




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

April 4, 2000

**MEMORANDUM**

**TO:** RON M. HARRIS  
PRESS OFFICER  
PRESS OFFICE

**FROM:** ROBERT J. COSTA   
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

**SUBJECT:** PUBLIC ISSUANCE OF THE AUDIT REPORT ON  
LINCOLN DIAZ-BALART FOR CONGRESS COMMITTEE

Attached please find a copy of the audit report and related documents on the Lincoln Diaz-Balart for Congress Committee which was approved by the Commission on March 24, 2000.

Informational copies of the report have been received by all parties involved 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  
Information Division

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EE-07-025-3033

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REPORT OF THE AUDIT DIVISION  
ON  
**Lincoln Diaz-Balart for Congress  
Committee**

Approved March 24, 2000



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

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TABLE OF CONTENTS

LINCOLN DIAZ-BALART FOR CONGRESS COMMITTEE

	Page
Executive Summary	1
Final Audit Report	3
Background	3
Findings	5
Transmittal to Committee	15
Chronology	17

22.07.025.3034



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION  
ON  
LINCOLN DIAZ-BALART FOR CONGRESS COMMITTEE**

**EXECUTIVE SUMMARY**

The Lincoln Diaz-Balart for Congress Committee (LDC) registered with the Clerk of the U.S. House of Representatives on April 2, 1992, as the principal campaign committee for the Honorable Lincoln Diaz-Balart (the Candidate), Republican candidate for the U.S. House of Representatives from the State of Florida, 21<sup>st</sup> District.

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 findings of the audit were presented to LDC at the completion of fieldwork on May 14, 1999 and later in the interim audit report. LDC's response to those findings is contained in the audit report.

The following is an overview of the findings contained in the audit report. The Audit staff's testing of disbursements was limited because LDC did not maintain externally generated documentation, such as invoices, bills or receipts for about 50% of its disbursements. The lack of these third party records limited the testing for the proper reporting of debts and obligations and the disclosure of information, such as payee address, for disbursements

**APPARENT EXCESSIVE CONTRIBUTIONS**— 2 U.S.C. §441a(a)(1). LDC received 24 apparent excessive contributions from 15 individuals totaling \$20,700. No evidence was found that LDC attempted to contract these contributors for the purpose of obtaining reattributions or redesignations. In response to the interim audit report, LDC provided copies of 22 checks, totaling \$18,700, it had issued to refund excessive contributions. LDC also submitted one redesignation letter to resolve an excessive contribution. To date, LDC has not provided copies (front and back) of negotiated refund checks.

**APPARENT PROHIBITED CONTRIBUTIONS**— 2 U.S.C. §441b(a). LDC received 23 apparent corporate contributions totaling \$10,630. In response to the interim audit report, LDC

provided a copy of a refund check for each contribution. To date, LDC has not provided copies (front and back) of negotiated refund checks.

**MISSTATEMENT OF FINANCIAL ACTIVITY** — 2 U.S.C. §434(b)(1), (2) and (4).

Reported totals for receipts, disbursements and cash on hand for calendar years 1997 and 1998 were misstated. In response to the interim audit report, LDC filed amended disclosure reports. However, LDC failed to provide an adequate explanation for a \$114,000 misstatement of its cash on hand balance at January 1, 1997.

**DISCLOSURE OF CONTRIBUTIONS FROM POLITICAL COMMITTEES** — 2 U.S.C.

§434(b)(3)(B). Receipts from party committees, political action committees, and other political committees, totaling \$9,500, were not disclosed on Schedule A as required. LDC filed the necessary Schedules A to amend its disclosure reports.

**DISCLOSURE OF INTEREST RECEIPTS** — 2 U.S.C. §434(b)(3)(G). Interest earned

totaling \$35,720, was not disclosed as required on Schedules A, filed as part of LDC's disclosure reports. LDC filed the necessary Schedules A to amend its disclosure reports.

