



FEDERAL ELECTION COMMISSION  
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July 11, 2007

**MEMORANDUM**

**To:** The Commissioners

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

**From:** John D. Gibson *JDG*  
Acting Chief Compliance Officer

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

Martin L. Favin *MLF*  
Audit Manager

**By:** Terrence J. O'Brien *TJO* by *MLF*  
Lead Auditor

**Subject:** Report of the Audit Division on Ted Poe for Congress (A05-03).  
Revised Finding 3: Documentation for Receipts.

**AGENDA ITEM**  
For Meeting of: 07-12-07

**SUBMITTED LATE**

Attached is a revised Finding 3: Documentation for Receipts for the subject report. The revisions clarify that the Audit Division would have considered the committee to be in compliance if copies of the missing contribution checks had been obtained by the committee and provided for our review. This report is on the agenda for the open meeting of July 12, 2007.

Should you have any questions, please contact Joe Stoltz or Marty Favin at 694-1200.

Attachment as stated

## **Finding 3. Documentation for Receipts**

### **Summary**

The Audit staff reviewed contributions from individuals and determined that 19% were not properly documented. The errors were all associated with contributions in excess of \$50 for which a copy of the contributor's check was not retained by TPC. The Audit staff recommended that TPC provide any additional records that it is able to locate and provide any other relevant information.

In response, TPC's counsel stated that its bank keeps copies of contributor checks received by the committee, which complies with 11 CFR §102.9(a)(4). TPC also provided several contributor check copies it had recently obtained from its bank as samples, but did not provide the majority of the missing records. Absent the production of the records for inspection, the bank's maintenance of the contribution check copies does not comply with the regulation.

### **Legal Standard**

**A. Retention of Check Copies.** For contributions in excess of \$50, committees must maintain a photocopy or digital image of the check or written instrument. If the check copies are maintained digitally, the committee must provide the ability to retrieve and read the images at no cost to the Commission. 11 CFR §102.9(a)(4).

**B. 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 reviewed contributions from individuals on a sample basis and determined that approximately 19% of these items were not properly documented. The only documentation available for these contributions was the entries in TPC's electronic database. The errors were for contributions greater than \$50 for which there was no copy of the check or written instrument.

The Audit staff presented this matter to TPC representatives at the exit conference. TPC representatives indicated that they would attempt to obtain the necessary documentation and provide it to the Audit staff.

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

The Audit staff recommended that TPC provide any additional records that it was able to locate and any other relevant information. In response, TPC's counsel stated that its bank, acting as "an agent authorized by the treasurer," keeps copies of contributor checks received by the committee, and TPC is therefore in compliance with 11 CFR §102.9(a)(4). Also included in the response, were several contributor check copies TPC had recently obtained from its bank as samples. TPC did not provide copies of the majority of the contribution checks that were missing and none of those provided were among the sample errors.

It is almost certain that TPC's bank is capable of producing copies of its contribution checks. However, absent the actual production of the records, that ability alone does not satisfy the regulation.