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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 15, 2002

**MEMORANDUM**

TO: RON M. HARRIS  
PRESS OFFICER  
PRESS OFFICE

FROM: JOSEPH F. STOLTZ *JF*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
CAMPBELL FOR SENATE

Attached please find a copy of the final audit report and related documents on Campbell for Senate that was approved by the Commission on November 06, 2002.

All parties involved have received informational copies of the report and the report may be released to the public on November 15, 2002.

Attachment as stated

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

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**REPORT OF THE AUDIT DIVISION  
ON THE  
CAMPBELL FOR SENATE**

**Approved November 6, 2002**



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

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TABLE OF CONTENTS  
CAMPBELL FOR SENATE

	PAGE
Executive Summary	1
Final Audit Report	3
Background	3
Findings	5
Transmittal to Committee	13
Chronology	15



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**CAMPBELL FOR SENATE**  
**EXECUTIVE SUMMARY**

Campbell for Senate (CFS) registered with the Secretary of the Senate on November 29, 1999 as the principal campaign committee for the Honorable Tom Campbell, Republican candidate for the U.S. Senate from the state of California.

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 from the audit were presented to the Committee at the completion of fieldwork on July 11, 2002 and later in the interim audit report. The Committee did not provide a response to the interim audit report.

The following is an overview of the findings contained in the audit report.

Receipt of Contributions from Individuals in Excess of the Limitation — 2 U.S.C. §441a(a)(1)(A); 11 CFR 103.3(b). A review of CFS's receipt records identified contributions from 355 individuals that were in excess of the limitation by \$294,885. Of this amount, \$244,835 related to the 2000 primary election and \$50,050 related to the 2000 general election. Many of these excessive contributions resulted from the transfer of funds from the candidate's prior campaign committee, Tom Campbell for Congress.

Itemization of Contributions Transferred from Tom Campbell for Congress — 2 U.S.C. 434(b)(3)(B). Tom Campbell for Congress transferred funds to CFS in December of 1999. CFS did not itemize (as memo entries) the contributions that made up the transferred amount on Schedules A as required.

Misstatement of Financial Activity — 2 U.S.C. §434(b)(1) and (2). The reconciliation of CFS's reported financial activity to its bank records indicated that receipts and cash on hand were overstated for calendar year 1999. The misstatement resulted primarily from CFS reporting contributions that were actually deposits of Tom Campbell for Congress.

Personal Use of Campaign Funds — Section 113.1(g) of Title 11 of the Code of Federal Regulations. CFS funds totaling \$3,540 were used to pay for personal expenses that could not be associated with the campaign.





**REPORT OF THE AUDIT DIVISION  
ON  
CAMPBELL FOR SENATE**

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of Campbell for Senate (CFS), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code, which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

**B. AUDIT COVERAGE**

The audit covered the period from November 15, 1999, (the date of CFS's first financial transaction) through December 31, 2000. CFS reported a beginning cash balance of \$0; total receipts for the audit period of \$4,733,510; total disbursements for the audit period of \$4,378,287; and, an ending cash balance on December 31, 2000, of \$398,348.<sup>1</sup>

**C. CAMPAIGN ORGANIZATION**

CFS registered with the Secretary of the Senate on November 29, 1999, as the principal campaign committee for the Honorable Tom Campbell (the Candidate), Republican candidate for the U.S. Senate from the state of California.<sup>2</sup> The Treasurer of CFS for the period covered by the audit was Mr. Charles P. Zahl. He continues to serve in that capacity. Mr. Zahl attended a Commission conference in San Francisco several

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<sup>1</sup> Figures do not foot due to an error in carrying forward the cash on hand balance from the April 15<sup>th</sup> Quarterly to the July 15<sup>th</sup> Quarterly Report in 2000.

<sup>2</sup> The Candidate served as a member of the United States House of Representatives during the periods 1989-1993 and 1995-2001.

years ago. During the campaign, CFS maintained its headquarters in Redwood City, California.

Paid CFS campaign staff, utilizing commonly available campaign management software, performed accounting and recordkeeping functions. Disclosure reports were not filed electronically during the period covered by the audit.

