




FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 10, 2009

MEMORANDUM

To: Judith Ingram  
Press Officer

From: Joseph F. Stoltz   
Assistant Staff Director  
Audit Division

Subject: Public Issuance of the Audit Report on Ciro D. Rodriquez for Congress

Attached please find a copy of the audit report on Ciro D. Rodriquez for Congress, which was approved by the Commission on June 24, 2009.

All parties involved have received informational copies of the report and the report may be released to the public July 10, 2009.

Attachment as stated

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



# Report of the Audit Division on Ciro D. Rodriguez for Congress

January 1, 2005 – December 31, 2006

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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)

Ciro D. Rodriguez for Congress (CRFC) is the principal campaign committee for Ciro D. Rodriguez, Democratic candidate for the U.S. House of Representatives from the state of Texas, 23<sup>rd</sup> District and is headquartered in San Antonio, Texas. For more information, see the Campaign Organization Chart, p. 2.

## Financial Activity (p. 2)

- **Receipts**
  - Contributions from Individuals \$ 858,616
  - Contributions from Political Committees 700,144
  - Loans by the Candidate 35,585
  - Other Receipts 35,536
  - **Total Receipts** \$ 1,629,881
- **Disbursements**
  - Operating Expenditures \$ 1,410,590
  - Loan Repayments 35,585
  - Other Disbursements 5,200
  - **Total Disbursements** \$ 1,451,375

## Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Failure to file 48-Hour Notices (Finding 2)
- Impermissible Contributions (Finding 3)
- Impermissible Receipt and Use of Funds (Finding 4)

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<sup>1</sup> 2 U.S.C. §438(b).

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# **Part I**

## **Background**

### **Authority for Audit**

This report is based on an audit of the *Ciro D. Rodriguez for Congress (CRFC)*, 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**

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.

## Part II

### Overview of Campaign

#### Campaign Organization

<b>Important Dates</b>	<b>Ciro D. Rodriguez for Congress</b>
• Date of Registration	February 5, 1997
• Audit Coverage	January 1, 2005 – December 31, 2006
<b>Headquarters</b>	San Antonio, Texas
<b>Bank Information</b>	
• Bank Depositories	One
• Bank Accounts	Three checking & One investment account
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	Luis Vera
• Treasurer During Period Covered by Audit	Juan Jose Amaro (1/1/05 to 10/23/06) Luis Vera (10/24/06 to Present)
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes (Subsequent to the audit period)
• 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 @ January 1, 2005</b>	<b>\$ 3,285</b>
○ Contributions from Individuals	858,616
○ Contributions from Political Committees	700,144
○ Loans by the Candidate	35,585
○ Other Receipts	35,536
<b>Total Receipts</b>	<b>\$1,629,881</b>
○ Operating Expenditures	1,410,590
○ Loan Repayment	35,585
○ Other Disbursements	5,200
<b>Total Disbursements</b>	<b>\$ 1,451,375</b>
<b>Cash on hand @ December 31, 2006</b>	<b>\$ 181,791</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

##### **Finding 1. Misstatement of Financial Activity**

A comparison of CRFC's reported activity to bank records revealed that CRFC understated receipts by \$43,317 in 2005 and overstated receipts by \$56,824 in 2006. Disbursements were also overstated by the net amount of \$13,170 in 2006. Beginning cash on hand for 2005 was overstated by \$7,840 and ending cash on hand for 2006 was overstated by \$9,141. A comparison of CRFC's original reports to bank records for 2006 also revealed that disbursements were understated by \$382,827. The Audit staff recommended that CRFC amend its reports to correct the misstatements for 2005 and 2006 and also provide any additional information or comments that it considers relevant to its underreporting of disbursements on its original reports in 2006. In response to the interim audit report, CRFC filed amended reports to materially correct the misstatements in 2005 and 2006. Counsel for CRFC stated that problems with reporting software may have created the understatement of disbursements on their original reports. (For more detail, see p. 5)

##### **Finding 2. Failure to File 48-Hour Notices**

CRFC failed to file 48-hour notices for 49 contributions totaling \$75,200. Most of the notices not filed were for contributions made prior to the run-off election. The Audit staff recommended that CRFC provide evidence that the 48-hour notices were timely filed or provide any comments that it believes relevant. In response to the interim audit report, counsel for CRFC stated that CRFC had received an unusually high volume of contributions prior to the run-off election which they were not accustomed to handling. (For more detail, see p. 7)

