



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 2009

MEMORANDUM

To: Judith Ingram
Press Officer

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

Subject: Public Issuance of the Audit Report on Tancredo for a Secure America

Attached please find a copy of the audit report on Tancredo for a Secure America, which was approved by the Commission on September 24, 2009.

All parties involved have received informational copies of the report and the report may be released to the public.

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 Tancredo for a Secure America

December 28, 2006 – February 29, 2008





Report of the Audit Division on Tancredo for a Secure America

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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.¹ 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)

Tancredo for a Secure America (TFSA) is the principal campaign committee for Thomas G. Tancredo, a candidate for the Republican Party's nomination for the office of President of the United States. The Committee is headquartered in Vienna, VA. For more information, see chart on the Campaign Organization, p.2.

Financial Activity (p. 3)

• Receipts	
○ Contributions from Individuals	\$3,994,731
○ Matching Funds Received	744,327
○ Contributions from Political Committees	9,545
○ Transfers from Affiliates	100,000
○ Loans Received	2,002,611
○ Offsets to Operating Expenditures	153,273
○ Other Receipts	11,575
○ Total Receipts	\$7,016,062
• Disbursements	
○ Operating Expenditures	\$ 6,003,402
○ Loan Repayments	821,649
○ Contribution Refunds	34,420
○ Other Disbursements	1,746
○ Total Disbursements	\$ 6,861,217

Findings and Recommendations (p. 5)

- Net Outstanding Campaign Obligations
- Disclosure of Occupation/Name of Employer

¹ 26 U.S.C. §9038(a).

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Part I

Background

Authority for Audit

This report is based on an audit of Tancredo for a Secure America (TFSA), 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 receipt of transfers from other authorized committees.
4. The disclosure of contributions and transfers received.
5. The disclosure of disbursements, debts and obligations.
6. The recordkeeping process and completeness of records.
7. The consistency between reported figures and bank records.
8. The accuracy of the Statement of Net Outstanding Campaign Obligations.
9. The campaign’s compliance with spending limitations.
10. 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. TFSA records were materially complete and the fieldwork began immediately.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Tancredo for a Secure America
• Date of Registration	January 22, 2007
• Eligibility Period	September 10, 2007 - December 20, 2007
• Audit Coverage	December 28, 2006 - February 29, 2008
Headquarters	Vienna, VA
Bank Information	
• Bank Depositories	Five
• Bank Accounts	Thirteen Checking, One Money Market
Treasurer	
• Treasurer When Audit Was Conducted	Steven J. Durham
• Treasurer During Period Covered by Audit	Kenneth C. McAlpin (1/22/07 - 4/17/07) Steven J. Durham (4/18/07 - present)
Management Information	
• Attended FEC Campaign Finance Seminar	No
• 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 @ 12/28/06	\$ 0
o Contributions from Individuals	\$ 3,994,731
o Matching Funds Received	744,327
o Contributions from Political Committees	9,545
o Transfers from Affiliates	100,000
o Loans Received	2,002,611
o Offsets to Operating Expenditures	153,273
o Other Receipts	11,575
Total Receipts	\$ 7,016,062
o Operating Expenditures	\$ 6,003,402
o Loan Repayments	821,649
o Contribution Refunds	34,420
o Other Disbursements	1,746
Total Disbursements	\$ 6,861,217
Cash on hand @ 2/29/08	\$ 154,845

Part III

Summaries

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

The Audit staff's review of TFSA's financial activity through July 31, 2009, and estimated winding down costs, indicated that the candidate did not receive matching fund payments in excess of his entitlement. The Audit staff recommended that TFSA demonstrate an adjustment was required to any component of the NOCO or provide any other comments it so desired. In response, a TFSA representative stated that they accepted the Audit Division's calculation. (For more detail, see p. 5)

Finding 2. Disclosure of Occupation/Name of Employer

A sample review of contributions from individuals indicated that TFSA lacked, or did not adequately disclose, occupation and/or name of employer information. The projected dollar value of the exceptions was \$422,023. TFSA filed amended Schedules A (Itemized Receipts) during fieldwork, and again recently, which materially corrected the public record. The Audit staff recommended that TFSA provide any relevant comments it had on this issue. In response, a TFSA representative stated it was their understanding that based on the amended Schedules A filed to date, TFSA has materially complied with this recommendation; and, that no further action is required. (For more detail, see p. 8)

Amounts Owed to the U.S. Treasury

At this time, there are no amounts owed to the United States Treasury.

Part IV

Findings and Recommendations

Finding 1. Net Outstanding Campaign Obligations

Summary

The Audit staff's review of TFSA's financial activity through July 31, 2009, and estimated winding down costs, indicated that the candidate did not receive matching fund payments in excess of his entitlement. The Audit staff recommended that TFSA demonstrate an adjustment was required to any component of the NOCO or provide any other comments it so desired. In response, a TFSA representative stated that they accepted the Audit Division's calculation.

Legal Standard

A. 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).

B. Date of Ineligibility. The date of ineligibility is whichever of the following dates occur 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.