To manage its financial activity, CFS maintained a checking account, a money market account and an investment account.<sup>3</sup> From these accounts, approximately 930 disbursements were made totaling \$4,354,491. CFS's receipts, as recorded in its contributions database, consisted of approximately 14,960 contributions from individuals, totaling \$3,704,581; joint fundraising proceeds, totaling \$69,396; offsets to operating expenditures of \$25,253; contributions from political committees, totaling \$14,100; and, interest earned of \$7,817. In addition, CFS received \$902,418 in funds that were transferred from Tom Campbell for Congress in December of 1999.<sup>4</sup>

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

Following Commission approved procedures, the Audit staff evaluated various risk factors and as a result the scope of the audit included the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.A.);
2. The receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. Proper disclosure of receipts from individuals, political committees and other entities, to include the itemization of contributions or other receipts when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.B.);
4. Proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. Proper disclosure of debts and obligations;
6. The accuracy of total reported receipts, disbursements and cash balances as compared to CFS bank records (see Finding II.C.);
7. Adequate recordkeeping for CFS transactions; and

<sup>3</sup> During the period covered by the audit, the investment account had little financial activity and a minimal account balance.

<sup>4</sup> Tom Campbell for Congress was the Candidate's principal campaign committee for the office of U.S. House of Representatives from the state of California, 15<sup>th</sup> Congressional District. The Commission accepted a valid termination of this committee's filing requirements on March 31, 2000. The Treasurer of Tom Campbell for Congress at that time was Ms. Kelly Barrales.

8. Other audit procedures that were deemed necessary in the situation (see Finding II.D.).

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

## II. AUDIT FINDINGS AND RECOMMENDATIONS

CFS has not responded to the interim audit report. CFS requested, and was granted, a 15-day extension of time to respond. The extension of time expired on October 15, 2002. Efforts to contact the Treasurer to determine whether a response was forthcoming have been unsuccessful.

### A. RECEIPT OF CONTRIBUTIONS FROM INDIVIDUALS IN EXCESS OF THE LIMITATION

Section 441a(a)(1)(A) of Title 2 of the United States Code 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.

Section 110.1(b)(2)(ii) of Title 11 of the Code of Federal Regulations 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.

Sections 103.3(b)(3) and (4) of Title 11 of the Code of Federal Regulations state, in part, that contributions which exceed the contribution limitations may be deposited into a campaign depository or returned to the contributor. 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). If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor. Further, 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(b)(5)(i) and (ii) of Title 11 of the Code of Federal Regulations state, in 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 was designated in writing for a particular election, and the contribution, either on its face or when aggregated with other contributions from the same contributor for the same election, exceeds the limitation at 11 CFR §110.1(b)(1);
- the contribution was designated in writing for a particular election and the contribution was made after that election and the contribution cannot be accepted under the net debts outstanding provisions of 11 CFR §110.1(b)(3);
- the contribution was not designated in writing for a particular election, and the contribution exceeds the limitation on contributions set forth in 11 CFR §110.1(b)(1); or
- the contribution was not designated in writing for a particular election, and the contribution was received after the date of an election for which there are net debts outstanding on the date the contribution is received.

Further, 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(k) of Title 11 of the Code of Federal Regulations states 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 and 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(b), (c) or (d), as appropriate, 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(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.

Section 110.9(a) of Title 11 of the Code of Federal Regulations states that no candidate or political committee shall accept any contribution or make any expenditure in violation of the provisions of part 110. No officer or employee of a political committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this part 110.

Sections 110.3(c)(4) and (5) of Title 11 of the Code of Federal Regulations state, in part, that the transfer of funds between a candidate's previous Federal campaign committee and his current Federal campaign committee is permissible provided that the funds transferred are not composed of contributions that would be in violation of the Act. The cash on hand from which the transfer is made shall consist of the funds most recently received by the transferor committee. The transfer shall not cause the contributions made by any persons to exceed the limitations.

For purposes of the contribution limits, a contribution made after an individual ceases to be a candidate in an election shall be aggregated with other contributions from the same contributor for the next election unless designated for another election.

