



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 10, 2002

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
ROD GRAMS FOR U.S. SENATE

Attached please find a copy of the final audit report and related documents on the Rod Grams for U.S. Senate that was approved by the Commission on May 31, 2002.

The report may be released to the public on June 10, 2002.

Attachment as stated

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

**REPORT OF THE AUDIT DIVISION
ON THE
ROD GRAMS FOR U.S. SENATE**

Approved May 31, 2002



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

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

ROD GRAMS FOR U.S. SENATE

EXECUTIVE SUMMARY

Rod Grams for U.S. Senate (RGFS) registered with the Secretary of the Senate on November 30, 1993 as the principal campaign committee for Rodney Dwight Grams, Republican candidate for the U.S. Senate from the state of Minnesota.

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 one finding from the audit was presented to the Committee at the completion of fieldwork on November 19, 2001 and later in the interim audit report. The relevant parts of the Committee's response to this finding are included in the audit report.

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

Receipt of Contributions in Excess of the Limitation — 2 U.S.C. §441a(a)(1)(A); 11 CFR 103.3(b). A review of RGFS's receipt records identified contributions from 237 individuals that were in excess of the limitation by \$157,378 (\$138,924 related to the Primary election and \$18,454 related to the General election). Of these excessive contributions, \$100,653 lacked adequate redesignation and reattribution documentation. In addition, RGFS received eight contributions attributable to the 2000 Primary election from six unregistered political organizations that were in excess of the limitation by \$2,975.

In response to the interim audit report, RGFS provided evidence of refunds from individuals totaling \$4,415. Therefore excessive contributions totaling \$96,238 (\$100,653 - \$4,415) are still considered unresolved. RGFS also agreed to refund the eight excessive contributions, totaling \$2,975, to the unregistered political organizations or disclose these items as debts if sufficient funds do not exist to make the refunds.

Unless specifically discussed below, no material non-compliance with statutory or regulatory requirements 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 FINDING AND RECOMMENDATION

RECEIPT OF CONTRIBUTIONS 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.

Subsection (b)(2) of 11 CFR §110.1 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. Subsection (b)(6) of 11 CFR §110.1 explains that a contribution is considered made when the contributor relinquishes control over the contribution by delivering the contribution to the Candidate, the political committee, or an agent of the political committee. A contribution mailed is considered made on the date of the postmark.

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 states, 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.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A01-01

REPORT OF THE AUDIT DIVISION
ON
ROD GRAMS FOR U.S. SENATE

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Rod Grams for U.S. Senate (RGFS), undertaken by the Audit Division of the Federal Election Commission (FEC) 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 that states, in part, that the FEC 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 FEC 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 January 1, 1999 through December 31, 2000. RGFS reported a beginning cash balance of \$139,864, total receipts for the audit period of \$5,902,550; total disbursements for the audit period of \$6,024,870; and, an ending cash balance of \$17,544.

C. CAMPAIGN ORGANIZATION

RGFS registered with the Secretary of the Senate on November 30, 1993 as the principal campaign committee for Rodney Dwight Grams, Republican candidate for the U.S. Senate from the state of Minnesota. The Treasurer of RGFS for the period covered by the audit was Mr. Timothy B. Schmidt. Mr. Schmidt, a CPA, had previous experience with campaign reporting and recordkeeping, but has never attended any FEC

conferences or seminars. On July 26, 2001, Ms. Christine Grams replaced Mr. Schmidt as Treasurer, and is currently serving in that capacity. RGFS maintains its headquarters in Anoka, Minnesota.

RGFS used commonly available campaign management software for recordkeeping and filed reports electronically in 1999 and 2000. Mr. Schmidt handled the FEC reporting function. Other paid campaign staff were responsible for maintaining RGFS records and the bank accounts indicated below. Mr. Schmidt's firm was also paid for accounting and tax services.

To manage its financial activity, RGFS maintained three checking accounts, five money market accounts and four certificates of deposit. From these accounts, approximately 2,374 disbursements were made, totaling \$6,032,729. RGFS's receipts were comprised of the following: approximately 76,000 contributions from individuals, totaling \$3,722,468; approximately 1,300 contributions from political committees, totaling \$1,899,691; joint fundraising proceeds, totaling \$143,229; 44 offsets to operating expenditures, totaling \$102,418; and, interest earned, totaling \$40,890.

