

Final



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 19, 2002

**MEMORANDUM**

TO: RON M. HARRIS  
PRESS OFFICER  
PRESS OFFICE

FROM: JOSEPH F. STOLTZ *JFS*  
ASSISTANT STAFF DIRECTOR

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
CITIZENS FOR DANNER

Attached please find a copy of the final audit report and related documents on citizens for Danner that was approved by the Commission on February 7, 2002.

Informational copies of the report have been received by all parties involved and the report may be released to the public on February 19, 2002.

Attachment as stated

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

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**REPORT OF THE AUDIT DIVISION  
ON  
CITIZENS FOR DANNER**

**Approved February 7, 2002**



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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION  
ON  
CITIZENS FOR DANNER  
EXECUTIVE SUMMARY**

Citizens for Danner (CFD) registered with the Federal Election Commission on June 5, 2000, as the principal campaign committee for Stephen L. Danner, Democratic candidate for the U.S. House of Representatives from the State of Missouri, 6<sup>th</sup> District. The Treasurer for CFD from inception through September 27, 2000 was Sharon Dale. On September 28, 2000, Justine E. Ward became Treasurer and served until November 14, 2000. On November 15, Earl Soetaert became Treasurer and continues to serve in that capacity. CFD maintains its headquarters in Smithville, Missouri. 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 three audit findings summarized below were presented to Citizens for Danner at the completion of fieldwork on October 22, 2001 and later in the interim audit report. CFD's responses to the findings are contained in the audit report.

**RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS** - 2 U.S.C. Section 441b(a); 11 CFR §§103.3(b) and 110.1(g). The audit questioned 17 contributions, totaling \$13,650, from possible incorporated entities. The contributions were from 14 entities of which 9 were Limited Liability Companies (LLC).

In response to the interim audit report, documentation submitted indicated that three of the contributions (\$1,000) were refunded. For 11 contributions (\$10,500) from LLCs, CFD submitted signed statements from the contributors indicating the entities are not taxed as corporations. Three apparent prohibited contributions (\$2,150) remain unresolved.

**DISCLOSURE OF OCCUPATION/NAME OF EMPLOYER** - 2 U.S.C. §434(b)(3)(A). A review of contributions from individuals indicated that the contributors' occupation and/or name of employer for 119 of the 345 items (34%), was not disclosed.

CFD's response to the interim audit report states that amended reports would be filed when specific written instructions are provided on how this may be successfully done. CFD has been provided written instructions and the Commission's 24-hour software assistance phone number. The Audit staff will continue to provide assistance in getting this matter resolved.

**INADEQUATE DISCLOSURE OF RECEIPTS FROM POLITICAL COMMITTEES** - 11 CFR §104.3(a)(4)(ii). The review of all contributions from political committees indicated that for 24 such receipts, totaling \$53,502, CFD failed to disclose the correct aggregate year-to-date total for the contributor.

CFD's response again states that amended reports would be filed when specific written instructions are provided on how this may be successfully done. CFD has been provided written instructions and the Commission's 24-hour software assistance phone number. The Audit staff will continue to provide assistance in getting this matter resolved.





***REPORT OF THE AUDIT DIVISION  
ON  
CITIZENS FOR DANNER***

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of Citizens for Danner (CFD), 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 from June 7, 2000, the date of the first financial transaction, through December 31, 2000. CFD reported a beginning cash balance of \$0; total receipts for the audit period of \$805,555; total disbursements for the audit period of \$811,062; and an ending cash balance of \$(5,507) on December 31, 2000.<sup>1</sup>

**C. COMMITTEE ORGANIZATION**

CFD registered with the Federal Election Commission on June 5, 2000, as the principal campaign committee for Stephen L. Danner (the Candidate), Democratic candidate for the U.S. House of Representatives from the State of Missouri, 6<sup>th</sup> District. The Treasurer for CFD from inception through September 27, 2000 was Sharon Dale. On September 28, 2000, Justine E. Ward became Treasurer and served until November 14, 2000. On November 15, Earl Soetaert became Treasurer and continues to serve in that capacity. CFD maintains its headquarters in Smithville, Missouri.