##### **Finding 3. Impermissible Contributions**

The Audit staff identified contributions totaling \$89,150 that CRFC redesignated to the 2006 primary election. These contributions were received in 2004 and originally designated to the 2004 general election. After a contested 2004 primary election, the Candidate did not win his Party's nomination and therefore did not participate in the 2004 general election. Any contribution received for that election should have been refunded to the contributors or redesignated to another election within sixty days. CRFC did not refund or provide documentation of redesignations for any of these contributions prior to the interim audit report. In the interim audit report, the Audit staff recommended that CRFC refund the contributions or disgorge the money to the U.S. Treasury. In response to the interim audit report, counsel for CRFC stated that CRFC was unable to identify redesignation letters sent or obtained for the 2004 election cycle. As a result, CRFC issued contribution refunds totaling \$89,150 to those contributors identified by the Audit staff. Of these contribution refunds, \$75,400 has cleared CRFC's account. Any contribution refunds that CRFC fails to provide evidence as being negotiated are considered unresolved and the sum of such amounts should be disgorged to the U.S. Treasury. (For more detail, see p. 8)

**Finding 4. Impermissible Receipt and Use of Funds**

The Audit staff identified \$6,460 that was impermissibly transferred from the Candidate's Legal Expense Trust Account on April 19, 2006. This account was established for expenses related to a recount of the votes cast in the 2004 primary election for the 28th district in Texas. The transfer was reported by CRFC as part of a loan from the Candidate which was subsequently repaid on December 5, 2006. The Audit staff recommended that CRFC seek reimbursement of the \$6,460 from the Candidate and then either make refunds to the funds donors or disgorge the funds to the U.S. Treasury, or dispose of the funds in a manner not related to Federal elections. Evidence was also to be provided to demonstrate the Candidate did not convert the \$6,460 from CRFC to personal use and that the Candidate's use of the funds was permitted under the Act. In response to the interim audit report, CRFC received reimbursement of \$6,460 from the Candidate and subsequently made a payment to the U.S. Treasury for the same amount. The Commission did not adopt the conclusion of the Audit staff regarding the personal use of campaign funds by the Candidate.

(For more detail, see p. 10)

## Part IV

# Findings and Recommendations

### Finding 1. Misstatement of Financial Activity

#### Summary

A comparison of CRFC's reported activity to bank records revealed that CRFC understated receipts by \$43,317 in 2005 and overstated receipts by \$56,824 in 2006. Disbursements were also overstated by the net amount of \$13,170 in 2006. Beginning cash on hand for 2005 was overstated by \$7,840 and ending cash on hand for 2006 was overstated by \$9,141. A comparison of CRFC's original reports to bank records for 2006 also revealed that disbursements were understated by \$382,827. The Audit staff recommended that CRFC amend its reports to correct the misstatements for 2005 and 2006 and also provide any additional information or comments that it considers relevant to its underreporting of disbursements on its original reports in 2006. In response to the interim audit report, CRFC filed amended reports to materially correct the misstatements in 2005 and 2006. Counsel for CRFC stated that problems with reporting software may have created the understatement of disbursements on their original reports.

#### 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 calendar year; and
- The total amount of disbursements for the reporting period and for the calendar year;
- 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).

#### Facts and Analysis

The Audit staff reconciled CRFC's reported financial activity to its bank records for 2005 and 2006. This reconciliation was based on the latest amended reports filed prior to notification of the audit. The audit disclosed that CRFC materially misstated receipts in both years and disbursements in 2006. The following charts outline the discrepancies for each year and provide explanations for the materially misstated activity.

2005 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance @ January 1, 2005	\$11,125	\$3,285	\$7,840 Overstated
Receipts	\$192,382	\$235,699	\$43,317 Understated
Disbursements	\$160,436	\$161,400	\$964 Understated
Ending Cash Balance @ December 31, 2005	\$43,071	\$77,584	\$34,513 Understated



The net understatement of receipts was the result of the following:

• Contributions from individuals not reported	+	\$23,741
• Contributions from political committees not reported	+	20,550
• Contribution reported with incorrect amount	-	1,000
• Unexplained difference	+	26
• <b>Net Understatement of Receipts</b>		<b>\$43,317</b>

<b>2006 Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Opening Cash Balance @ January 1, 2006	\$43,071	\$77,584	\$34,513 Understated
Receipts	\$1,451,006	\$1,394,182	\$56,824 Overstated
Disbursements	\$1,303,145	\$1,289,975	\$13,170 Overstated
Ending Cash Balance @ December 31, 2006	\$190,932	\$181,791	\$9,141 Overstated

The net overstatement of receipts was the result of the following:

• Disbursement incorrectly reported as a receipt	-	\$41,500
• Contributions from individuals over-reported (Net) <sup>2</sup>	-	29,128
• Contributions from political committees underreported (Net)	+	19,279
• Contributions from the Candidate not traced to deposits	-	225
• Unexplained difference	-	5,250
• <b>Net Overstatement of Receipts</b>		<b>\$56,824</b>

The net understatement of disbursements was the result of the following:

• Disbursements not reported	+	\$34,814
• Disbursement incorrectly reported as a receipt	+	41,500
• Disbursement reported twice	-	51,909
• Disbursements reported but not traced to bank activity <sup>3</sup>	-	32,578
• Disbursements reported with incorrect amount (Net)	+	975
• Unexplained differences	-	5,972
• <b>Net Overstatement of Disbursements</b>		<b>\$13,170</b>

#### **Cash Balance:**

The beginning cash on hand on January 1, 2005 was overstated by \$7,840 and likely resulted from prior period adjustments. The reporting discrepancies identified above also

<sup>2</sup> Most of the overstatement appears to be for unitemized contributions reported in the April Quarterly Report. CRFC did not provide workpapers detailing the contributions to support reported amounts for unitemized contributions from individuals.

<sup>3</sup> Some of this amount consisted of credit card expenses that should have been reported as memo entries. CFC erroneously reported both the individual credit card expenses and the associated credit card payment.

resulted in the misstatement of the reported cash balance throughout the period covered by the audit. On December 31, 2006, the cash balance was overstated by \$9,141.

#### **Original Reports Filed:**

In addition to the reconciliation of amended reports, the Audit staff compared CRFC's original disclosure reports filed to bank records. This comparison revealed that CRFC originally underreported disbursements by \$382,827 in 2006. A CRFC representative stated that the misstatements on the original reports were likely due to problems with the campaign finance software. CRFC filed amended reports prior to the audit to correct the majority of these misstatements.

At the exit conference, the Audit staff provided CRFC representatives with schedules of the reporting discrepancies. In response, CRFC representatives stated the reporting errors would be corrected and amended reports would be filed.

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

The Audit staff recommended that CRFC amend its reports to correct the misstatements noted above and also provide any additional information or comments that it considers relevant to its underreporting of disbursements on its original reports in 2006 .

In response to the interim audit report, CRFC filed amended reports to materially correct the misstatements in 2005 and 2006. Counsel for CRFC stated that problems with reporting software may have created the large understatement of disbursements on their original reports.

## **Finding 2. Failure to File 48-Hour Notices**

### **Summary**

CRFC failed to file 48-hour notices for 49 contributions totaling \$75,200. Most of the notices not filed were for contributions made prior to the run-off election. The Audit staff recommended that CRFC provide evidence that the 48-hour notices were timely filed or provide any comments that it believes relevant. In response to the interim audit report, counsel for CRFC stated that CRFC had received an unusually high volume of contributions prior to the run-off election which they were not accustomed to handling.

### **Legal Standard**

**Last-Minute Contributions (48-Hour Notice).** Campaign committees must file special notices regarding contributions of \$1,000 or more received less than 20 days but more than 48 hours before any election in which the candidate is running. This rule applies to all types of contributions to any authorized committee of the candidate, including:

- Contributions from the candidate;
- Loans from the candidate and other non-bank sources; and
- Endorsements or guarantees of loans from banks. 11 CFR §104.5(f).

### **Facts and Analysis**

The Audit staff reviewed those contributions of \$1,000 or more that were received during the 48-hour notice filing period for the primary, general, and run-off elections. CRFC failed to file 48-hour notices for 49 contributions totaling \$75,200, as summarized below.

	Primary	General	Run-off	Total
<b>48 Hour Notices Not Filed</b>	\$4,000 (4)	\$3,000 (3)	\$68,200 (42)	\$75,200 (49)

At the exit conference, CRFC representatives were informed of this matter. A CRFC representative noted that many of the 48-hour notices were filed properly and the failure to file the notices prior to the run-off was due to the bookkeeper being sick.

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

The Audit staff recommended that CRFC provide evidence that the 48-hour notices were timely filed or submit any additional comments it considers relevant.

In response to the interim audit report, CRFC stated that in addition to the reasons stated above, CRFC had received an unusually high volume of contributions prior to the run-off election which they were not accustomed to handling.