**DISCLOSURE OF DISBURSEMENTS** — 2 U.S.C. §434(b)(5)(A). It was LDC's practice to

disclose every disbursement regardless of amount or aggregate value. A review of all disbursements made by LDC indicated that 124 payments, totaling \$100,637 were neither disclosed on Schedule B, nor included in reported activity. LDC filed the necessary Schedules B to amend its disclosure reports.

**DOCUMENTATION OF DISBURSEMENTS** — 2 U.S.C. §432(c)(5). For a

material number of disbursements, LDC did not maintain a record of the payee's address. However, Schedules B filed by LDC disclosed the vendor address for nearly every payment, indicating the information apparently had been available and was either not maintained, or not provided to the Audit staff for its review. Additionally, for disbursements totaling \$13,982, LDC failed to maintain the canceled check, a receipt or an invoice. LDC's response to the interim audit report provided most of the requested documentation.

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***REPORT OF THE AUDIT DIVISION  
ON THE  
LINCOLN DIAZ-BALART FOR CONGRESS COMMITTEE***

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of the Lincoln Diaz-Balart For Congress Committee (LDC), 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 January 1, 1997 through December 31, 1998. LDC reported a beginning cash balance of \$475,460; total receipts for the audit period of \$541,941; total disbursements for the audit period of \$482,171; and an ending cash balance of \$535,210 on December 31, 1998.<sup>1</sup>

**C. COMMITTEE ORGANIZATION**

LDC registered with the Clerk of the U.S. House of Representatives on April 2, 1992, as the principal campaign committee for the Honorable Lincoln Diaz-Balart, Republican candidate for the U.S. House of Representatives from the State of Florida, 21<sup>st</sup> District. The Treasurer for LDC during the audit period was Ayuban Tomas, who continues to serve in that capacity. LDC maintains its headquarters in Miami, Florida.

To manage its financial activity, LDC used three bank accounts and, in addition, purchased and redeemed several certificates of deposit. From these accounts, the LDC made approximately 500 disbursements. Into these accounts, LDC deposited

<sup>1</sup> Figures cited in this report are rounded to the nearest dollar. In addition, these figures do not foot due to a mathematical error on the 1998 October Quarterly disclosure report (See Finding II.C.).

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contributions from individuals totaling approximately \$290,000. In addition, LDC received contributions from political action committees and other political committees, such as party committees and candidate committees, totaling about \$217,000; and, received interest of approximately \$35,700.<sup>2</sup>

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

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.A.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.B.);
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.D. and II.E.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as the completeness and accuracy of the information disclosed (see Finding II.F.);
5. proper disclosure of LDC's debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to LDC's bank records (see Finding II.C.);
7. adequate recordkeeping for LDC's transactions (see Finding II.G.); and,
8. 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. LDC did not maintain externally generated documentation, such as invoices, bills or receipts for about 50% of its disbursements. The lack of these third party records limited the testing for the proper reporting of debts and obligations and the disclosure of information, such as payee address, for disbursements (see Finding II.G.). It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

<sup>2</sup> As presented at Finding II.C., LDC's disclosure reports understated receipts and disbursements.

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## II. AUDIT FINDINGS AND RECOMMENDATIONS

### A. APPARENT EXCESSIVE CONTRIBUTIONS

Section 441(a)(1)(A) of Title 2 of the United States Codes states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Subsection (b) of 11 CFR §110.1 explains that *with respect to any election* means that if the contribution is not designated in writing by the contributor for a particular election then the contribution applies to the next election for that Federal office after the contribution is made. A contribution is considered made when the contributor relinquishes control over the contribution by delivering the contribution to the Candidate, the political committee, or an agent of the committee. A contribution mailed is considered made on the date of the postmark.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states that, the treasurer shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitations of 11 CFR 110.1. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b) or 110.1(k), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, that any contribution which appears to be illegal under 11 CFR 103.3(b)(3), 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(k) of Title 11 of the Code of Federal Regulations states, in part, that any contribution made by more than one person, except for a contribution made by a partnership, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. If a contribution made by more than one person does not indicate the amount to be attributed to each contributor, the contribution shall be attributed equally to each contributor. If a contribution to a candidate or political committee, either on its face or when aggregated with other contributions from the same contributor, exceeds the limitations on contributions set forth in 11 CFR 110.1, the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution; and



