



FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 14, 2004

MEMORANDUM

TO: PRESS OFFICE

FROM: JOSEPH F. STOLTZ 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE AUDIT REPORT ON
BATTLES FOR CONGRESS

Attached please find a copy of the audit report and related documents on Battles for Congress, which was approved by the Commission on January 6, 2004.

The report may be released to the public on January 14, 2004.

Attachment as stated

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



Report of the Audit Division on Battles for Congress

June 12, 2001 – December 31, 2002

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

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)

Battles for Congress (BFC) is the principal campaign committee for Michael J. Battles, Republican candidate for the U.S. House of Representatives from the state of Rhode Island, First District. BFC maintains its headquarters in East Providence, Rhode Island. For more information, see the chart on the Campaign Organization, p.2.

Financial Activity (p. 2)

- **Receipts**
 - Individuals \$ 210,405
 - Political Committees 9,600
 - Candidate Loan 5,000
 - Offsets to Expenditures 682
 - Other Receipts 781
 - **Total Receipts** \$ 226,468

- **Disbursements** \$ 221,289
 - **Total Disbursements**

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of Limitation (Finding 2)
- Itemizing Contributions from Individuals (Finding 3)
- Disclosure of Contributions from Individuals (Finding 4)
- Itemizing Disbursements (Finding 5)

¹ 2 U.S.C. §438(b).

Report of the Audit Division on Battles for Congress

June 12, 2001 – December 31, 2002



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Part I

Background

Authority for Audit

This report is based on an audit of Battles for Congress (BFC), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must 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. 2 U.S.C. §438(b).

Scope of Audit

Following Commission approved procedures, the Audit staff evaluated various factors and as a result, this audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The disclosure of contributions received.
4. The disclosure of disbursements, debts and obligations.
5. The consistency between reported figures and bank records.
6. The completeness of records.
7. Other committee operations necessary to the review.

Changes to the Law

On March 27, 2002, President Bush signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA). The BCRA contains many substantial and technical changes to the federal campaign finance law. Most of the changes became effective November 6, 2002. Except for November 7, 2002 through December 31, 2002, the period covered by this audit pre-dates these changes. Therefore, the statutory and regulatory requirements cited in this report are those that were in effect prior to November 7, 2002.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Battles for Congress
• Date of Registration	June 26, 2001
• Audit Coverage	June 12, 2001 – December 31, 2002
Headquarters	East Providence, Rhode Island
Bank Information	
• Bank Depositories	1
• Bank Accounts	1 Checking Account
Treasurer	
• Treasurer When Audit Was Conducted	Gil Baird
• Treasurer During Period Covered by Audit	Marianne Bradford (until April 16, 2002) Gil Baird (from April 16, 2002)
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	No
• Who Handled Accounting and Recordkeeping Tasks	Volunteer Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ June 12, 2001	\$ 0
○ From Individuals	210,405
○ From Political Committees	9,600
○ Candidate Loan	5,000
○ Offsets to Expenditures	682
○ Other Receipts	781
Total Receipts	\$ 226,468
○ Operating Expenditures	221,289
Total Disbursements	\$ 221,289
Cash on hand @ December 31, 2002	\$ 5,179

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

BFC had misstatements of reported activity in 2001 and 2002. In 2001, receipts were understated and in 2002, misstated activity included receipts, disbursements, and the ending cash balance. Included in the misstatements for 2002 was activity between October 1, 2002 and December 31, 2002 for which no report had been filed by BFC. In response to the interim audit report, BFC amended its reports to correct the misstatements.

(For more detail, see p. 4)

Finding 2. Receipt of Contributions that Exceed Limits

BFC received contributions from 20 individuals which exceeded the contribution limitation for the Primary election by \$12,775. In response to the interim report, BFC stated that funds were not available to make refunds and disclosed the amounts due to these individuals on Schedule D.

(For more detail, see p. 6)

Finding 3. Itemizing Contributions from Individuals

The Audit staff identified 41 contributions from individuals totaling \$13,256 that BFC failed to itemize on Schedules A (Itemized Receipts) of its disclosure reports. In response to the interim audit report, BFC amended its reports to itemize these contributions.

