



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 7, 2003

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

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

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

Attached please find a copy of the audit report on Wynn for Congress, which was approved by the Commission on October 28, 2003.

The report may be released to the public on November 7, 2003.

Attachment as stated

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



Report of the Audit Division on Wynn for Congress

January 1, 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)

Wynn for Congress is the principal campaign committee of Albert R. Wynn, Democratic candidate for the U.S. House of Representatives from the state of Maryland, 4th Congressional District and is headquartered in Capitol Heights, Maryland. For more information, see chart on the Campaign Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - From Individuals \$ 203,915
 - From Political Party Committees 5,440
 - From Other Political Committees 407,648
 - Other Receipts 21,709
 - **Total Receipts** \$ **638,712**
- **Disbursements**
 - Operating Expenditures & Other Disbursements \$ 681,658
 - **Total Disbursements** \$ **681,658**

Finding and Recommendation (p. 3)

- Disclosure of Contributor Information

¹ 2 U.S.C. §438(b).

**Report of the
Audit Division on
Wynn for Congress**

January 1, 2001 – December 31, 2002



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Part I

Background

Authority for Audit

This report is based on an audit of Wynn for Congress (WFC), 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 risk 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 consistency between reported figures and bank records.
5. The completeness of records.
6. 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 primarily those that were in effect prior to November 7, 2002.

Part II

Overview of Campaign

Campaign Organization

Important Dates	Wynn for Congress
• Date of Registration	August 5, 1991
• Audit Coverage	January 1, 2001 - December 31, 2002
Headquarters	Capitol Heights, Md
Bank Information	
• Bank Depositories	3
• Bank Accounts	3
Treasurer	
• Treasurer When Audit Was Conducted	Gregory Holloway
• Treasurer During Period Covered by Audit	Gregory Holloway
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Consultants

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2001	\$ 293,228
○ From Individuals	203,915
○ From Political Party Committees	5,440
○ From Other Political Committees	407,648
○ Other Receipts	21,709
Total Receipts	\$638,712
○ Operating Expenditures & Other Disbursements	681,658
Total Disbursements	\$681,658
Cash on hand @ December 31, 2002	\$250,282

Part III

Summary

Finding and Recommendation

Disclosure of Contributor Information

Contributions from individuals were reviewed on a sample basis. The review indicated that WFC failed to disclose the contributor's occupation and/or name of employer for 51% of the contributions tested. There was no documentation to indicate that WFC used best efforts to obtain this information. The Audit staff recommended that WFC contact the contributors, submit evidence of such contact and file amended reports disclosing the information obtained. In response WFC provided evidence that it made attempts to contact contributors, but the amended reports filed failed to disclose all of the information obtained. (For more detail, see p. 4)

Part IV

Finding and Recommendation

Disclosure of Contributor Information

Summary

Contributions from individuals were reviewed on a sample basis. The review indicated that WFC failed to disclose the contributor's occupation and/or name of employer for 51% of the contributions tested. There was no documentation to indicate that WFC used best efforts to obtain this information. The Audit staff recommended that WFC contact the contributors, submit evidence of such contact and file amended reports disclosing the information obtained. In response WFC provided evidence that it made attempts to contact contributors, but the amended reports filed failed to disclose all of the information obtained.

Legal Standard

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 election-to-date (or election cycle-to-date in the case of authorized candidate committees) 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).

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).

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).

Preserving Documents. Committees must preserve these records for 3 years after a report is filed. 2 U.S.C. §432(d).

Facts and Analysis

Contributions from individuals were reviewed on a sample basis. The review indicated that WFC failed to disclose the contributor's occupation and/or name of employer for 51% of contributions tested. WFC conducted several fundraisers but few response devices from contributors were evident. One response device observed by Audit staff requested all the required information, except the contributor's occupation.

WFC's made available a draft (unaddressed) form letter that requested the contributor's occupation and/or name of employer. However, WFC did not provide evidence that any letters were generated or sent to the contributors. In addition, several contributor check copies had a contact information sheet attached, but there was no information recorded on these sheets that indicated whether the contributor had been contacted. Finally, in some instances, WFC had maintained the contributor information in its electronic files, but such information was not disclosed on its reports. As a result, WFC has not demonstrated best efforts to obtain, maintain and submit the required contributor information.

This matter and a detailed explanation of best efforts requirements were discussed at the exit conference. The WFC representative had general questions regarding the solicitation cards and asked whether they should be kept. The Audit staff referred to regulations at 11 CFR §102.9(c) which requires the treasurer to keep records for three years.

Interim Audit Report Recommendation

The Audit staff recommended that WFC:

- Provide documentation such as the initial solicitation devices, phone logs, returned contributor letters, completed contributor contact information sheets or other materials which demonstrate that best efforts were used to obtain, maintain, and submit the required disclosure information; or
- Absent such a demonstration, make an effort to contact those individuals for which required information is missing or incomplete; and
- Provide documentation of such contacts, such as copies of letters to the contributors and/or phone logs; and
- File complete amended electronic reports to disclose any information obtained from those contacts.

Committee Response to Recommendation and Audit Staff's Assessment

In response to the recommendation, WFC outlined its efforts to obtain, maintain and submit missing contributor information. According to its representative, a listing was generated, consisting of 130 contributors, whose occupation and/or name of employer was missing from their database; letters were sent to each contributor requesting such information; copies of these

letters were provided in the response; and WFC received 13 contributor responses to date. Finally, WFC filed amended reports. However, contributor information received by 6 individuals (2 sample and 4 non-sample items) was not disclosed in the amended reports. Therefore, it is the opinion of the staff that WFC has not fully complied with the recommendation with regard to amending its reports to disclose contributor information obtained.