within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

Section 110.1(b)(5) of Title 11 of the Code of Federal Regulations states, in relevant part, that the treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if the contribution exceeds the limitation on contributions set forth in 11 CFR 110.1(b)(1). A contribution shall be considered to be redesignated for another election if the treasurer of the recipient authorized political committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request the refund of the contribution as an alternative to providing a written redesignation and within sixty days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of the contribution for another election, which is signed by the contributor.

Section 110.1(l)(5) of Title 11 of the Code of Federal Regulations states that if a political committee does not retain the written records concerning redesignation or reattribution, the redesignation or reattribution shall not be effective, and the original designation or attribution shall control.

The Audit staff's review of contributions from individuals identified 24 apparent excessive contributions, totaling \$20,700, from 15 individuals. No evidence was found that LDC attempted to contact these contributors for the purpose of obtaining reattributions or redesignations. Although LDC did not deposit these excessive contributions into a separate account, it did maintain sufficient funds during the audit period to refund these contributions.

At the exit conference, the Audit staff provided LDC's representative with a schedule detailing the apparent excessive contributions. A discussion ensued about options available to resolve this matter.

The interim audit report recommended that LDC provide evidence demonstrating that the contributions noted above are not in excess of the limitation. Absent such evidence, it was recommended that LDC refund these contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund check).

In its response to the interim audit report, LDC provided copies of 22 checks, totaling \$18,700, it had issued to refund excessive contributions. For one contributor who had made contributions \$5,000 in excess of the limitation, LDC had refunded only \$4,000. LDC also submitted one redesignation letter, dated 4/20/98, to resolve an excessive contribution made by a check which was dated 4/21/98. To date, LDC has not provided copies (front and back) of negotiated refund checks.

## B. APPARENT PROHIBITED CONTRIBUTIONS

Section 441b(a) of Title 2 of the United States Codes states, in relevant part, that it is unlawful for any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any primary election or political convention or caucus held to select candidates for any political office.

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, labor organizations, foreign nationals, or Federal contractors 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.

The review of all receipts identified 23 apparent corporate contributions totaling \$10,630. The corporate status of each business entity was verified with the Florida Secretary of State. Although LDC did not deposit these prohibited contributions into a separate account, it did maintain sufficient funds during the audit period to refund these contributions.

At the exit conference, the Audit staff provided LDC's representative with a schedule detailing the apparent prohibited contributions. LDC's representative reviewed the schedule and commented only that an attorney was consulted about one of these contributions and LDC had been assured that it was acceptable.

The interim audit report recommended that LDC provide evidence demonstrating that the contributions noted above are not prohibited. Absent such evidence, it was recommended that the LDC refund these contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund check).

In its response to the interim audit report, LDC provided copies of 23 checks, totaling \$10,630, it had issued to refund the prohibited contributions. To date, LDC has not provided copies (front and back) of negotiated refund checks.

## C. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2), and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and the total amount of all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of LDC's reported financial activity to its bank activity for the period of January 1, 1997 through December 31, 1998 revealed misstatements of its reported beginning cash-on-hand, receipts, disbursements and ending cash-on-hand. LDC did not maintain records to show the derivation of its reported amounts. Absent such records, the Audit staff could not identify all differences between bank activity and reported activity.

1. 1997 Misstatement

LDC reported a beginning cash balance of \$475,460 on January 1, 1997. The correct cash balance was determined to be \$361,384. This amount was overstated by \$114,076, a difference which has not been explained and that carried through the entire audit period. LDC representatives suggested that at least one additional Certificate of Deposit that was not documented in the available records may have been owned by LDC. Records for any additional investment or other bank accounts were requested during the audit fieldwork, but none were forthcoming.