(For more detail, see p. 7)

Finding 4. Disclosure of Contributions from Individuals

BFC failed to properly disclose 47 contributions from individuals totaling \$24,500. The majority of the errors resulted from reporting incorrect election cycle-to-date totals. In addition, BFC itemized 59 contributions from individuals with missing or inaccurate occupation or name of employer information. For some of these contributions, BFC had a record of the required disclosure information but failed to amend its reports. In response to the interim audit report, BFC amended its reports to correct these contributions.

(For more detail, see p. 8)

Finding 5. Itemizing Disbursements

The Audit staff identified 44 disbursements totaling \$24,192 that BFC failed to itemize on Schedules B (Itemized Disbursements) of its disclosure reports. Of these items, 23 disbursements were required to be itemized on the 2002 April Quarterly report and 14 disbursements were required to be itemized on the 2002 Year End report which had not been filed. In response to the interim audit report, BFC amended its reports to itemize these disbursements.

(For more detail, see p. 10)

Part IV

Findings and Recommendations

For each of the following findings, the Audit staff provided appropriate schedules of identified discrepancies to BFC prior to the conference held at the end of fieldwork. Any relevant statements made by BFC at the conference are incorporated into the following findings.

Finding 1. Misstatement of Financial Activity

Summary

BFC had misstatements of reported activity in 2001 and 2002. In 2001, receipts were understated and in 2002, misstated activity included receipts, disbursements, and the ending cash balance. Included in the misstatements for 2002 was activity between October 1, 2002 and December 31, 2002 for which no report had been filed by BFC². In response to the interim audit report, BFC amended its reports to correct the misstatements.

Legal Standard

A. 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.
- 2 U.S.C. §434(b)(1), (2) and (4).

B. Report Filing. In an election year, the treasurer of the principal campaign committee of a candidate for the House of Representatives is required to file reports which include a quarterly report for the period ending December 31 and due no later than January 31 of the following calendar year. 2 U.S.C. §434(a)(2).

Facts and Analysis

The Audit staff reconciled reported financial activity to the bank records and determined that BFC understated 2001 receipts by the net amount of \$735. BFC reported \$104,005 in receipts but should have reported \$104,740. The net understatement of receipts resulted from the following:

• Unreported Contributions from Individuals	+ \$ 7,300
• Duplicate Reported Internet Receipts	- 4,000
• Over-reported Candidate Contribution	- 1,000
• Math Error	+ 450
• Unexplained Differences	- 2,015
Net Understatement of 2001 Receipts	\$ 735

² In March 2003, BFC paid a civil penalty (AF #767) for the late filing of its 2002 October Quarterly covering activity through September 30, 2002. BFC also received FEC non-filing notifications for all subsequent reporting periods through the 2003 October Quarterly. Apparently, BFC experienced technical difficulties with the electronic filing of these reports. The filing matters have been resolved and all reports have been filed to date.

2002 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance	\$50,944	\$51,603	\$659 Understated
Receipts	\$116,421	\$121,729	\$5,308 Understated
Disbursements	\$143,422	\$168,152	\$24,730 Understated
Ending Cash Balance	\$23,943	\$5,180	\$18,763 Overstated

In 2002, BFC misstated receipts and disbursements by the amounts of \$5,308 and \$24,730, respectively. The misstatement is due, in part, to the failure to file a report for the period October 1, 2002 to December 31, 2002. The financial activity for that period is included in the following explanation of 2002 misstatements.

Receipts:

• Receipts Not Reported (1/01/02 – 9/30/02)	+ \$ 3,094
• Year End Receipts Not Reported (10/01/02 – 12/31/02)	+ 1,070
• Unexplained Differences	+ 1,144
• Understatement of 2002 Receipts	<u>\$ 5,308</u>

Disbursements:

• Disbursements Not Reported (1/01/02 – 9/30/02)	+ \$ 18,359
• Year End Disbursements Not Reported (10/01/02 – 12/31/02)	+ 5,478
• Wrong Amounts Reported on Schedule B	+ 148
• Unexplained Differences	+ 745
• Understatement of 2002 Disbursements	<u>\$ 24,730</u>

Closing Cash on Hand:

Due to the misstatement of activity described above, BFC misstated the cash balance throughout the Year 2002. As of September 30, 2002 (the latest date of reported activity filed by the BFC), the closing cash on hand balance of \$7,800 was overstated by \$16,143.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, BFC filed amended and initial reports for each reporting period in 2001 and 2002 to correct these misstatements, and also filed all reports for the Year 2003.

