those contributors that were eligible for presumptive redesignation and/or reattribution (\$93,797) to inform them how the contribution was designated and/or attributed and offering a refund of the excessive amount. Absent a request for a refund by the contributors, these notices obviate the need for contribution refunds or payments to the U.S. Treasury. For notices sent to contributors, JFC was to provide a copy of each notice and evidence that it was sent. These notices must demonstrate that both the contributor and the individual to whom the contribution was reattributed were notified. If any contributor could not be located or if the presumptive notice came back undeliverable, JFC was to make a disgorgement of the excessive contribution to the U.S. Treasury; and
- For the remaining excessive contribution, JFC was to refund the excessive portion to the contributor or pay the amount to the U.S. Treasury and provide evidence of such action (copy of the front and back of the negotiated refund check); or
- If funds were not available to make the necessary refunds, JFC was to disclose the contribution requiring a refund on Schedule D (Debt and Obligations) until funds became available to make the refund.

In response to the interim audit report recommendation, JFC provided copies of letters sent to contributors that were eligible for presumptive redesignation and/or reattribution (\$93,797). For the remaining contribution, (\$2,100), JFC provided a copy of the refund letter and negotiated check.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JFC's reported financial activity to its bank records revealed that, for 2006, receipts were understated by \$193,005 and disbursements were understated by \$196,791. Much of the misstated activity involved a loan from, and associated payments to, the Candidate. In response to the interim audit report, JFC filed amended reports that materially corrected the problems noted above. In addition, JFC amended the 2008 April 15 Quarterly report to correct the ending cash on hand.

Legal Standard

A. 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 calendar year; and
- The total amount of disbursements for the reporting period and for the calendar year;
- 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).

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).

Facts and Analysis

The Audit staff reconciled reported financial activity to bank records for calendar years 2005 and 2006. A misstatement of receipts and disbursements was noted for 2006. The following chart outlines the discrepancies; succeeding paragraphs address the reasons for the misstatements.

2006 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2006	\$304,028	\$304,092	\$64 Understated
Receipts	\$2,584,748	\$2,777,753	\$193,005 Understated
Disbursements	\$2,853,813	\$3,050,604	\$196,791
Ending Cash Balance December 31, 2006	\$28,073 ²	\$31,241	\$3,722 ² Understated

² JFC's ending cash on hand does not foot due to an unexplained reduction of \$6,890 on the beginning cash on hand for the 2006 Year End Report period.

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

• Receipt of in-kind Candidate loan not reported	\$ 100,000
• Contributions from individuals and political committees received but not reported	90,125
• Contributions from individuals and political committees erroneously reported or reported twice	(20,500)
• Transfers from affiliated committee not reported	14,193
• In-kind contributions not reported	4,985
• Unexplained Difference	<u>4,202</u>
Net Understatement of Receipts	\$ <u>193,005</u>

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

• In-kind disbursements primarily by the Candidate not reported	\$ 104,985
• Repayment of Candidate in-kind loan not reported	100,000
• Reported voided checks	(1,819)
• Unexplained Difference	<u>(6,374)</u>
Net Understatement of Disbursements	\$ <u>196,791</u>

The \$3,722 understatement of ending cash on hand resulted primarily from the misstatements noted above as well as an unexplained reduction of \$6,890 on the beginning cash on hand for the 2006 January 31 Year End Report period. Subsequent to the start of audit fieldwork, JFC filed an amended January 31 Year End Report for 2006, which corrected the errors in beginning and ending cash on hand for that report. As of the date of the interim audit report, the beginning and ending cash on hand for subsequent reports had not been corrected.

With respect to the in-kind Candidate loan, on September 26, 2006 the Candidate withdrew \$100,000 from her investment account and deposited it into her personal checking account on October 2, 2006. From this checking account, the Candidate made payments to Media Strategies for media costs. JFC did not disclose this loan on either Schedule A (Itemized Receipts) and C (Loans), nor did it report the repayment of the loan on Schedule B (Itemized Disbursements) and Schedule C of its reports. Further, JFC did not disclose the payment to Media Strategies. JFC repaid \$50,000 of this loan on October 21, 2006, another \$25,000 on October 21, 2006 and the remaining \$25,000 on November 9, 2006. No interest was paid on this loan.