CFS's contribution records consisted of a database containing contributor information, redesignation/reattribution forms and copies of contributor checks. CFS records indicated control procedures existed to identify contributions that may have exceeded the limitation. Nonetheless, a review of contributions from individuals for compliance with the contribution limitation of \$1,000 per election indicated the CSF accepted excessive contributions related to the Primary (3/07/00) and General (11/07/00) elections as follows:

1. Apparent Excessive Primary Election Contributions

CFS received contributions from 273 individuals totaling \$244,835 in excess of the contribution limitation for the Primary election. Approximately 90% of these excessive contributions were the result of transfers totaling \$902,418 from Tom Campbell for Congress that consisted of funds received after the 1998 General election. CFS failed to aggregate the transferred contributions with those made directly to CFS from the same contributors. Also, the transferred funds included \$35,100 from 41

individuals that made excessive contributions to Tom Campbell for Congress prior to being transferred to CFS. Tom Campbell for Congress reported most of these contributions on Schedules A as being reattributed or refunded, however, documentation to support such actions was not located in the records provided.

The transfers to CFS occurred in December of 1999 after the Candidate announced that he would run for the U.S. Senate. Pursuant to 11 CFR §110.3(c)(5), the transfers between the two campaigns are permissible provided the contributions transferred do not cause a contributor's contribution limitation to be exceeded. In accordance with 11 CFR §110.3(c)(4), the Audit staff applied the transferred contributions to the 2000 Senate Primary election limitations (the next election following the 1998 General election).

## 2. Apparent Excessive General Election Contributions

CFS received contributions from 82 individuals totaling \$50,050 in excess of the contribution limitation for the General election. For 45 of the 82 individuals, CFS indicated as notations to Schedules A (Itemized Receipts) that the excessive portions of the contributions were to be either reattributed or refunded. However, CFS did not have the required documentation to support the reported corrective action.

## 3. Other Information

CFS did not maintain a separate account to deposit questionable contributions but did consistently have sufficient funds to cover amounts deposited in excess of the limitations.<sup>5</sup> In addition, the Audit staff performed an analysis using the daily balances on CFS's check register and the election designation of each disbursement and receipt transaction during the campaign. From this analysis, it was determined that at no time was 2000 Primary election activity funded by the identified excessive contributions or by contributions designated to the General received prior to the date of the Primary election.

At the exit conference, the CFS Treasurer was informed of this matter and provided a schedule of the apparent excessive contributions. The Treasurer indicated that the problem with these contributions may have been a result of the change in treasurers and the implementation of a new receipts database while transitioning from Tom Campbell for Congress to CFS.

<sup>5</sup> On its latest disclosure report covering the period through June 30, 2002, CFS reported cash on hand of \$95,211. The Audit staff notes that \$267,340 was transferred from CFS to the Campbell Political Committee in early 2001. This committee registered with the Commission on February 2, 2001.

In the interim audit report, the Audit staff recommended that CFS provide evidence demonstrating that the contributions in question were not excessive. Absent such evidence, CFS was to refund \$294,885 (\$244,835 + \$50,050) to the contributors and provide evidence of such refunds (photocopies of the front and back of the negotiated checks) for our review. If funds were not available to make the necessary refunds, amounts transferred from CFS to the Campbell Political Committee were to be returned to CFS to make the refunds. As noted above, CFS has not responded to the interim audit report.

**B. ITEMIZATION OF CONTRIBUTIONS TRANSFERRED FROM TOM CAMPBELL FOR CONGRESS**

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

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

As noted in Finding II.A., Tom Campbell for Congress transferred funds totaling \$902,418 to CFS during December 1999. The contributions included in these transfers were considered to be those most recently received by Tom Campbell for Congress. Pursuant to the Commission's Advisory Opinion 1982-1, these contributions should have been itemized as memo entries on Schedules A by CFS, however, CFS only itemized the transfers from Tom Campbell for Congress on its 1999 Year End Report. The CFS Treasurer was informed of this matter.

In the interim audit report, the Audit staff recommended that CFS file amended Schedules A to disclose as memo entries those contributions transferred from Tom Campbell for Congress. As noted above, CFS has not responded to the interim audit report.