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<sup>1</sup> The correct ending cash on hand balance was determined to be \$3,046. The negative cash on hand balance reported resulted from understating receipts by \$6,355 and overstating disbursements by \$2,198. These misstatements were determined to be immaterial.

To manage its financial activity, CFD used one bank account. CFD made approximately 280 disbursements, totaling \$808,864. CFD received contributions from individuals totaling \$264,747. In addition, CFD received contributions from political action committees and other political committees, such as party committees and candidate committees (\$425,030); loans (\$120,000)<sup>2</sup> and contributions (\$1,032) from the Candidate; and, offsets to operating expenditures of \$1,101.<sup>3</sup> CFD utilized the Commission's electronic filing software to prepare and file its reports electronically. Paid and volunteer campaign staff apparently performed accounting, recordkeeping and reporting functions. The Treasurer has not attended an FEC Seminar, but has worked previously for a congressional campaign committee.

#### **D. AUDIT SCOPE AND PROCEDURES**

Following Commission approved procedures, the Audit staff evaluated various risk factors and as a result, the scope of the audit included 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 (see Finding II.A.);
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 Findings II.B. and C.);
4. the accuracy of total reported receipts, disbursements and cash balances as compared to CFD's bank records;
5. adequate recordkeeping for CFD's receipt transactions; and,
6. other audit procedures that were deemed necessary in the situation.

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.

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<sup>2</sup> Based on the 2001 Mid Year Report, these loans remained outstanding as of 6-30-01.

<sup>3</sup> These categories of receipts total \$811,910 or \$6,355 more than reported receipts of \$805,555. The difference was not considered material.

## II. AUDIT FINDINGS AND RECOMMENDATIONS

### A. RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS

Section 441b(a) of Title 2 of the United States Code states, in relevant part, that it is unlawful for any corporation organized by authority of any law of Congress, to make a contribution in connection with any election to any political office, or for any corporation or labor organization, to make a contribution in connection with any election to federal office and that it is unlawful for any candidate, political committee or any person knowingly to accept or receive any contribution prohibited by this section.

Section 103.3(b)(1) of Title 11 of the Code of Federal Regulations states, in part, that the treasurer shall be responsible for examining all contributions received for evidence of illegality. Contributions that present genuine questions as to whether they were made by corporations may be, within ten days of the treasurer's receipt, either deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. The treasurer shall make at least one written or oral request for evidence of the legality of the contribution. Such evidence includes, but is not limited to, a written statement from the contributor explaining why the contribution is legal, or a written statement by the treasurer memorializing an oral communication explaining why the contribution is legal. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Sections 103.3(b)(2) and (4) of Title 11 of the Code of Federal Regulations provide, in part, that the treasurer shall refund any contribution determined to be illegal to the contributor within thirty days of the date on which the illegality is discovered. Further, any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

Section 110.1(g)(1) of Title 11 of the Code of Federal Regulations defines a "limited liability company" (LLC) as a business entity that is recognized as a limited liability company under the laws of the state in which it is established. Section 110.1(g)(2) states that a contribution by an LLC that elects to be treated as a partnership by the Internal Revenue Service pursuant to 26 CFR 301.7701-3, or does not elect treatment as either a partnership or a corporation pursuant to that section, shall be considered a contribution from a partnership pursuant to 11 CFR 110.1(e). Section 110.1(g)(3) states that an LLC that elects to be treated as a corporation by the Internal Revenue Service, pursuant to 26 CFR 301.7701-3, or an LLC with publicly-traded shares shall be considered a corporation pursuant to 11 CFR Part 114. Section 110.1(g)(4) states that a contribution by an LLC with a single natural person member



that does not elect to be treated as a corporation by the Internal Revenue Service pursuant to 26 CFR 301.7701-3 shall be attributed only to that single member. Section 110.1(g)(5) states, in part, that an LLC that makes a contribution pursuant to paragraph (g)(2) or (4) of this section shall, at the time it makes the contribution, provide information to the recipient committee as to how the contribution is to be attributed, and affirm to the recipient committee that it is eligible to make the contribution.

