



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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February 28, 2007

**MEMORANDUM**

**To:** The Commissioners

**Through:** Patrina M. Clark *JMC*  
Staff Director

Margarita Maisonet *MM*  
Chief Compliance Officer

**From:** Joseph F. Stoltz *JFS*  
Assistant Staff Director  
Audit Division

Wanda J. Thomas *WJT*  
Deputy Assistant Staff Director

Henry Miller *HM*  
Lead Auditor

**AGENDA ITEM**  
For Meeting of: 03-08-07

**Subject:** Report of the Audit Division on Kucinich for President, Inc.

Attached for your approval is the subject report, accompanied by a legal analysis provided by the Office of General Counsel. The report conforms to recommendations made by the Office of General Counsel. For your information, Finding 1 of the report, dealing with Net Outstanding Campaign Obligations, differs from the report circulated to OGC for comment. In the report that OGC reviewed, the audit staff concluded that the candidate had received matching funds in excess of the amount to which he was entitled. This conclusion was based on information known at the time and estimates for winding down through April 2007. The NOCO has been updated to include actual expenditures through December 31, 2007 and estimated winding down costs through June 2007. The inclusion of additional winding down costs increased the candidate's entitlement to matching funds.

**Recommendation**

The Audit staff recommends that the report be approved.

It is recommended that the report be considered at the next regularly scheduled open session meeting. If you have any questions, please contact Henry Miller or Wanda Thomas at 694-1200.

Attachment:

Report of the Audit Division on Kucinich for President, Inc.  
Memorandum to Joseph F. Stoltz, Kucinich for President, Inc. – Final Audit Report



# Report of the Audit Division on Kucinich for President, Inc.

February 13, 2003 – September 30, 2004

## Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.<sup>1</sup> The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

## 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 Committee (p. 2)

Kucinich for President, Inc. (KFP) is the principal campaign committee for Congressman Dennis J. Kucinich, a candidate for the Democratic Party's nomination for the office of President of the United States. KFP is headquartered in Columbus, OH. For more information, see the chart on Campaign Organization, p.2.

## Financial Activity (p. 3)

• Receipts	
○ Contributions from Individuals	\$ 8,015,122
○ Matching Funds Received	2,955,963
○ Contributions from Political Committees	16,015
○ Loans Received	1,507,000
○ All Other Receipts	226,076
○ Total Receipts	\$ 12,720,176
• Disbursements	
○ Operating Expenditures	\$ 10,953,171
○ Exempt Legal and Accounting	56,393
○ Loan Repayments	1,507,000
○ All Other Disbursements	50,702
○ Total Disbursements	\$ 12,567,266

## Findings and Recommendations (p. 4)

- Net Outstanding Campaign Obligations (Finding 1)
- Costs Associated with Continuing to Campaign (Finding 2)
- Misstatement of Financial Activity (Finding 3)
- Itemization of Contributions from Individuals (Finding 4)
- Receipt of Currency in Excess of Limitations (Finding 5)

<sup>1</sup> 26 U.S.C. §9038(a).

# **Report of the Audit Division on Kucinich for President, Inc.**

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February 13, 2003 – September 30, 2004



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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of Kucinich for President, Inc. (KFP), undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

### **Scope of Audit**

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions and transfers received.
4. The disclosure of disbursements, debts and obligations.
5. The recordkeeping process and completeness of records.
6. The consistency between reported figures and bank records.
7. The accuracy of the Statement of Net Outstanding Campaign Obligations.
8. The campaign's compliance with spending limitations.
9. Other campaign operations necessary to the review.

### **Inventory of Campaign Records**

The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. KFP's records were substantially complete and the fieldwork began immediately.

## Part II

### Overview of Campaign

#### Campaign Organization

<b>Important Dates</b>	<b>Kucinich for President, Inc.</b>
• Date of Registration	February 21, 2003
• Eligibility Period <sup>2</sup>	December 23, 2003 – March 4, 2004
• Audit Coverage	February 13, 2003 – September 30, 2004 <sup>3</sup>
<b>Headquarters</b>	Columbus, OH
<b>Bank Information</b>	
• Bank Depositories	Five
• Bank Accounts	Nine – Checking Accounts
	Two – Savings Accounts
	One – Certificate of Deposit
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Donald J. McTigue
• Treasurer During Period Covered by Audit	Donald J. McTigue
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

<sup>2</sup> This period began with the date the candidate satisfied matching fund eligibility requirements and ended when the candidate received insufficient votes as determined by the Commission. See 11 CFR §9033.5(b)

<sup>3</sup> Limited reviews of receipts and expenditures were performed after September 30, 2004 to determine whether the candidate was entitled to receive additional matching funds.

## Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ February 13, 2003</b>	<b>\$ 0</b>
o Contributions from Individuals	\$ 8,015,122 <sup>4</sup>
o Matching Funds Received	2,955,963 <sup>5</sup>
o Contributions from Political Committees	16,015
o Loans Received	1,507,000
o Offsets to Expenditures	223,198
o Interest Received	2,878
<b>Total Receipts</b>	<b>\$ 12,720,176</b>
o Operating Expenditures	\$ 10,953,171
o Exempt Legal and Accounting	56,393
o Loan Repayments	1,507,000
o Contribution Refunds	38,764
o Other	11,938
<b>Total Disbursements</b>	<b>\$ 12,567,266</b>
<b>Cash on hand @ September 30, 2004</b>	<b>\$ 152,910</b>

<sup>4</sup> Approximately 138,000 contributions received from about 74,600 individuals.

<sup>5</sup> KFP received an additional \$336,000 in matching funds after 9/30/04 for a total of \$3,291,963. This represents 18% of the maximum entitlement (\$18,655,000).



## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Net Outstanding Campaign Obligations**

A review of KFP's financial activity through December 31, 2006, and estimated winding down costs through June 30, 2007 indicates that KFP did not receive matching fund payments in excess of the Candidate's entitlement.

(For more detail, see p. 6)

##### **Finding 2. Costs Associated With Continuing to Campaign**

Congressman Kucinich continued to campaign after his date of ineligibility, March 4, 2004, until July 29, 2004, the date on which the Democratic Party nominated its candidate for President of the United States. KFP was permitted to use only private funds received during this period, not matching funds, to fund campaign activity. The Audit staff determined that while continuing to campaign, KFP paid expenses that exceeded private contributions received by \$454,015. These expenses were paid with funds that contained matching funds. Such funds are subject to a pro rata repayment to the U.S. Treasury. The Audit staff recommends that the Commission determine that \$135,518 is repayable to the U.S. Treasury.

(For more detail, see p. 10)

##### **Finding 3. Misstatement of Financial Activity**

A comparison of KFP's reported financial activity to bank records revealed misstatements of receipts and disbursements in calendar year 2003. The PAR recommended that KFP amend its disclosure reports. In response, KFP filed the requested amended reports.

(For more detail, see p. 12)

##### **Finding 4. Itemization of Contributions from Individuals**

A sample review of contributions from individuals indicated that KFP failed to itemize a significant number of contributions that required itemization. The sample results projected that contributions totaling \$520,530 were not itemized as required. The Audit staff recommended that KFP amend its reports to itemize the contributions. In response to the recommendation, KFP filed amended reports which substantially correct its filings.

(For more detail, see p. 14)

##### **Finding 5. Receipt of Currency in Excess of Limitations**

A review of 698 deposits of currency determined that 117 of them could not be associated with individual contributors or fundraising events. The Audit staff treated these as anonymous cash contributions subject to a \$50 limit per deposit. After allowing a \$50 contribution from each deposit, there remained \$41,410 in anonymous contributions that exceeded the limit. The Audit staff recommended that KFP submit

information that showed that no single anonymous cash contribution exceeded \$50 or, dispose of the amount in excess of the limit in a manner that is not related to Federal elections. In response to the PAR recommendation, KFP calculated that the anonymous cash contributions exceeded the limit by \$39,570. KFP provided copies of negotiated checks paid to organizations not related to Federal elections. The response did not address a \$1,840 (\$41,410 minus \$39,570) reduction in the amount in excess of the limit. The Audit staff recommends that \$1,840 be paid to the U.S. Treasury.  
(For more detail, see p. 15)

## **Summary of Amounts Owed to the U.S. Treasury**

• Finding 2	Costs Associated with Continuing to Campaign	135,518
• Finding 5	Receipt of Currency in Excess of Limitations	<u>1,840</u>
	<b>Total Due U.S. Treasury</b>	<b>\$137,358</b>

## Part IV

# Findings and Recommendations

### Finding 1. Net Outstanding Campaign Obligations

#### Summary

A review of KFP's financial activity through December 31, 2006, and estimated winding down costs through June 30, 2007 indicates that KFP did not receive matching fund payments in excess of the Candidate's entitlement.