**C. MISSTATEMENT OF FINANCIAL ACTIVITY**

Sections 434(b)(1) and (2) 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 each reporting period and the total amount of all receipts for each reporting period and calendar year.

The reconciliation of CFS's reported financial activity to its bank records indicated that receipts and ending cash on hand had been misstated for calendar year 1999.

CFS reported total receipts of \$1,424,699 and should have reported receipts of \$1,377,226, an overstatement of \$47,473. The misstatement resulted primarily from CFS erroneously reporting contributions totaling \$37,140 on its 1999 Year End report that had been deposited by Tom Campbell for Congress.<sup>6</sup> As a result of this reporting error, ending cash on hand on December 31, 1999, was also overstated.

At the exit conference, the CFS Treasurer was informed of the discrepancies noted above and provided a copy of relevant workpapers.

In the interim audit report, the Audit staff recommended that CFS file an amended 1999 Year End report to correct the misstatements identified above. The amendments were to include Summary and Detailed Summary Pages as well as Schedules A. It was also recommended that CFS amend its latest report to correct the cash misstatement. As noted above, CFS has not responded to the interim audit report.

#### **D. PERSONAL USE OF CAMPAIGN FUNDS**

Section 113.1(g) of Title 11 of the Code of Federal Regulations states, in part, that personal use means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. Examples of personal use include but are not limited to household food items or supplies and vehicle expenses not associated with the campaign, unless they are a *de minimus* amount.

The Audit staff identified three transactions totaling \$3,540 that were paid using the Treasurer's personal credit card. These transactions were included in a subsequent payment made by CFS directly to the credit card vendor on January 26, 2001. According to the credit card statement, the transactions were all made during December 2000 (after the 2000 General election) to an automobile dealership (\$1,830), an audio visual equipment merchant (\$1,402), and a major hardware retailer (\$308).

At the exit conference, the CFS Treasurer was provided a schedule that included the transactions noted above. The Treasurer stated that the transaction with the automobile dealership should not have been paid by CFS and that the amount would be repaid to CFS. He added that he would conduct further research to determine the nature of the other transactions. To date, no documentation has been provided to verify a repayment of the \$1,830 to CFS or to explain the nature of the other two transactions. Therefore, without further evidence, the Audit staff is of the opinion that both the timing and nature of the remaining two credit card transactions totaling \$1,710 (\$1,402 + \$308) were for personal use.

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<sup>6</sup> Of this amount, \$24,510 was reported by both committees and \$12,630 was reported only by CFS.

In the interim audit report, the Audit staff recommended that CFS provide evidence to establish the nature of the two transactions totaling \$1,710 and that \$1,830 be reimbursed to CFS. Absent such a demonstration, it was recommended that the Treasurer reimburse \$3,540 to CFS and provide evidence of the reimbursement (i.e., photocopies of the front and back of the negotiated reimbursement checks). As noted above, CFS has not responded to the interim audit report.





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 7, 2002

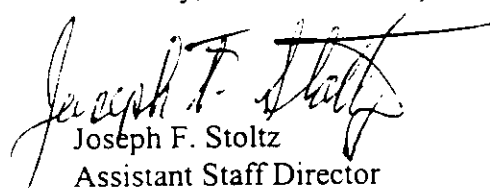
Mr. Charles Zahl, Treasurer  
Campbell for Senate  
6520 Ambrosia Lane, Apt. #1226  
Carlsbad, CA 92009

Dear Mr. Zahl:

Attached please find the Report of the Audit Division on Campbell for Senate (Final Audit Report). The Commission approved the report on November 6, 2002.

The Commission approved Final Audit Report will be placed on the public record on November 15, 2002. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Tom Hintermister or Marty Favin of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,



Joseph F. Stoltz  
Assistant Staff Director  
Audit Division

cc: The Honorable Tom Campbell

Attachment as stated





CHRONOLOGY  
CAMPBELL FOR SENATE

Audit Fieldwork	February 5, 2002 to July 11, 2002
Interim Audit Report to the Committee	August 23, 2002
Response Received to the Interim Audit Report	No Response Received
Final Audit Report Approved	November 6, 2002