LDC reported total receipts of \$166,150. LDC should have reported total receipts of \$157,288, an overstatement of \$ 8,861. The overstatement resulted, in part, from LDC's failure to report in-kind contributions of \$ 759 and the overstatement of reported interest by \$2,070. In addition, receipts were overstated by \$6,550 on the Year End Report; this appears to have resulted from a 12/15/97 deposit having been considered twice in calculating total receipts. Finally, absent documentation demonstrating the derivation of LDC reported amounts, there remained an unexplained difference of \$1,000.

Total reported disbursements were \$55,016. LDC should have reported total disbursements of \$71,986, a net understatement of \$16,970. The understatement stemmed mainly from LDC's: failure to report disbursements totaling \$17,446; reporting of disbursements totaling \$1,229, which were not supported by checks or debit memos from LDC's bank accounts; failure to report in-kinds contributions of \$759; and an unexplained difference of \$6.

Reported ending cash-on-hand was \$586,593. The correct cash balance was determined to be \$446,686. The amount was overstated by \$139,907 as a result of the discrepancies noted above. Consequently, beginning cash on hand for 1998 was similarly misstated.

2. 1998 Misstatement

LDC reported total receipts of \$375,791; it should have reported total receipts of \$414,673. Therefore, receipts were understated by the net amount of \$38,882. The difference, for the most part, is the result of the net understatement of reported receipts during the calendar year by \$51,110. Although the amounts by which receipts were overstated or understated could be calculated by reporting period, absent LDC workpapers detailing the source of its reported figures, the Audit staff is unable to explain this understatement. It is noted that the largest difference (\$41,325) appears to have occurred in the post election reporting period. Also contributing to the misstatement of receipts was LDC's failure to report in-kind contributions totaling \$331; its failure to report interest totaling \$102; a mathematical error on its Pre General disclosure report resulting in an overstatement of receipts by \$12,395; and, an unexplained overstatement of reported receipts by \$266.

LDC reported total disbursements of \$427,154. The Audit staff determined that \$505,118 should have been reported, resulting in an understatement of \$77,964. That difference is the result of LDC's failure to report disbursements totaling \$84,832, failure to report in-kind disbursements of \$331; incorrect disclosure of the amounts of some disbursements resulting in a net overstatement totaling \$6,921; and, an unexplained overstatement of \$278.

The reported ending cash balance on December 31, 1998 was \$535,210. The correct cash balance was \$356,240, a difference of \$178,970. The misstatement is the result of the discrepancies noted above.

These matters were discussed at the exit conference and LDC's representative was provided copies of the Audit staff's bank reconciliations for 1997 and 1998. With respect to the discrepancy in the reported cash on hand figure that existed during the entire audit period, the representative maintained LDC was waiting for the bank to provide the necessary documents. On July 27, 1999, when no records were forthcoming and LDC representatives ceased communicating with the Audit staff, the Commission approved subpoenas to Ana Carbonell, the Congressman's District Director; Rafael J. Diaz-Balart, LDC Custodian of Records; and banks known to have been utilized by LDC. This was an effort to identify any other certificates of deposits or additional bank accounts used by LDC, whose records have not yet been made available to the Audit staff, and which could explain the approximately \$114,000 overstatement of LDC's cash on hand during the audit period. The responses to the subpoenas did not identify any additional bank accounts or certificates of deposits that were maintained by LDC. In addition, Mr. Ayuban Tomas, Committee Treasurer, who was not subpoenaed in deference to his reported ill health, was contacted by telephone and asked if he could offer any assistance. Mr. Tomas explained that without his records, which he had turned over to Ms. Carbonell, he could be of no assistance. Finally, on December 9, 1999, the Commission approved a letter to Congressman Diaz-Balart requesting information or documentation that would help resolve the discrepancy. Any such information or documentation was to be provided by December 31. Subsequent to this deadline, several attempts were made by the Audit staff to contact the Congressman's office to inquire about the lack of any response to the letter. On January 6<sup>th</sup>, the Audit staff was able to speak with

Stephen D. Vermillion, the Congressman's Chief of Staff. He indicated that the letter had been received and that the matter had been referred to Ms. Carbonell. Further, Ms. Carbonell advised him that she had discussed the matter with the Congressman. Since no further response addressing the misstatement of cash on hand was received from either Ms. Carbonell or Mr. Vermillion; the interim audit report was issued on January 10, 2000.

