



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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September 23, 2010

**MEMORANDUM**

**To:** The Commission

**Through:** Alec Palmer  
Acting Staff Director *AP*

**From:** Patricia Carmona *PC*  
Chief Compliance Officer

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

Martin L. Favin *MLF*  
Audit Manager

**By:** Philomena E. Brooks *PEB*  
Lead Auditor

**Subject:** Audit Division Recommendation Memorandum on Harry Teague for Congress (A09-01)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit Division recommends the Commission approve the finding as presented in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendation. The committee declined our offer for a hearing and did not provide a written response to the DFAR.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

Should an objection be received, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit can be viewed on Voting Ballot Matters. Should you have any questions, please contact Philomena Brooks or Marty Favin at 694-1200.

Attachment: Draft Final Audit Report of the Audit Division on Harry Teague for Congress

cc: Office of General Counsel



# Draft Final Audit Report of the Audit Division on Harry Teague for Congress

October 24, 2007 – December 31, 2008

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## 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.<sup>1</sup> 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 Campaign (p. 2)

Harry Teague for Congress is the principal campaign committee for Harry Teague, Democratic candidate for the U.S. House of Representatives from the state of New Mexico, 2<sup>nd</sup> District, and is headquartered in Hobbs, New Mexico. For more information, see the chart on the Campaign Organization, p. 2.

## Financial Activity (p. 2)

- **Receipts**
  - Contributions from Individuals \$ 1,349,867
  - Loans from Candidate 1,764,573
  - Contributions from Other Political Committees 365,337
  - Other Receipts 56
  - **Total Receipts** \$3,479,833
  
- **Disbursements**
  - Operating Expenditures \$ 3,415,047
  - Loan Repayments 50,000
  - Contribution Refunds 2,250
  - **Total Disbursements** \$ 3,467,297

## Finding and Recommendation (p. 3)

- Misstatement of Financial Activity

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<sup>1</sup> 2 U.S.C. §438(b).

# **Draft Final Audit Report of the Audit Division on Harry Teague for Congress**

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October 24, 2007 – December 31, 2008



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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of Harry Teague for Congress (HTFC), 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, the scope of this audit was limited to the following:

1. The receipt and permissibility of loans.
2. The consistency between reported figures and bank records.
3. The disclosure of individual contributors' occupation and name of employer.

## Part II

### Overview of Campaign Campaign Organization

<b>Important Dates</b>	<b>Harry Teague for Congress</b>
• Date of Registration	November 5, 2007
• Audit Coverage	October 24, 2007 – December 31, 2008
<b>Headquarters</b>	Hobbs, New Mexico
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	One checking account
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Teresa Arsiaga
• Treasurer During Period Covered by Audit	Carl Baldwin
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	No
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ October 24, 2007</b>	<b>\$ 0</b>
<b>Receipts</b>	
○ Contributions from Individuals	\$1,349,867
○ Loans from Candidate	1,764,573
○ Contributions from Other Political Committees	365,337
○ Other Receipts	56
<b>Total Receipts</b>	<b>\$3,479,833</b>
<b>Disbursements</b>	
○ Operating Expenditures	\$3,415,047
○ Loan Repayments	50,000
○ Contribution Refunds	2,250
<b>Total Disbursements</b>	<b>\$3,467,297</b>
<b>Cash on hand @ December 31, 2008</b>	<b>\$ 12,536</b>

## **Part III Summary**

### **Finding and Recommendation**

#### **Misstatement of Financial Activity**

A comparison of HTFC's reported financial activity to its bank records revealed that for calendar year 2008, HTFC understated disbursements by \$58,472 and overstated its ending cash on hand by \$91,555. It appears that the misstatement was due to the misreporting of disbursements and an incorrect cash balance on the 2008 Pre-General report which was carried forward onto subsequent reports. HTFC filed amended reports during audit fieldwork that materially corrected these misstatements.

The Audit staff recommended that HTFC provide any additional comments it had on this matter. In response to the interim audit report, HTFC counsel states that with the exception of a technical correction, HTFC does not object to the report. Counsel points out that although a loan repayment to the Candidate was originally reported as a memo entry, resulting in an incorrect cash on hand figure, the transaction was fully disclosed to both the Commission and the public. (For more detail, see p. 4)

## Part IV

# Finding and Recommendation

### Misstatement of Financial Activity

#### Summary

A comparison of HTFC's reported financial activity to its bank records revealed that for calendar year 2008, HTFC understated disbursements by \$58,472 and overstated its ending cash on hand by \$91,555. It appears that the misstatement was due to the misreporting of disbursements and an incorrect cash balance on the 2008 Pre-General report which was carried forward onto subsequent reports. HTFC filed amended reports during audit fieldwork that materially corrected these misstatements.