#### Legal Standard

**Net Outstanding Campaign Obligations (NOCO).** Within 15 days after the candidate's date of ineligibility (see definition below), the candidate must submit a statement of "net outstanding campaign obligations". This statement must contain, among other things:

- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding down costs. 11 CFR §9034.5(a).

**Date of Ineligibility.** The date of ineligibility is whichever of the following dates occurs first:

- The day on which the candidate ceases to be active in more than one state;
- The 30th day following the second consecutive primary in which the candidate receives less than 10 percent of the popular vote;
- The end of the matching payment period, which is generally the day when the party nominates its candidate for the general election; or
- In the case of a candidate whose party does not make its selection at a national convention, the last day of the last national convention held by a major party in the calendar year. 11 CFR §§9032.6 and 9033.5.

**Qualified Campaign Expense.** Each of the following expenses is a qualified campaign expense.

- An expense that is:
  - Incurred by or on behalf of the candidate (or his or her campaign) during the period beginning on the day the individual becomes a candidate and continuing through the last day of the candidate's eligibility under 11 CFR §9033.5;
  - Made in connection with the candidate's campaign for nomination; and
  - Not incurred or paid in violation of any federal law or the law of the state where the expense was incurred or paid. 11 CFR §9032.9.
- An expense incurred for the purpose of determining whether an individual should become a candidate, if that individual subsequently becomes a candidate, regardless of when that expense is paid. 11 CFR §9034.4.

- An expense associated with winding down the campaign and terminating political activity. 11 CFR §9034.4(a)(3).

**Value of Capital Assets.** The fair market value of capital assets is 60% of the total original cost of the assets when acquired, except that assets that are received after the date of ineligibility must be valued at their fair market value on the date received. A candidate may claim a lower fair market value for a capital asset by listing the asset on the NOCO statement separately and demonstrating, through documentation, the lower fair market value. 11 CFR §9034.5(c)(1).

**Entitlement to Matching Payments after Date of Ineligibility.** If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that on the day when the matching payments are made the sum of contributions plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. 11 CFR §9034.1(b).

### **Facts and Analysis**

The Audit staff prepared a Statement of Net Outstanding Campaign Obligations as of the candidate's date of ineligibility (DOI), March 4, 2004. The audited statement was presented in the preliminary audit report (PAR) and showed KFP to be in a deficit position in the amount of \$1,222,331. After accounting for funds received after March 4, 2004, the Audit staff calculated that KFP had received \$182,162 in matching fund payments in excess of the Candidate's entitlement.

After considering documentation provided in response to the PAR and adjusting actual winding down costs through December 31, 2006 and estimated winding down costs through June 30, 2007, the Audit staff prepared an updated NOCO that appears on the next page. The changes between the NOCO statement in the preliminary audit report and the statement that follows are discussed below the statement.

**Kucinich for President, Inc.**  
**Statement of Net Outstanding Campaign Obligations**

As of March 4, 2004

Prepared on February 16, 2007

Assets

Cash on Hand	\$ 365,397	[a]
Accounts Receivable	40,593	
Capital Assets	<u>15,258</u>	

Total Assets \$ 421,248

Liabilities

Accounts Payable for Qualified Campaign Expenses	\$ 679,077	[b]
Qualified Convention Expenses (11 CFR §9034.4(a)(6))	50,000	
Winding Down Costs:		
Paid Winding Down Costs (7/30/04 – 12/31/06)	976,245	[c]
Estimated Winding Down Costs (1/1/07 - 6/30/07)	162,000	[d]
Amounts Payable for Excessive Anonymous Cash Contributions	41,410	[e]

Total Liabilities \$ 1,908,7320

Net Outstanding Campaign Obligations (Deficit) as of March 4, 2004 (\$ 1,487,484)

Footnotes to NOCO Statement:

- [a] Amount includes contributions dated before DOI but deposited after DOI.
- [b] Includes \$46,778 in contribution refunds made after DOI for contributions received before DOI.
- [c] This amount does not include expenses incurred between March 5, 2004 and July 29, 2004, the period during which the candidate continued to campaign. See Finding 2.
- [d] Estimated winding down costs are based on KFP's NOCO estimates. Actual winding Down costs will be compared to the estimate and adjustments made as necessary.
- [e] KFP donated \$39,570 to charity and the remaining \$1,840 is payable to the U.S. Treasury. See Finding 5.

