



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 26, 2004

MEMORANDUM

TO: ROBERT W. BIERSACK
PRESS OFFICER
PRESS OFFICE

FROM: JOSEPH F. STOLTZ
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON THE
LABORERS' POLITICAL LEAGUE

Attached please find a copy of the final audit report on Laborers' Political League, which was approved by the Commission on October 12, 2004.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

Attachment as stated

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



Report of the Audit Division on Laborers' Political League

January 1, 1999 – December 31, 2000

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)

Laborers' Political League (LPL) is a Separate Segregated Fund (SSF) of the Laborers' International Union of North America (LIUNA). LIUNA is made up of approximately 9 geographical regional offices, 56 district counsels grouped predominantly by state and 564 local unions that are set up geographically and by trades. The LPL headquarters is located in Washington, DC. For more information, see chart on the Committee Organization, p. 2.

Financial Activity (p. 2)

- **Receipts**
 - From Individuals \$ 1,495,078
 - From Affiliated Committees 991,293
 - Other Receipts 15,504
 - **Total Receipts \$ 2,501,875**

- **Disbursements**
 - Operating Expenditures & Other Disbursements \$ 2,648,644
 - **Total Disbursements \$ 2,648,644**

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Failure to Maintain Contributor Payroll Deduction
- Authorizations (Finding 2)
- Untimely Transmittal of Contributions (Finding 3)

¹ 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 Laborers' Political League (LPL), 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.

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. 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 during the audit period.

Part II

Overview of Committee

Committee Organization

Important Dates	Laborers' Political League
• Date of Registration	May 30, 1972
• Audit Coverage	January 1, 1999 – December 31, 2000
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	2
• Bank Accounts	1 Checking and 1 Savings
Treasurer	
• Treasurer When Audit Was Conducted	Mr. Armand Sabitoni
• Treasurers During Period Covered by Audit	Mr. Carl E. Booker /Mr. Armand Saitoni
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 1999	\$ 398,510
Receipts	
○ From Individuals	1,495,078
○ From Affiliated Committees	991,293
○ Other Receipts	15,504
Total Receipts	\$ 2,501,875
Disbursements	
○ Operating Expenditures & Other Disbursements	2,648,644
Total Disbursements	\$ 2,648,644
Cash on hand @ December 31, 2000	\$ 251,741

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

The Audit staff's reconciliation of LPL's reported financial activity to its bank records revealed that LPL misstated its beginning and ending cash-on-hand in calendar year 1999 and receipts, disbursements, and cash-on-hand in calendar year 2000. In response to the interim audit report, LPL filed an amended report to correct the misstatements in cash-on-hand for calendar year 1999 and January 2000. Amended reports for February through December 2000 have not been filed. (For more detail, see p. 4)

Finding 2. Failure to Maintain Contributor Payroll Deduction Authorizations

Based on a sample review of transmittals of funds from union locals and employers, the Audit staff determined that the payroll deduction authorization forms (PDAs) that authorize the deduction of contributions from a worker's salary were incomplete and/or not available. The Audit staff recommended that LPL demonstrate its compliance and provide any other comments it may have concerning this issue. Absent such a demonstration, it was recommended that LPL provide a description of policy and procedural changes implemented to ensure that authorizations are obtained and maintained in the future, subject to review by the Audit staff at a later date. In response, LPL outlined procedures it has initiated to ensure that LPL will have electronic copies of PDAs for all individual donors and submitted copies of written instructions sent to all local unions that they must execute new PDAs and provide copies of these to LPL. (For more detail, see p. 6)

Finding 3. Untimely Transmittal of Contributions

Based on a sample of transmittals from union locals and employers, the Audit staff projected that contributions totaling \$236,515 had not been transmitted timely to LPL. The Audit staff recommended that LPL demonstrate that the contributions were forwarded timely or absent such a demonstration, LPL was to implement changes to its system and provide a description of such changes for Audit staff review. The Audit staff further recommended that LPL send letters to union locals and employers notifying them of their requirements under the Act when withholding contributions by payroll deduction and transmitting contributions to LPL. In response, LPL described changes that it has initiated and provided the Audit staff with an action plan for implementation. (For more detail, see p. 9)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

The Audit staff's reconciliation of LPL's reported financial activity to its bank records revealed that LPL misstated its beginning and ending cash-on-hand in calendar year 1999 and receipts, disbursements, and cash-on-hand in calendar year 2000. In response to the interim audit report, LPL filed an amended report to correct the misstatements in cash-on-hand for calendar year 1999 and January 2000. Amended reports for February through December 2000 have not been filed.