The Audit staff recommended that HTFC provide any additional comments it had on this matter. In response to the interim audit report, HTFC counsel states that with the exception of a technical correction, HTFC does not object to the report. Counsel points out that although a loan repayment to the Candidate was originally reported as a memo entry, resulting in an incorrect cash on hand figure, the transaction was fully disclosed to both the Commission and the public.

#### Legal Standard

**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;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b) (1),(2),(3),(4) and (5).

**Reporting In-Kind Contributions.** A gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution. The term "anything of value" includes all in-kind contributions. Each in-kind contribution shall be reported as both a contribution and expenditure in accordance with 11 CFR 104.3. 11 CFR §§100.52 and 104.13.

#### Facts and Analysis

The Audit staff reconciled HTFC's reported financial activity to the bank records for calendar years 2007 and 2008. The reconciliations were based on the latest amended reports filed prior to notification of the audit. The chart on the next page outlines the discrepancies for receipts, disbursements and ending cash balance for calendar year 2008.



<b>2008 Activity</b>			
	<b>Reported<sup>2</sup></b>	<b>Bank Records</b>	<b>Discrepancy</b>
Opening Cash Balance @ January 1, 2008	\$362,386	\$362,386	\$0
Receipts	\$3,071,899	\$3,071,274	(\$625) Overstated
Disbursements	\$3,362,651	\$3,421,123	\$58,472 Understated
Ending Cash Balance @ December 31, 2008	\$104,092	\$12,537	(\$91,555) Overstated

The understatement of disbursements resulted from the following:

• Incorrectly reported loan repayment to Candidate	\$50,000
• In-kind contributions from Candidate, not reported as disbursements	\$ 9,573
• Disbursement checks reported and subsequently voided with no adjustment made to reports	(\$ 1,045)
• Unexplained difference	(\$ 56)
<b>Net understatement of disbursements</b>	<b><u>\$ 58,472</u></b>

The \$91,555 overstatement of ending cash resulted primarily from the misstatement of disbursements noted above and a \$32,458 overstatement of the ending cash balance on the 2008 Pre-General report that was carried forward onto subsequent reports.

This matter was discussed with HTFC representatives at an exit conference held at the close of audit fieldwork. In a written response to the exit conference, HTFC counsel noted that this was the Candidate's first run for office and that "[t]he Committee lacked access to an experienced practitioner to prepare the reports. Many of the initial errors made in the reports were due to the complexities of reporting transactions related to loans made to the campaign."

HTFC counsel commented that the cash on hand balance problem on the 2008 Pre-General report resulted from some timing issues relative to amendments filed in 2009. He added that there was some confusion in communications between the Reports Analysis Division staff and HTFC staff relative to the reporting of a \$50,000 loan repayment to the Candidate which resulted in the transaction being improperly disclosed as a memo entry.

Regarding the disclosure of in-kind contributions from the Candidate, HTFC representatives provided additional documentation regarding loans made by the Candidate in the form of three credit card payments personally made by the Candidate on behalf of HTFC, totaling \$9,573. On the original reports, these three payments were

<sup>2</sup> This column does not total correctly due to HTFC overstating the ending cash on hand balance on its 2008 Pre-General report by \$32,458 and carrying forward the erroneous balance to subsequent reports.

disclosed as loans received from the Candidate. Eventually, these loans were forgiven resulting in these items becoming in-kind contributions from the Candidate. Prior to audit fieldwork, HTFC filed amended reports disclosing the disbursement-side of these in-kind contributions as memo entries. The Audit staff notes that it was necessary for equal amounts to be disclosed for both receipts and disbursements for these in-kind contributions and that doing so would also result in a correct cash on hand.

During audit fieldwork, HTFC filed amended disclosure reports that materially corrected the misstatements noted above. These amendments also corrected reported cash on hand.

#### **Interim Audit Report Recommendation and Committee Response**

In the interim audit report, the Audit staff recommended that HTFC provide any additional comments it had on this matter. In its response, HTFC counsel reiterated that Congressman Teague had been a first time candidate during the 2008 election cycle and HTFC did not have anyone with prior experience in submitting reports to the Commission. He added that this resulted in the sole finding in the report and that steps have been taken to revise and address HTFC's compliance procedures.

HTFC counsel stated that with the exception of a technical correction, HTFC did not object to the interim audit report. Counsel added that although the loan repayment to the Candidate was originally reported as a memo entry, resulting in an incorrect cash on hand figure, the transaction was fully disclosed to both the Commission and the public. The Audit staff agrees that the loan repayment was disclosed, albeit as a memo entry, and that the amendments filed during audit fieldwork materially corrected the misstatements noted above.