Finding 2. Receipt of Contributions that Exceed Limits

Summary

BFC received contributions from 20 individuals which exceeded the contribution limitation for the Primary election by \$12,775. In response to the interim report, BFC stated that funds were not available to make refunds and disclosed the amounts due to these individuals on Schedule D.

Legal Standard

A. Authorized Committee Limits. An authorized committee may not receive more than a total of \$1,000 per election from any one contributor. A candidate who loses the primary (or otherwise does not participate in the general election) does not have a separate limit for the general election. If the candidate accepts contributions for the general election before the primary is held and loses the primary, then general election contributions must be redesignated or the contributions must be refunded within 60 days of the primary. 2 U.S.C. §§441a(a)(1)(A) and (f); 11 CFR §§110.1(a) and (b) and 110.9(a).

B. Handling Contributions That Appear Excessive. If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
 - o Keep enough money in the account to cover all potential refunds;
 - o Keep a written record explaining why the contribution may be illegal;
 - o Include this explanation on schedule A if the contribution has to be itemized before its legality is established;
 - o Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in FEC regulations (see below for explanations of reattribution and redesignation); and
 - o If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

C. Revised Regulations Applied. The Commission recently adopted new regulations that allow committees greater latitude to reattribute contributions to joint account holders and has decided to apply these regulations to current matters. The Audit staff has evaluated the excessive contributions discussed below using the new regulations.

Facts and Analysis

A review of contributions identified 13 individuals that exceeded the limitation for the primary election by \$8,350. Ten of the individuals contributed more than the limitation using a check with a single account holder (one name imprinted on the check). For these individuals, BFC could not presumptively reattribute portions of the contributions to another individual.³ Two of the 13 individuals gave \$2,000 each using their joint bank

³ Since the candidate lost in the Primary election, BFC could not redesignate contributions to the General election.

account. Since each spouse had already contributed the maximum amount to the primary election, no presumptive reattribution could be applied to the excessive amounts. The remaining individual gave an in-kind contribution in the amount of \$1,900. The excessive portion of this contribution also could not be reattributed to another individual.

In addition, since the candidate was not involved in the general election, BFC was required to reattribute, redesignate, or refund those contributions designated to the general election. The Audit staff identified another seven contributors who had given contributions totaling \$4,425 which BFC disclosed as designated to the general election. These seven individuals had contributed the maximum \$1,000 to the primary election.

At the exit conference, the candidate stated that the contributors who had given to the general election were contacted by BFC and asked to redesignate their contribution to a future campaign. No evidence has been provided to support this statement or to show what future campaign was anticipated.

BFC did not establish a separate account for questionable contributions and did not maintain a sufficient balance during the campaign to refund these contributions for the periods of June 5 through July 19, 2002, and August 2 through August 30, 2002. Currently, the campaign account balance is not sufficient to make all necessary refunds.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, BFC stated that funds were not available to make contribution refunds. Therefore, BFC disclosed the refund amounts due to these individuals as debts on its 2003 July 15th Quarterly Report.

Finding 3. Itemizing Contributions from Individuals

Summary

The Audit staff identified 41 contributions from individuals totaling \$13,256 that BFC failed to itemize on Schedules A (Itemized Receipts) of its disclosure reports. In response to the interim audit report, BFC amended its reports to itemize these contributions.

Legal Standard

A. When to Itemize. Authorized candidate committees must itemize any contribution from an individual if it exceeds \$200 per election cycle either by itself or when aggregated with other contributions from the same contributor; 2 U.S.C. §434(b)(3)(A).

B. Election Cycle. The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. 11 CFR §100.3(b).

C. Definition of Itemization. Itemization of contributions received means that the recipient committee discloses, on a separate schedule, the following information:

- The amount of the contribution;

- The date of receipt (the date the committee received the contribution);
- The full name and address of the contributor;
- In the case of contributions from individual contributors, the contributor's occupation and the name of his or her employer; and
- The election cycle-to-date total of all contributions from the same contributor. 11 CFR §§100.12 and 104.3(a)(4) and 2 U.S.C. §434(b)(3)(A) and (B).