D. AUDIT PROCEDURES

In maintaining its receipt records, RGFS satisfied the minimum recordkeeping requirements of 11 CFR §102.9; however, the Audit staff's testing of contributions prior to May 1999 was limited by the lack of external documentation such as copies of contributor checks.

Following FEC-approved procedures, the Audit staff evaluated various risk factors and as a result, the scope of this audit was limited to the following general categories:

1. the receipt of contributions or loans in excess of the statutory limitations (see Section II.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed;
4. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records;
5. adequate record keeping for RGFS transactions; and
6. other audit procedures that were deemed necessary in the situation.

Section 110.1(l)(5) of Title 11 of the Code of Federal Regulations states, in part, 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.

1. Contributions from Individuals

RGFS's contribution records consisted of the following: an electronic database containing contribution information for donations deposited between January 26, 1992, and May 21, 2001¹; copies of contributor checks deposited between May 1999 and January 2001; some copies of redesignation/retribution forms apparently completed by the contributors; and contribution refund files.

A review of contributions from individuals for compliance with the 2 U.S.C. §441a(a)(1)(A) limitation indicated that RGFS accepted excessive contributions totaling \$157,378 from 237 individuals (\$138,924 related to the Primary election and \$18,454 related to the General election). Many of the reported entries on the Committee's Schedules A (Itemized Receipts) indicated that these contributions had been reattributed among individuals, such as spouses, or redesignated to another election. However, the available contribution records did not support these redesignations and reattributions.

The \$138,924 in excessive contributions related to the Primary election was comprised of \$27,743 of untimely redesignations and reattributions, \$26,882 of untimely refunds², and \$84,299 of contributions that lacked adequate redesignation and reattribution documentation. The \$18,454 in excessive contributions related to the General election was comprised of \$1,500 of untimely redesignations and reattributions, \$600 of untimely refunds, and \$16,354 of contributions that lacked adequate redesignation and reattribution documentation.

The Audit staff also performed an analysis of contributions and disbursements to determine whether any of the contributions designated for the general election had been spent on primary election expenses. The analysis was performed using election designations for contributions and disbursements as entered by RGFS on its

¹ As originally submitted, the database appeared to contain significantly fewer contributions than reported by RGFS. The missing contributions had been marked for deletion in the database, but were recovered and restored to complete submitted information.

² Eleven of these refund checks, totaling \$4,552, are still outstanding.

database. The analysis shows that contributions designated by RGFS for the general election were spent on primary related activity in the beginning of the audit period, approximately January 1, 1999 through February 16, 1999. The largest amount of general funds used for primary activity was approximately \$35,000 on January 20, 1999. The analysis also demonstrates that RGFS used excessive primary contributions on primary related activity from February 1, 1999 through February 18, 1999. RGFS did not maintain a separate account to deposit questionable contributions but did consistently maintain a sufficient balance to cover the amounts deposited in excess of the limitation from February 19, 1999 until just prior to the General election.³

Mr. Schmidt, the former treasurer, stated at an interim conference that the software program used by RGFS was supposed to notify RGFS staff when a contribution was excessive. At the exit conference, RGFS officials were given detailed schedules of the excessive contributions discussed above. They offered no comment. In response to the exit conference, RGFS officials provided additional redesignation and reattribution documentation the Audit staff considered in its review and the appropriate adjustments were made to arrive at the figures discussed above.

2. Contributions from Unregistered Political Organizations

The review of contributions from political committees indicated that RGFS received eight contributions from six unregistered political organizations that exceeded the 2 U.S.C. §441a(a)(1)(A) limitation by \$2,975. All eight were attributable to the 2000 Primary election. These items were designated as "primary" on both the RGFS' contributions database and reported entries on Schedules A. No documentation was made available relative to these items.

At the exit conference, the Audit staff explained to RGFS officials that these contributions were considered excessive because unregistered political organizations are limited to contributions aggregating \$1,000 per election. RGFS officials were given a detailed schedule of the excessive contributions. They offered no comment.