### Candidate's Remaining Entitlement to Matching Funds

Shown below are adjustments to the deficit for funds received after March 4, 2004 through January 3, 2005, the date of receipt of the last matching fund payment. KFP has not received matching fund payments in excess of the amount to which it was entitled, as presented below:

Net Outstanding Campaign Obligations (Deficit) as of 3/4/04	(\$ 1,487,484)
Less: Private Contributions <sup>6</sup> 7/30/04 — 1/2/05	269,682
Matching Funds Received 3/5/04 — 1/3/05	<u>1,128,578</u>
Remaining Entitlement to Matching funds	(\$ 89,224)

### Committee Response to Preliminary Audit Report and Audit Staff's Assessment

KFP's response to the PAR noted that the Capital Assets presented in the PAR were overstated. The Audit staff agreed and the correct amount is reflected in the NOCO presented above.

KFP also disagreed with the Audit staff's calculation of Accounts Payable for Qualified Campaign Expenses. KFP identified a number of expenses billed after the DOI which included goods and services provided both before and after the DOI that should have been prorated accordingly. The total amount proposed by KFP to be added to Accounts Payable when the post-DOI bills were pro rated was \$64,490.

The Audit staff reviewed the supporting documentation submitted by KFP and increased Accounts Payable by \$34,005 for goods and services provided before DOI. As a result, the Audit staff increased Accounts Payable for Qualified Campaign Expenses from \$645,072 to \$679,077.

Estimated Winding Down Costs included in the statement presented above is based on a revised estimate provided by KFP that includes additional legal and storage fees.

Finally, KFP disagreed with the amount of private contributions used in the Audit staff's calculation of the Net Outstanding Campaign Obligations. The response stated that the calculation included \$6,234 which was the proceeds from the sale of a capital asset. The Audit staff verified the sale and adjusted the amount of private contributions received from 7/30/04 to 11/1/04 by \$6,234. The correct amount appears above in the calculation for remaining entitlement.

Therefore, after making the adjustments to capital assets and accounts payable as noted above and adjusting for changes in the actual and estimated winding down costs, the Audit staff calculated that KFP has not received matching fund payments in excess of the Candidate's entitlement.

<sup>6</sup> Contributions received from 3/5/04 – 7/29/04 were allowed to be used for continuing to campaign and are not included in this amount. See Finding 2.

## **Finding 2. Costs Associated With Continuing To Campaign**

### **Summary**

Congressman Kucinich continued to campaign after his date of ineligibility, March 4, 2004, until July 29, 2004, the date on which the Democratic Party nominated its candidate for President of the United States. KFP was permitted to use only private funds received during this period, not matching funds, to fund campaign activity. The Audit staff determined that while continuing to campaign, KFP paid expenses that exceeded private contributions by \$454,015. As a result, these expenses were paid with funds that contained matching funds. Such funds are subject to a pro rata repayment to the U.S. Treasury. The Audit staff recommends that the Commission determine that \$135,518 is repayable to the U.S. Treasury.

### **Legal Standard**

**Continuing To Campaign After Date of Ineligibility.** If the candidate continues to campaign after becoming ineligible, the candidate may only receive matching funds based on net outstanding campaign obligations as of the candidate's date of ineligibility. The statement of net outstanding campaign obligations shall only include costs incurred before the candidate's date of ineligibility for goods and services to be received before the date of ineligibility and for which written arrangement or commitment was made on or before the candidate's date of ineligibility, and shall not include winding down costs until the date on which the candidate qualifies to receive winding down costs. Contributions dated after the candidate's date of ineligibility may be used to continue to campaign, and may be submitted for matching fund payments. Payments from the matching payment account that are received after the candidate's date of ineligibility may be used to defray the candidate's net outstanding campaign obligations, but shall not be used to defray any costs associated with continuing to campaign unless the candidate reestablishes eligibility. 11 CFR §9034.4(a)(3)(ii)

**Entitlement to Matching Payments after Date of Ineligibility.** If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that on the day when the matching payments are made the sum of contributions plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. 11 CFR §9034.1(b).