Facts and Analysis

The Audit staff reviewed all contributions from individuals requiring itemization on Schedules A. This review resulted in the identification of 41 contributions totaling \$13,256 that were not itemized. Twenty-four of these contributions were not itemized because the BFC aggregated contributions from the same individual by calendar year instead of by election cycle.

Interim Audit Report Recommendation and Committee Response

In response to the recommendation in the interim audit report, BFC amended its Schedules A to itemize these contributions.

Finding 4. Disclosure of Contributions from Individuals

Summary

BFC failed to properly disclose 47 contributions from individuals totaling \$24,500. The majority of the errors resulted from reporting incorrect election cycle-to-date totals.

In addition, BFC itemized 59 contributions from individuals with missing or inaccurate occupation or name of employer information. For some of the identified contributions, BFC had a record of the required disclosure information but failed to amend its reports. In response to the interim audit report, BFC amended its reports to correct these contributions.

Legal Standard

A. Itemization Required for Contributions from Individuals. Authorized candidate committees must itemize any contribution from an individual if it exceeds \$200 within the election cycle, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. Election Cycle. The election cycle begins on the first day following the date of the previous general election and ends on the date of the next general election. 11 CFR §100.3(b).

C. Required Information for Contributions from Individuals

For each itemized contribution from an individual, the authorized candidate 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 election cycle-to-date in 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).

D. 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).

E. Definition of Best Efforts

The treasurer and the committee will be considered to have used "best efforts" 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).

Facts and Analysis

A review of all itemized contributions from individuals determined that BFC failed to properly disclose 47 contributions totaling \$24,500. A majority of these reporting errors resulted from incorrect election cycle-to-date totals. As previously noted, BFC often did not properly aggregate contributions from the same individual received within the election cycle but rather aggregated contributions on a calendar year basis. Other errors included the inaccurate reporting of the contributors name and address or the contribution amount.

The Audit staff reviewed Schedules A and identified 59 contributions with missing or inaccurate occupation or name of employer information. For approximately 30% of the individuals, BFC maintained a record of the required information on the contributor database but it was not included on Schedules A. Also, BFC disclosed "Information Requested" on Schedules A for approximately 15% of the identified contributions.

At the exit conference, BFC was provided a schedule of the items identified above. In response, the candidate stated that a follow-up letter was sent to those contributors for which the committee did not have the required disclosure information. Subsequently, he provided a copy of the "caging" procedures used by the campaign which includes an instruction to generate and send a request letter to those contributors for which all information had not been obtained. However, BFC did not provide copies of any follow-up letters to contributors nor any record of those contributors that had actually been sent

these letters. Without further evidence, BFC has not established that best efforts were used to obtain the missing disclosure information.

Interim Audit Report Recommendation and Committee Response

In response to the interim audit report, BFC amended its Schedules A to correct the disclosure information.

Finding 5. Itemizing Disbursements

Summary

The Audit staff identified 44 disbursements totaling \$24,192 that BFC failed to itemize as required on Schedules B (Itemized Disbursements) of its disclosure reports. Of these items, 23 disbursements were required to be itemized on the 2002 April Quarterly report and 14 disbursements were required to be itemized on the 2002 Year End report which had not been filed. In response to the interim audit report, BFC amended its reports to itemize these disbursements.

Legal Standard

Reporting Operating Expenditures. When operating expenditures to the same person exceed \$200 within in election cycle, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose of such operating expenditures. 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(4)(i)(A).

Facts and Analysis

The Audit staff reviewed all disbursements by BFC requiring itemization on Schedules B. This review resulted in the identification of 44 disbursements totaling \$24,192 that were not itemized. Approximately 50% of these disbursements that were not itemized were made during the 2002 April Quarterly report period and 31% were made during the period from October 1, 2002 to December 31, 2002 for which no disclosure report was filed by BFC.

Interim Audit Report Recommendation

In response to the recommendation in the interim audit report, BFC amended its Schedules B to itemize these disbursements.