3. Response to the Interim Audit Report

In the interim audit report, the Audit staff recommended that RGFS provide evidence demonstrating that the contributions in question were not excessive or that they were timely redesignated, reattributed, or refunded. Absent such evidence, it was recommended that RGFS refund \$100,653 (\$84,299 + \$16,354) to the individual contributors, \$2,975 to the unregistered political organizations, and provide evidence of such refunds (photocopies of the front and back of the negotiated refund checks). It was further recommended that RGFS provide evidence that the checks have cleared relative to the 11 contribution refunds, totaling \$4,552, noted in footnote 2. If funds were not currently available to make the necessary refunds, it was recommended

³ The latest FEC report filed by RGFS (2001 Year-End Report) disclosed a cash-on-hand balance of (\$219.20) as of December 31, 2001.

that these contributions be disclosed on Schedules D (Debts and Obligations) until such time that funds became available to make the refunds.

In response to the interim audit report, the current RGFS treasurer acknowledged that the excessive contributions received from June through early September 2000 resulted from the failure of RGFS to receive timely redesignation or reattribution documentation and that RGFS underwent turnover with respect to staff responsible for the data entry of contributor information. She added that she had been informed by RGFS staff employed at that time that the software repeatedly malfunctioned by deleting contributor records for no reason and that these "performance glitches undoubtedly contributed to the Committee's difficulties in maintaining accurate contributor records for this time period."

Also included in the response was a document entitled Excessive Contributions Process, dated July 7, 2000, that set forth procedures for RGFS staff when excessive contributions were received during various time periods. These procedures included the following: sending refund checks with follow-up phone calls; arranging personal meetings with donors to request an exchange of checks; sending out redesignation/retribution letters and business reply envelopes with follow-up phone calls; and, printing all information relative to excessive contributions to give to a particular staff person for follow-up. The treasurer stated that she had "...no reason to believe these procedures were not followed with respect to each of the contributions in question; however, after a duly diligent search, the Committee has been unable to locate reattribution or redesignation letters from these contributors with respect to these contributions."

Included with the response were copies of redesignation/retribution statements dated March 5, 2002, apparently sent to each of the contributors in question, and copies of the front and back of negotiated refund checks for seven refunds, totaling \$4,415. There were also copies of the front only of two \$1,000 refund checks, totaling \$2,000. All nine of the refund checks were dated October 2001 or later, more than a year after RGFS's receipt of the contributions. RGFS also provided documentation for \$3,154 in contributions it intends to refund and information on data entry errors made relative to some of the noted excessive contributions. The RGFS treasurer stated that this matter "...consisted of an isolated problem over a short period of time, not systemic, willful conduct" and added that "[t]aken in context, this small error demonstrates the Committee's commitment to compliance with FEC regulations and is grounds for no further FEC action in this matter."

In summary, of the \$100,653 in excessive contributions received from individuals, RGFS has provided evidence of refunds totaling \$4,415. Therefore, excessive contributions totaling \$96,238 (\$100,653 - \$4,415) are still considered unresolved. No documentation was provided that demonstrated that the 11 contribution refunds noted in footnote 2, totaling \$4,552, and the two \$1,000 refunds noted above, cleared RGFS's bank account.

Also in the response to the interim audit report, RGFS agreed to refund the eight excessive contributions, totaling \$2,975, to the unregistered political organizations and disclose these contributions as debts if sufficient funds do not exist to make refunds.



A01-01

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

June 3, 2002

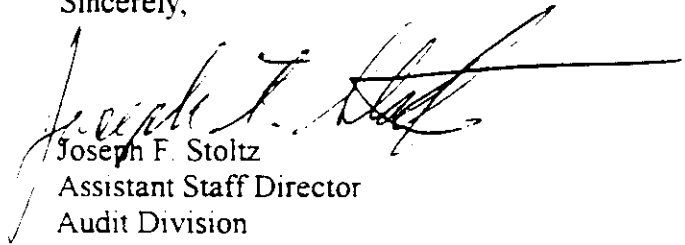
Ms. Christine Grams, Treasurer
Rod Grams for U.S. Senate
P.O. Box 1029
Anoka, MN 55303

Dear Ms. Grams:

Attached please find the Report of the Audit Division on Rod Grams for U.S. Senate (Final Audit Report). The Commission approved the report on May 31, 2002.

The Commission-approved Final Audit Report will be placed on the public record on June 10, 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 Rickida Skinner 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: Timothy B. Schmidt

Attachment as stated

CHRONOLOGY

ROD GRAMS FOR US SENATE

Audit Fieldwork	8/14/01 to 11/19/01
Interim Audit Report to the Committee	2/07/02
Response Received to the Interim Audit Report	3/13/02
Final Audit Report to Commission	5/24/02
Final Audit Report Approved	5/31/02