## **Finding 3. Impermissible Contributions**

### **Summary**

The Audit staff identified contributions totaling \$89,150 that CRFC redesignated to the 2006 primary election. These contributions were received in 2004 and originally designated to the 2004 general election. After a contested 2004 primary election, the Candidate did not win his Party's nomination and therefore did not participate in the 2004 general election. Any contribution received for that election should have been refunded to the contributors or redesignated to another election within sixty days. CRFC did not refund or provide documentation of redesignations for any of these contributions prior to the interim audit report. In the interim audit report, the Audit staff recommended that CRFC refund the contributions or disgorge the money to the U.S. Treasury. In response to the interim audit report, counsel for CRFC stated that CRFC was unable to identify redesignation letters sent or obtained for the 2004 election cycle. As a result, CRFC issued contribution refunds totaling \$89,150 to those contributors identified by the Audit staff. Of these contribution refunds, \$75,400 has cleared CRFC's account. Any contribution refunds that CRFC fails to provide evidence as being negotiated are considered unresolved and the sum of such amounts should be disgorged to the U.S. Treasury.

### **Legal Standard**

**A. Contributions to General Election.** Any contributions designated to a general election for which the candidate is no longer campaigning shall be refunded to the contributor or the committee can request a written redesignation to another election. 11 CFR §§102.9(e)(3) and 110.1(b)(5).

**B. Redesignation of Contributions.** The treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election. A valid redesignation must include the following:

1. The redesignation must be signed by the contributor;
2. The redesignation must be received by the committee within 60 days after the committee received the original contribution<sup>4</sup>; and
3. The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(b)(5).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper redesignation or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(b)(5)(ii)(A). Further, a political committee must retain written records concerning the redesignation in order for it to be effective. 11 CFR §110.1(l)(5).

### **Facts and Analysis**

The Candidate was on the ballot for the primary election for the 28th district in Texas held on March 9, 2004. Initially, it appeared that the Candidate won the primary election, however, a recount was conducted and, on April 6, 2004, it was announced that that he had been defeated. Thereafter, the Candidate filed several lawsuits to dispute the election results. The Candidate ultimately lost these court decisions and conceded the election on August 11, 2004. As of that date, the Candidate was no longer a participant in the 2004 general election and was required to refund or obtain contributor redesignations for contributions designated for that election within sixty days.

The Audit staff provided CRFC a list of contributions totaling \$89,150 that had been designated for the 2004 general election. These contributions were subsequently redesignated to the 2006 primary election according to the amended reports filed in November 2004. The Audit staff requested that CRFC provide documentation to support that refunds were made or redesignations of these contributions to another election were received. CRFC provided no documentation or information regarding this matter.

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

The Audit staff recommended that CRFC provide evidence that the contributions are permissible. Such evidence was to demonstrate that CRFC refunded the contributions or obtained signed redesignations for the contributions within sixty days. Absent such evidence, the Audit staff recommended that CRFC refund the contributions or disgorge the money to the U.S. Treasury. Copies of the front and back of the negotiated refund checks was to be provided.

In response to the interim audit report, counsel for CRFC stated that CRFC was unable to identify redesignation letters sent or obtained for the 2004 election cycle. As a result, CRFC issued refunds totaling \$89,150 to those contributors identified by the Audit staff. Of these contribution refunds, \$75,400 has cleared CRFC's account. Any contribution

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<sup>4</sup> Since the outcome of the 2004 primary election was not ultimately decided until August 11, 2004, CRFC was allowed 60 days from this date to refund or redesignate the contributions for the 2004 general election to the 2006 primary election.

refunds that CRFC fails to provide evidence as being negotiated are considered unresolved and the sum of such amounts should be disgorged to the U.S. Treasury.

#### **Finding 4. Impermissible Receipt and Use of Funds**

##### **Summary**

The Audit staff identified \$6,460 that was impermissibly transferred from the Candidate's Legal Expense Trust Account on April 19, 2006. This account was established for expenses related to a recount of the votes cast in the 2004 primary election for the 28th district in Texas. The transfer was reported by CRFC as part of a loan from the Candidate which was subsequently repaid on December 5, 2006. The Audit staff recommended that CRFC seek reimbursement of the \$6,460 from the Candidate and then either make refunds to the funds donors or disgorge the funds to the U.S. Treasury, or dispose of the funds in a manner not related to Federal elections. Evidence was also to be provided to demonstrate the Candidate did not convert the \$6,460 from CRFC to personal use and that the Candidate's use of the funds was permitted under the Act. In response to the interim audit report, CRFC received reimbursement of \$6,460 from the Candidate and subsequently made a payment to the U.S. Treasury for the same amount. The Commission did not adopt the conclusion of the Audit staff regarding the personal use of campaign funds by the Candidate.

##### **Legal Standard**

**A. Receipt of Funds Not Subject to the Act.** Federal candidates and officeholders may not solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act. 2 U.S.C. §441i(e)(1)(A).