During the review of contributions from individuals, the Audit staff identified 17 contributions, totaling \$13,650, made by possible incorporated entities. These contributions were made by 14 entities of which 9 appear to be LLCs. The Audit staff contacted the appropriate Secretary of State's office to verify the corporate status of all entities. Five of the entities, in all but one instance, appear to be active corporations. The remaining 9 entities registered as limited liability companies. The information obtained from the Secretaries of State does not comment on how any of these entities elected to be classified with the Internal Revenue Service. No separate account was maintained by CFD for questionable contributions. Although CFD maintained a sufficient balance to cover the refund of these contributions until November 17, 2000; subsequent to this date CFD did not maintain sufficient funds to make the refunds. The Audit staff determined the available cash balance to be \$3,046 on December 31, 2000.<sup>4</sup>

As a result of difficulties in scheduling an exit conference, the Treasurer was advised of this matter via electronic mail (email). In his email response, the Treasurer stated that the twelve contributors, whose status is in question, have been contacted. At that time, four contributors had responded that they file as partnerships. The response stated that additional status reports can be furnished as they become available. The Audit staff requested the Treasurer to provide the documentation as it is received.

In the interim audit report, the Audit staff recommended that the CFD demonstrate that the 17 contributions in question were not from prohibited sources. Regarding the LLCs, the evidence was to include information from the contributing entities that verifies that they had not elected to be treated as corporations for IRS purposes, such as IRS Form 8832 (Entity Classification Election), and that affirms that they were eligible to make these contributions pursuant to 11 CFR 110.1(g). Absent such evidence, it was recommended that the CFD refund these contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund check) for review. If funds were not available to make the necessary refunds, those contributions requiring refunds were to be disclosed as debts on Schedule D (Debts and Obligations) until such time that funds became available to make the refunds.

In its response to the interim audit report, CFD stated that, with regard to the seventeen questioned contributions, to date, it has been determined that twelve are LLCs that should not be treated as corporations, but as allowable contributions. The response also notes that the documentation would be provided to the Audit staff.

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<sup>4</sup> The 2001 Mid Year report filed by CFD discloses cash on hand of \$ 6,317 on 6-30-01.

The documentation submitted indicated that three of the contributions (\$1,000) were refunded; however, the copies of the checks provided were made prior to their negotiation. For 11 contributions (\$10,500) from LLCs, CFD submitted signed statements from the contributors indicating the entities are not taxed as corporations. Based on the documentation provided by CFD, three apparent prohibited contributions (\$2,150) remain unresolved.

**B. DISCLOSURE OF OCCUPATION/NAME OF EMPLOYER**

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

Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" to mean, 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.

Section 432(i) of Title 2 of the United States Code states, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act.

CFD disclosed 345 contributions from individuals on Schedules A. The Audit staff reviewed these reported entries, along with amendments thereto that included additional contributor information, to determine if the CFD had disclosed the contributors' occupation and/or name of employer. We determined that for 119 of the 345 items (34%), the required information was not disclosed.

CFD responses to Commission Requests for Additional Information (RFAI) indicate they attempted to file amended reports electronically, but were precluded from doing so, receiving error messages. CFD uses the Commission's electronic filing software. One RFAI response also indicates "printouts" were attached in an effort to provide this information. The RFAI responses also indicate CFD has made follow up requests for missing information; and, in some cases, two follow up requests.

Like the previous matter, the CFD Treasurer was advised of this matter via email. In his email response, the Treasurer stated that the information had been previously requested and had reported all information that was furnished. He also stated that an additional attempt would likely not be any more effective than the original attempt. The Audit staff noted that, in most instances, the contributors' occupation and/or name of employer information was available on the receipt database files provided by CFD.

In the interim audit report, the Audit staff recommended that CFD, as an electronic filer, amend its disclosure reports pursuant to 11 CFR §104.18 to disclose any required contributor information not filed to date.