The interim audit report recommended that LDC submit a written reconciliation and explanation which addresses the overstatement of its cash on hand balance. The Audit staff further recommended that LDC file comprehensive amended Summary and Detailed Summary Pages for calendar years 1997 and 1998 which correct all the reporting errors noted above.

As part of its response to the interim audit report, LDC submitted amended reports which appear to materially correct the misstatement noted above. However, the narrative portion of LDC's response fails to completely explain the overstatement of its cash on hand balances by about \$114,000 during the period audited. The narrative states that, with respect to the 1995 -1996 reporting period:

- interest received for a certificate of deposit purchased during 1995 was overstated by \$5,288. LDC also provided a Form 1099-INT for 1996 showing earned interest of \$13,650.77;
- deposits in 1995 (\$2,200) and 1996 (\$4,500) were duplicated in the reports for those years. LDC provided deposit receipts for the two deposits; and
- the remaining difference stems from disbursements that were not reported. LDC provided a schedule listing 14 disbursements totaling \$12,748.

The Audit staff was unable to confirm LDC's assertion that interest was overstated by \$5,288. LDC's disclosure reports for much of 1996 did not include Schedules A identifying the source of the reported interest income. It was, therefore, not possible to verify the amount of interest reported from any particular institution. Likewise LDC's statement that two deposits were duplicated in its reports could not be confirmed, absent workpapers detailing the source of its reported figures, or other documentation to support this explanation. It is the Audit staff's opinion that, in order to adequately address these apparent errors, the Audit staff would require bank statements for all accounts (including certificate of deposits) and LDC workpapers showing the derivation of its reported figures.

With respect to the unreported disbursements, the Audit staff notes that \$3,235 of the \$12,748 was in fact reported. For the remaining disbursements (\$9,513), LDC did not provide needed documentation (such as canceled checks and appropriate bank statements) to support that these disbursements were in fact made. At best, LDC's response only explains about \$20,000 of the \$114,000 cash balance overstatement.

Finally, in an attempt to explain the misstatement of cash on hand, the Audit staff reviewed all disclosure reports and supporting schedules filed by LDC during the period 1991 to 1996. Those reports were reviewed for mathematical accuracy and for any entry that could explain all or part of the \$114,000 difference (e.g. a reported redemption of a certificate of deposit). The review did not yield any explanation.

To date, LDC has not submitted any additional documentation or explanation addressing the overstatement of its cash balance.

#### **D. DISCLOSURE OF CONTRIBUTIONS FROM POLITICAL COMMITTEES**

Section 434(b)(3)(B) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any contribution.

Section 431(13) of Title 2 of the United States Code states that the term "identification" means: 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; and in the case of any other person, the full name and address of such person. Under 2 U.S.C. §431(11), the term "person" includes a committee, association, or any other organization or group of persons.

The review of contributions from political action committees, party committees and other committees determined that 12 contributions, totaling \$9,500, were not disclosed as required on Schedules A, filed as part of LDC's disclosure reports.

At the exit conference, LDC's representative was informed of this matter but not provided a copy of the schedule pending further review. Subsequent to the exit conference, during a telephone conference the contributions were discussed in detail with the LDC representative, who indicated that amended Schedules A would be filed.

The interim audit report recommended that LDC amend its reports by filing Schedules A (by reporting period) disclosing the contributions noted above.

In its response to the interim audit report, LDC filed amended Schedules A to correct the public record.

#### **E. DISCLOSURE OF INTEREST RECEIPTS**

Section 434(b)(3)(G) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount

in excess of \$200 within the calendar year, together with the date and amount of any such receipt.

The Audit staff reviewed all interest receipts and determined that interest totaling \$35,720, was not disclosed as required on Schedules A, filed as part of LDC's disclosure reports.