At the exit conference, the Audit staff explained the misstatements and that much of the differences resulted from the in-kind Candidate loan and its repayment not being reported. Representatives for JFC indicated a willingness to file amended reports to correct the misstatements noted above.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JFC:

- amend its reports to correct the misstatements noted above. The amended reports were to include the proper disclosure information on Schedule A for the in-kind Candidate loan as well as its repayment
- In addition, the Audit staff recommended JFC 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. Further, JFC was to reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may impact adjustments recommended by the Audit staff.

In response to the interim audit report, JFC filed amended disclosure reports which materially corrected the errors noted above. In addition, JFC filed an amended report for the 2008 April 15 Quarterly report which contained an adjustment to correct the ending cash on hand.

Finding 3. Failure to File 48-Hour Notices

Summary

JFC failed to file required 48-hour notices for 27 contributions totaling \$43,700, received prior to both the primary and general elections. In response to the interim audit report, JFC acknowledged that it may have failed to completely report all contributions that were subject to the 48-hour reporting requirements, but has now instituted policies and procedures to achieve uniform compliance.

Legal Standard

Last-Minute Contributions (48-Hour Notice). Campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate, including:

- Contributions from the candidate;
- Loans from the candidate and other non-bank sources; and
- Endorsements or guarantees of loans from banks. 11 CFR §104.5(f).

Facts and Analysis

The Audit staff reviewed 268 contributions, totaling \$494,633, which were greater than \$1,000 and received during the 48-hour notice filing period of both the primary (8/17/06 – 9/2/06) and general elections (10/19/06 – 11/4/06). JFC did not file 48-hour notices for 27 contributions totaling \$43,700. These included contributions from both individuals and political committees. For the general election 48-hour notices, 19 (\$30,200) of the 21 contributions were included in the same three deposits made on October 23, or October 24.

At the exit conference, JFC was provided a schedule of the 48-hour notices not filed. Representatives for JFC did not comment, but took the workpapers for review.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JFC provide evidence that 48-hour notices were timely filed, that no notice was required or submit any comments it considered relevant.

In its response to the interim audit report, JFC acknowledged that it may have failed to completely report all contributions that were subject to the 48-hour reporting requirements, but does note that it did file 241 (\$450,000) of the 268 (\$494,633) contributions that required such notices. JFC's response also stated that for 2008, it has instituted policies and procedures to achieve more uniform compliance..

Finding 4. Itemization of Contributions from Other Political Committees

Summary

JFC failed to itemize 30 contributions from 24 political committees totaling \$43,310 on Schedules A (Itemized Receipts) of its disclosure reports. In response to the interim audit report, JFC filed amended reports which materially disclosed these contributions.

Legal Standard

Regardless of Amount. Several types of receipts must be itemized on Schedule A regardless of amount. They include:

- Contributions from political committees and similar organizations;
 - Transfers from other party committees and party organizations;
 - Transfers from non-federal accounts and of Levin funds;
 - Loans received;
 - Loan payments received; and
 - Refunded contributions received from political committees.
- 2 U.S.C. §434(b)(3)(B), (C), (D) and (E).

Facts and Analysis

Based on its 100% review of all contributions from other political committees, the Audit staff identified 30 contributions from 24 other political committees totaling \$43,310 that were not itemized on JFC's disclosure reports. All the contributions were from federal political action committees which require itemization on Schedule A, Line 11(c), regardless of amount. These contributions were reported by the contributing committees. Included among the contributions were five in-kind contributions from three political committees totaling \$4,985.

At the exit conference, the Audit staff discussed these matters and provided a schedule of the contributions noted above. The representatives for JFC did not comment.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JFC amend its reports to disclose these contributions. In response to the interim audit report, JFC filed amended reports which materially corrected the disclosure of these contributions.