**Post-ineligibility Expenditures.** Any expenses incurred after a candidate's date of ineligibility are not qualified campaign expenses except for winding down expenses permitted under 11 CFR §9034.4(a)(3)(i). 11 CFR §9034.4(b)(3)

**Convention Expenses.** Expenses incurred by an ineligible candidate to attend, participate in, or conduct activities at a national nominating convention may be treated as qualified campaign expenses, but such convention-related expenses shall not exceed a total of \$50,000. 11 CFR §9034.4(a)(6)

**Repayments.** The Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for purposes other than defrayal of qualified campaign expenses, repayment of loans which were used to defray qualified campaign expenses, and the restoration of funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified campaign expenses. The Regulations state, in part, that the Commission may make a repayment determination for funds which were expended for costs associated with continuing to campaign after the candidate's date of ineligibility. 11 CFR §9038.2(b)(2)(i) and (ii)(D).

### **Facts and Analysis**

The Commission determined that Congressman Kucinich's date of ineligibility was March 4, 2004. However, Congressman Kucinich continued to campaign until July 29, 2004, the date on which the Democratic Party nominated its candidate for President of the United States. In the preliminary audit report, the Audit staff calculated that during the period that the Congressman continued to campaign, KFP paid expenses of \$1,985,314, including expenses incurred to attend the Democratic National Convention. To partially offset these expenses, KFP deposited contributions totaling \$1,447,294. The balance, \$488,020 (\$1,985,314 – \$1,447,294 – a \$50,000 exemption for convention expenses) was paid with funds containing matching funds; and, as such, was subject to a pro rata repayment to the U.S. Treasury.

At the exit conference, the Audit staff provided KFP's treasurer with a worksheet showing the calculation of the continuing to campaign expenses. The treasurer acknowledged that Congressman Kucinich had continued to campaign until the Democratic National Convention. The treasurer stated that he would review the auditors' calculations to confirm whether or not the expenses included were for continuing to campaign or for expenses incurred prior to DOI.

### **Preliminary Audit Report Recommendation**

The Audit staff recommended that KFP submit documentation to demonstrate that matching funds were not used to fund the continuing to campaign effort between March 5 and July 29, 2004. Absent such documentation, the Audit staff would recommend that the Commission determine that \$145,668 (\$488,020 multiplied by the repayment ratio, 29.8488%<sup>7</sup>) is repayable to the U.S. Treasury.

### **Committee Response to Recommendation**

In response to the PAR recommendation, KFP disagreed with the Audit staff's calculation that while continuing to campaign KFP's expenses exceeded private contributions by \$488,020. In summation, KFP responded that:

1. Contributions raised from August 1, 2004 to December 31, 2004, should be applied to debts associated with continuing to campaign, not exclusively to wind down.

<sup>7</sup> This figure (29.8488%) represents KFP's repayment ratio as calculated pursuant to 11 CFR §9038.2(b)(2)(iii).



2. The only question about whether any repayment is due involves the cutoff date chosen for calculating private funds raised as offset against continuing to campaign expenses.
3. The Audit staff did not account for the pro rata portion of pre-DOI expenses represented in the post-DOI billings.

For these reasons the Committee contends that it did not exceed its entitlement to public funds and, therefore, does not owe a repayment to the U.S. Treasury.

### **Audit Staff's Assessment**

Contributions raised from August 1, 2004 to December 31, 2004, were not available to pay for continuing to campaign expenses. Although the Candidate is allowed to use private contributions to continue to campaign, this is an exception that is limited to contributions raised while the candidate is actively continuing to campaign. The candidate ceased campaigning on July 29, 2004, the date on which the Democratic Party nominated its candidate for President of the United States. Contributions received after July 29, 2004 must be applied to outstanding campaign debts incurred through DOI and winding down expenses. If these contributions were allowed to be used to pay continuing to campaign debt, for every dollar used, a dollar of additional entitlement to matching funds would be created. This results in public funds being used to finance the continuing to campaign effort, clearly not the intent of 11 CFR §9034.4(a)(3)(ii).