**B. Advisory Opinion 1978-92 (Miller).** The Commission concluded that any funds received by a separate organizational entity established by the candidate's authorized committee solely for the purposes of funding an election recount effort would not be subject to the contribution limitations of 2 U.S.C. §441a, and would not trigger political committee status or reporting obligations for the separate election recount entity. The Commission also concluded that the separate recount entity could not accept funds from corporations, labor organizations, and national banks.

**C. Advisory Opinion 1998-26 (Landrieu).** The Commission considered a candidate's principal campaign committee that established, as a wholly separate entity, a contested election trust fund. The Commission concluded that the trust fund was not subject to reporting requirements and could accept amounts in excess of the contribution limitations in 2 U.S.C. 441a, but could not accept funds from prohibited sources, as specified in the predecessors to the recount regulations, 11 CFR §§100.7(b)(20) and 100.8(b)(20).

**D. Use of Campaign Funds.** Using campaign funds for personal use is prohibited. 2 U.S.C. §439a(b)(1).

**E. Personal Use Defined.** Personal use is defined as 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.

### **Facts and Analysis**

As previously noted in Finding 3, the Candidate was involved in a 2004 primary election recount for the 28th district in Texas. CRFC established a separate Legal Expense Trust Account solely for activity associated with the election recount. After expenses relating to the recount and subsequent judicial proceedings were paid, the account had a balance of \$6,460. On April 19, 2006, CRFC received an impermissible transfer of \$6,460 from the Candidate's Legal Expense Trust Account. Also on that date, CRFC reported the receipt of a Candidate loan for this same amount. This Candidate loan was ultimately repaid to the Candidate on December 5, 2006. It is noted that CRFC did not maintain a sufficient cash balance to cover the apparent impermissible amount which indicates the funds were spent in connection with the 2006 primary election. Because the funds in the Legal Expense Trust Account were not subject to the limitations, prohibitions, and reporting requirements of the Act, CRFC should not have received or spent them in connection with the 2006 primary election.

In addition to receiving and spending funds not subject to the Act, the repayment to the Candidate may have resulted in the conversion of funds in CRFC's account to the Candidate's personal use. In accordance with 2 U.S.C. §439a(a), Candidates may only use funds in a campaign account for certain expenditures that exist as a result of the candidate's election campaign or duties as a Federal officeholder.

This matter was discussed with CRFC by representatives of the Reports Analysis Division and Audit Division. In both instances, the FEC staff informed CRFC that the transfer of \$6,460 was not permissible and may require a refund or disgorgement to the U.S. Treasury. CRFC representatives have expressed a willingness to handle the transaction as deemed appropriate.

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

The Audit staff recommended that CRFC seek reimbursement of the \$6,460 from the Candidate and then either make refunds to the donors, disgorge the funds to the U.S. Treasury, or dispose of the funds in a manner not related to Federal elections. Evidence was also to be provided to demonstrate the Candidate did not convert the \$6,460 from CRFC to personal use. To do this, CRFC should provide evidence that the Candidate's use of the funds from CRFC was permitted under 2 U.S.C. § 439a(a) or 11 CFR §113.2.

In response to the interim audit report, CRFC received reimbursement of \$6,460 from the Candidate and subsequently made a payment to the U.S. Treasury for the same amount. Counsel for CRFC maintains that the funds in the Legal Expense Trust Account were deposited in the CRFC campaign account and subsequently paid to the Candidate in error. Counsel for CRFC explained that the transfer of the funds from the Legal Expense Trust Account to CRFC was the result of incorrect advice offered by private, local counsel to the legal expense trust. The subsequent misreporting of the funds was the result of an error made by the CRFC personnel. Counsel for CRFC contends that since the \$6,460 was not campaign funds, but rather surplus legal expense funds, there is no basis for the personal use of the funds by the Candidate.

The Audit staff maintains that personal use restrictions are applicable to these CRFC funds that were paid directly to the Candidate. However, it is noted that there is no evidence the Candidate or CRFC intentionally converted campaign funds to personal use. Rather, the conversion of campaign funds was a result of two errors related to the initial payment from the Legal Expense Trust Account: (1) the initial mistake of law by the CRFC, which is addressed by 2 U.S.C. §441i(e)(1)(A); and (2) the misreporting of the payment from the Legal Expense Trust Account. Had either of these two errors not occurred, the Legal Expense Trust Account could have permissibly paid its residual funds directly to the Candidate, subject to applicable state laws.

The Commission did not adopt the conclusion of the Audit staff regarding the personal use of campaign funds by the Candidate.