In its response to the interim audit report, CFD stated that it would attempt to comply with this recommendation when specific written instructions are provided on how this may be successfully done. The response notes that it had previously informed the Audit staff of the difficulties encountered during prior attempts to amend its reports using the Commission's electronic filing software. The response concludes that CFD believes it has made best efforts to obtain and report these items.

The Audit staff has provided CFD with written instructions and the Commission's 24-hour software assistance phone number. The Treasurer has recently sought such assistance, but, to date, Commission records do not indicate that the recommended amendments have been filed. The Audit staff will continue to provide assistance in getting this matter resolved.

### **C. INADEQUATE DISCLOSURE OF RECEIPTS FROM POLITICAL COMMITTEES**

Section 104.3(a)(4)(ii) of Title 11 of the Code of Federal Regulations states, in relevant part, that the identification of each contributor and the aggregate year-to-date total for such contributor shall be reported for all committees (including political committees and committees which do not qualify as political committees under the act).

The Audit staff's review of all contributions from political committees indicated that for 24 such receipts, totaling \$53,502, CFD failed to disclose the correct aggregate year-to-date (AYTD) total for the contributor. This represents approximately 13% of the receipts from political committees.

It appears that for 22 of these contributions (\$50,002) the cause for the disclosure errors was differing contributor identification numbers assigned by CFD for the same contributor. For the two remaining items (\$3,500), the AYTD disclosure error results from differing transaction codes<sup>5</sup> assigned by CFD to receipts from the same contributor.

As with the other matters in this report, the CFD Treasurer was advised of this matter via email. In his email response, the Treasurer stated that the AYTD totals were assumed to be properly accumulated by the FECfile software utilized and noted that CFD will amend its reports as required.

In the interim audit report, the Audit staff recommended that CFD, as an electronic filer, amend its disclosure reports pursuant to 11 CFR §104.18 to correctly disclose the contributions noted above.

In its response to the interim audit report, CFD stated that it used listings supplied by the FECFile software to make the PAC entries referenced. CFD's response again

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<sup>5</sup> Contributor identification number and transaction code are data fields utilized by the FEC File software to aggregate receipts by contributor.

states that amended reports would be filed when specific written instructions are provided on how this may be successfully done.

The Audit staff has provided CFD with written instructions and the Commission's 24-hour software assistance phone number. The Treasurer has recently sought such assistance, but, to date, Commission records do not indicate that the recommended amendments have been filed. The Audit staff will continue to provide assistance in getting this matter resolved.





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 11, 2002

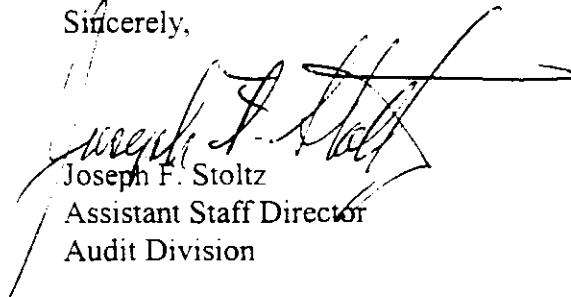
Mr. Earl Soetaert, Treasurer  
Citizens for Danner  
1601 South 169 Highway, Suite E  
P. O. Box 838  
Smithville, MO 64089

Dear Mr. Soetaert:

Attached please find the Final Audit Report on Citizens for Danner. The Commission approved the report on February 7, 2002.

The Commission approved Final Audit Report will be placed on the public record on February 19, 2002. 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 Mr. Alex Boniewicz of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,



Joseph F. Stoltz  
Assistant Staff Director  
Audit Division

Attachment as Stated



CHRONOLOGY  
CITIZENS FOR DANNER

Audit Fieldwork	July 20 - October 19, 2001
Interim Audit Report to the Committee	December 1, 2001
Response Received to the Interim Audit Report	January 6, 2002
Final Audit Report Approved	February 7, 2002