Regarding accounts payable for goods and services provided before DOI but billed after, the Audit staff reviewed the supporting documentation submitted by KFP. As a result the Audit staff reduced the amount of expenses considered to be for continuing to campaign by \$34,005 to \$1,901,309<sup>8</sup> and recalculated the amount of funds containing matching funds used to pay for continuing to campaign expenses as \$454,015 (\$1,901,309 - \$1,447,294<sup>9</sup>). A pro rata repayment of \$135,518 (\$454,015 multiplied by the repayment ratio, 29.8488%) is due the U.S. Treasury.

The Audit staff recommends that the Commission determine that \$135,518 is repayable to the U.S. Treasury.

## **Finding 3. Misstatement of Financial Activity**

### **Summary**

A comparison of KFP's reported financial activity to bank records revealed misstatements of receipts and disbursements in calendar year 2003. The PAR recommended that KFP amend its disclosure reports. In response, KFP filed the requested amended reports.

<sup>8</sup> See Finding 1, Net Outstanding Campaign Obligations.

<sup>9</sup> Contributions deposited by KFP from March 4, 2004 through July 29, 2004, the period after DOI during which Congressman Kucinich continued to campaign.

## 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 the reported activity to the bank records and determined there was a misstatement of receipts and disbursements in calendar year 2003. The following chart details the discrepancies between the totals on KFP's disclosure reports and bank records.

<b>2003 Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Opening Cash Balance	\$ 0	\$ 0	\$ 0
Receipts	\$ 6,603,802	\$ 6,710,525	\$ (106,723)
Disbursements	\$ 5,354,942	\$ 5,462,562	\$ (107,620)
Ending Cash Balance	\$ 1,248,860	\$ 1,247,963	\$ 897

The understatement of receipts was the result of the following:

• Contributions not reported	\$185,753
• Vendor refunds and bank interest not reported	19,396
• Miscellaneous reporting errors	(36,224)
• Debit card returns reported in error	(9,766)
• Unexplained difference	<u>(52,436)</u>
• <b>Net Understatement of Receipts</b>	<b><u>\$106,723</u></b>

The understatement of disbursements was the result of the following:

• Disbursements not reported	\$77,162
• In-kind transaction not reported	770
• Bank fees not reported	18,941
• Payroll reporting errors	(30,917)
• Debit card returns reported in error	(9,766)
• Unexplained difference	<u>51,430</u>
• <b>Net Understatement of Disbursements</b>	<b><u>\$107,620</u></b>

## **Preliminary Audit Report Recommendation and Committee Response**

The Audit staff recommended that KFP file amended reports to correct the misstatements noted above. In response, KFP filed such amended reports.

### **Finding 4. Itemization of Contributions From Individuals**

#### **Summary**

A sample review of contributions from individuals indicated that KFP failed to itemize a significant number of contributions that required itemization. The sample results projected that contributions totaling \$520,530 were not itemized as required. The Audit staff recommended that KFP amend its reports to itemize the contributions. In response to the recommendation, KFP filed amended reports which substantially correct its filings..

#### **Legal Standard**

**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).

**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 calendar year-to-date election cycle-to-date total of all contributions from the same individual. 2 U.S.C. §434(b)(3)(A) and 11 CFR §§100.12 and 104.3(a)(4)

**Sampling.** In conducting an audit of contributions, the Commission uses generally accepted statistical sampling techniques to quantify the dollar value of related audit findings. Apparent violations (sample errors) identified in a sample are used to project the total amount of violations. A committee must take any action required by the Commission with respect to a sample-based finding. 11 CFR §9038.1(f) Such action will include obtaining, submitting and reporting contributor information on amended reports.