The interim audit report recommended that LDC amend its reports by filing Schedules A (by reporting period) disclosing the interest noted above.

In its response to the interim audit report, LDC filed amended Schedules A to correct the public record.

**F. DISCLOSURE OF DISBURSEMENTS**

Section 434(b)(5)(A) of Title 2 of the United States Code states that each report under this section shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

It was LDC's practice to disclose every disbursement regardless of amount or aggregate value. A review of all disbursements made by LDC indicated that 124 payments, totaling \$100,637 were neither disclosed on Schedule B, nor included in reported activity (See Finding II.C.). Of these disbursements, 96 totaling \$98,158 were in aggregate amount or value in excess of \$200. When questioned by the Audit staff, an LDC representative was unable to explain why these disbursements were not disclosed on Schedules B.

At the exit conference, the Audit staff provided LDC's representative with a schedule of the disbursements that were not disclosed. LDC's representative indicated that she would amend the reports as needed.

The interim audit report recommended that LDC amend its reports by filing Schedules B (by reporting period) disclosing the disbursements noted above.

In its response to the interim audit report, LDC filed amended Schedules B to correct the public record.

**G. DOCUMENTATION OF DISBURSEMENTS**

Section 432(c)(5) of Title 2 of the United States Code requires, in relevant part, that the treasurer of a political committee keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement.

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Section 102.9(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that a receipt or invoice from the payee or a canceled check to the payee shall be obtained and kept for each disbursement in excess of \$200 by or on behalf of the committee.

Section 432(d) of Title 2 of the United States Code provides that the treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

The Audit staff reviewed LDC's disbursements on a sample basis and determined that for a material number of items, a record of the payee's address was not maintained. It should be noted that the disbursement database file provided by LDC did not contain vendor addresses. However, Schedules B filed by LDC disclosed the vendor address for nearly every payment, indicating the information apparently had been available and was either not maintained, or not provided to the Audit staff for its review. Additionally, for disbursements totaling \$13,982, LDC failed to maintain the canceled check, a receipt or an invoice.

At the exit conference, LDC's representative was advised of these matters. The representative offered no response at that time.

The interim audit report recommended that LDC obtain any vendor addresses not currently available in its records and provide the Audit staff a complete listing of all vendors and their addresses. The Audit staff further recommended that LDC provide copies of canceled checks, receipts or invoices for those disbursements (\$13,982 ) identified as lacking such documentation.

In its response to the interim audit report, LDC submitted a vendor list and canceled checks which materially resolve this matter.



22.07.025.3012



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

A99-12

March 29, 2000

Mr. Ayuban Tomas, CPA, Treasurer  
Lincoln Diaz-Balart for Congress Committee  
9737 N.W. 41<sup>st</sup> Street #131  
Miami, FL 33178

Dear Mr. Tomas:

Attached please find the Report of the Audit Division on the Lincoln Diaz-Balart for Congress Committee. The Commission approved the report on March 24, 2000.

The Commission approved Final Audit Report will be placed on the public record on April 5, 2000. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. Any questions you have related to matters covered during the audit or in the report should be directed to Henry Miller or Alex Boniewicz of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa  
Assistant Staff Director  
Audit Division

Attachment as stated

6402 520 70 22 07 025 3049

22.07.025.3050

CHRONOLOGY

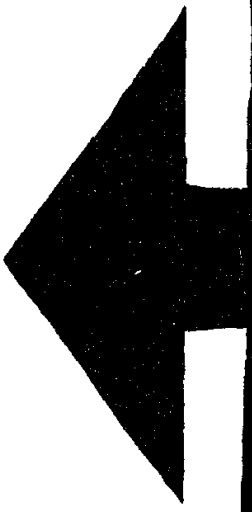
LINCOLN DIAZ-BALART FOR CONGRESS COMMITTEE

Audit Fieldwork	4/26/99-5/14/99
Interim Audit Report to the Committee	1/10/00
Response Received to the Interim Audit Report	2/18/00
Final Audit Report Approved	3/24/00

22.07.025.3054

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