C. 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).

D. 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).

E. 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 he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

Facts and Analysis

The Candidate's date of ineligibility (DOI) was December 20, 2007. The Audit staff reviewed TFSA's financial activity through July 31, 2009, analyzed estimated winding down costs and prepared the Statement of Net Outstanding Campaign Obligations that appears on the next page:

Tancredo for A Secure America
Statement of Net Outstanding Campaign Obligations
As of December 20, 2007
Prepared July 31, 2009

Assets

Cash in Bank	\$451,881	
Accounts Receivable	132,418	
Capital Assets	<u>2,904</u>	
Total Assets		\$587,203

Liabilities

Loan Payable at 12/20/07		\$1,930,611	
Accounts Payable for Qualified Campaign Expenses at 12/20/07		393,647	
Winding Down Costs:			
Actual (12/21/07 - 7/31/09)	\$490,983		
Estimated (8/1/09 - 10/31/09)	<u>83,235</u>	574,218	[a]
Bank Interest Due on Loan		5,147	
Total Liabilities			<u>\$2,903,623</u>

Net Outstanding Campaign Obligations (Deficit) as of Dec. 20, 2007 **(\$2,316,420)**

[a] Winding Down Costs include storage cost for a three year period.

Shown below are adjustments for funds received after December 20, 2007, through July 31, 2009.

Net Outstanding Campaign Obligations (Deficit) as of 12/20/07	(\$2,316,420)
Private Contributions and Other Receipts Received 12/21/07 through 2/28/09	52,073
Matching Funds Received 12/21/07 through 7/31/09	2,228,901
Remaining Net Outstanding Campaign Obligations (Deficit) as of 7/31/09	(\$ 35,446)

As presented above, TFSA has not received matching fund payments in excess of its entitlement.

The NOCO was presented to TFSA and copies of workpapers were provided. TFSA representatives stated that they would review the workpapers and provide any additional comments, if necessary.

Preliminary Audit Report Recommendation and Committee Response

The Audit staff recommended that TFSA demonstrate an adjustment was required to any component of the NOCO or provide any other comments it so desired. In response, a TFSA representative stated that they accepted the Audit Division's calculation.

Finding 2. Disclosure of Occupation/Name of Employer

Summary

A sample review of contributions from individuals indicated that TFSA lacked, or did not adequately disclose, occupation and/or name of employer information. The projected dollar value of the exceptions was \$422,023. TFSA filed amended Schedules A (Itemized Receipts) during fieldwork, and again just prior to the issuance of the preliminary audit report, which materially corrected the public record. The Audit staff recommended that TFSA provide any relevant comments it had on this issue. In response, a TFSA representative stated it was their understanding that based on the amended Schedules A filed to date, TFSA has materially complied with this recommendation; and, that no further action is required.

Legal Standard

A. Itemization Required for Contributions from Individuals. A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. 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 total of all contributions from the same individual. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A).

C. Best Efforts Ensures Compliance. When the treasurer of a political committee shows that the committee used best efforts (see below) to obtain, maintain, and submit the information required by the Act, the committee's reports and records will be considered in compliance with the Act. 2 U.S.C. §432(h)(2)(i).

D. Definition of Best Efforts. The treasurer and the committee will be considered to have used "best efforts" with respect to contributions if the committee satisfied all of the following criteria:

- All written solicitations for contributions included:
 - A clear request for the contributor's full name, mailing address, occupation, and name of employer; and
 - The statement that such reporting is required by Federal law.
- Within 30 days after the receipt of the contribution, the treasurer made at least one effort to obtain the missing information, in either a written request or a documented oral request.
- The treasurer reported any contributor information that, although not initially provided by the contributor, was obtained in a follow-up communication or was contained in the committee's records or in prior reports that the committee filed during the same two-year election cycle. 11 CFR §104.7(b).

E. 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. If a committee demonstrates that any apparent sample errors are not errors, the Commission will make a new projection based on the reduced number of errors in the sample. 11 CFR §9038.1(f)(1) and (2).

Facts and Analysis

A review of TFSA's disclosure reports during pre-audit work indicated that there was a problem with TFSA's disclosure of occupation and/or name of employer information. Most of these exceptions were either disclosed with the notation "information requested" or were left blank on Schedules A (Itemized Receipts) filed with the Commission.

During audit fieldwork, a sample review of contributions from individuals indicated that TFSA lacked, or did not adequately disclose, occupation and/or name of employer information. The projected dollar value of the exceptions was \$422,023, after considering documented "best efforts."²

² The Audit staff utilized a monetary unit sample with a 95% confidence level. The projected dollar value of the sample exceptions was \$422,023 (midpoint of range) and the dollar value of the sampling error was \$73,893.

TFSA filed amended Schedules A during fieldwork which contained previously undisclosed occupation/name of employer information. However, a material portion of the required information was still lacking.

The Audit staff discussed this matter with TFSA representatives at the exit conference held at the close of fieldwork. TFSA representatives stated that they had been preparing the amended reports prior to audit notification and would continue efforts to obtain any missing information. Just prior to the issuance of the preliminary audit report, additional amended Schedules A were filed. Review of those reports indicated that TFSA's filings have been materially corrected.

Preliminary Audit Report Recommendation and Committee Response

The Audit staff recommended that TFSA provide any relevant comments it had on this issue. In response, a TFSA representative stated it was their understanding that based on the amended Schedules A filed to date, TFSA has materially complied with this recommendation; and, that no further action is required. Based on the Audit staff's review of TFSA's amended Schedules A, TFSA has materially complied with the recommendation.