#### **Facts and Analysis**

The Audit staff reviewed contributions from individuals on a sample basis. The sample results projected that a material number of contributions from individuals whose aggregate total contributions exceeded \$200 per election cycle, were not itemized as required. The projected amount of such contributions was \$520,530. The itemization errors occurred because contributor information from various sources was not consistently entered into KFP's contributions database. As a consequence, multiple ID numbers were assigned to the same contributor, preventing proper aggregation and itemization of the contributions. For example, contributor John D. Smith may have been

entered as John Smith, J.D. Smith, John Donald Smith, or John Smith, Jr., with each name variation assigned a unique contributor identification number.

At the exit conference, the KFP treasurer stated that he had spent time merging contributor IDs in the database in order to file amended reports but was notified of the audit before the amendments were filed.

### **Preliminary Audit Report Recommendation and Committee Response**

The Audit staff recommended that KFP file amended reports to itemize the contributions as required. The response to the recommendation stated that KFP reviewed its contributor data base and changes were made where necessary to allow proper aggregation. KFP filed amended reports that itemized correctly the contributions required to be itemized.

## **Finding 5. Receipt of Currency in Excess of Limitations**

### **Summary**

A review of 698 deposits of currency determined that 117 of them could not be associated with individual contributors or fundraising events. The Audit staff treated these as anonymous cash contributions subject to a \$50 limit per deposit. After allowing a \$50 contribution from each deposit, there remained \$41,410 in anonymous contributions that exceeded the limit. The Audit staff recommended that KFP submit information that showed that no single anonymous cash contribution exceeded \$50 or, dispose of the amount in excess of the limit in a manner that is not related to Federal elections. In response to the PAR recommendation, KFP calculated that the anonymous cash contributions exceeded the limit by \$39,570. KFP provided copies of negotiated checks paid to organizations not related to Federal elections. The response did not address a \$1,840 (\$41,410 minus \$39,570) reduction in the amount in excess of the limit. The Audit staff recommends that \$1,840 be paid to the U.S. Treasury.

### **Legal Standard**

**Anonymous Cash Contribution Limit.** A candidate or committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate. 11 CFR §110.4(c)(3)

**Recordkeeping Requirements for Receipts.** Political committees must keep records of:

- All contributions received by or on behalf of the committee;
- The name and address of any person who makes a contribution in excess of \$50, together with the date and amount of the contribution; 2 U.S.C. §432(c).

**Preserving Documents.** Committees must preserve these records for 3 years after a report is filed. 2 U.S.C. §432(d).

**Facts and Analysis**

The Audit staff identified 698 deposits of currency totaling \$179,030. Some of the currency deposits were itemized on the disclosure reports using the contributor name "Unnamed Cash" or "Gate Receipts." Other currency deposits, generally those in amounts less than \$200 were reported as unitemized contributions.

During the audit fieldwork, the treasurer stated that the currency was received at KFP events where donations were accepted, campaign paraphernalia was sold, or volunteers conducted fundraising activities. He stated that the currency receipts were sent to the KFP Cleveland, OH office and then periodically forwarded to him in Columbus for deposit into a KFP bank account. To avoid sending cash through the mail, money orders were purchased by KFP in Cleveland and sent along with any contributions made by personal checks. A transmittal memoranda that provided information related to the money orders and checks was also forwarded.

The Audit staff reviewed the transmittal memoranda and other documents related to the currency deposits and determined that 117 of the currency deposits could not be associated with individual contributors or fundraising events. The Audit staff treated these as anonymous cash contributions subject to a \$50 limit per deposit. After allowing a \$50 contribution from each deposit, there remained \$41,410 in anonymous cash contributions that exceeded the limit.

**Preliminary Audit Report Recommendation**

The Audit staff recommended that KFP submit information that demonstrates that no single anonymous cash contribution in excess of \$50 was received. Absent such a demonstration, the Audit staff recommended that KFP dispose of the amount in excess of the limit in a manner that is not related to Federal elections.

**Committee Response to Recommendation and Audit Staff's Assessment**

In response to the recommendation, KFP acknowledged that anonymous contributions exceeded the limit and reported charitable contributions totaling \$39,570 on Schedule B-P of the 2005 Year End Report to organizations not related to Federal elections. KFP provided copies of the negotiated checks to verify that the charitable contributions were made. However, KFP's response does not address a \$1,840 (\$41,410 minus \$39,570) reduction in the amount in excess of the limit and the Audit staff recommends that the \$1,840 be paid to the United States Treasury.