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), (5) and (6).

Facts and Analysis

The Audit staff's reconciliation of LPL's reported financial activity to its bank records for the period January 1, 1999, through December 31, 2000, indicated that during calendar year 1999 beginning and ending cash were misstated, and during calendar year 2000, beginning cash, receipts, disbursements, and ending cash were misstated. For the most part, these discrepancies were the result of incorrect cash-on-hand prior to 1999 and the failure to disclose receipts and disbursements for the last three reporting periods of 2000. The following paragraphs explain why the discrepancies occurred.

1999 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance	\$497,076	\$398,510	\$98,566 Overstated
Receipts	\$973,965	\$963,814	\$10,151 Overstated
Disbursements	\$1,006,771	\$1,006,214	\$557 Overstated
Ending Cash Balance	\$463,979	\$356,110	\$107,869 Overstated

Beginning Cash on Hand – 1999

LPL was unable to identify the source of the error for the \$98,566 overstatement to its beginning cash balance on January 1, 1999. However LPL representatives explained that prior to calendar year 2000, they maintained a manual accounting system. The individual responsible for preparing the reports was no longer employed by LPL or its connected organization and they were unable to locate workpapers or any other explanation of the amounts reported.

Ending Cash on Hand – 1999

The \$107,869 overstatement of the ending cash on hand was the result of the misstatement in beginning cash-on-hand and minor discrepancies in receipts and disbursements during the year.

2000 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance at 1/1/00	\$463,979	\$356,110	\$107,869 Overstated
Receipts	\$1,433,506	\$1,538,062	\$104,556 Understated
Disbursements	\$1,556,789	\$1,642,430	\$85,641 Understated
Ending Cash Balance at 12/31/00	\$340,696	\$251,741	\$88,954 Overstated

Receipts – 2000

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

• Checking/saving accounts interest not reported	\$	+	534
• Contributions not reported		+	113,024
• Unexplained Difference		-	9,002
• Net Understatement	\$	+	<u>104,556</u>

Disbursements - 2000

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

• Disbursements from Non-federal account reported in error	\$	-	12,000
• Voided checks reported		-	9,500
• Disbursement reported twice but paid once		-	2,500
• Wrong amount reported		-	2,500
• Disbursements totaling \$30,000 reported as negative that should be positive		+	60,000
• Replacement check reported as memo entry		+	10,000
• Political contributions not reported		+	41,985
• Unexplained Difference		+	156
• Net Understatement	\$	+	<u>85,641</u>

Ending Cash on Hand – 2000

The \$ 88,954 overstatement of the ending cash on hand at December 31, 2000, was the net result of the misstatements described above.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that LPL file a comprehensive amended report for calendar year 1999² to correct beginning and ending cash-on-hand balances. For calendar year 2000, amended electronic reports were recommended for each reporting period, including amended Schedules A (Itemized Receipts) and Schedules B (Itemized Disbursements). Also, the most recent report should have been amended to show the adjusted cash-on-hand balance with an explanation that it resulted from audit adjustments from a prior period.

In response, LPL filed amended reports to correct the misstatements in cash-on hand for calendar year 1999 and January 2000. They stated that other reports for 2000 will be filed electronically. To date, amended reports for February through December 2000 have not been filed.

Finding 2. Failure to Maintain Contributor Payroll Deduction Authorizations

Summary

Based on a sample review of transmittals of funds from union locals and employers, the Audit staff determined that the payroll deduction authorization forms (PDAs) that authorize the deduction of contributions from a worker's salary were incomplete and/or not available. The Audit staff recommended that LPL demonstrate its compliance and provide any other comments it may have concerning this issue. Absent such a demonstration, it was recommended that LPL provide a description of policy and procedural changes implemented to ensure that authorizations are obtained and maintained in the future, subject to review by the Audit staff at a later date. In response, LPL outlined procedures it has initiated to ensure that LPL will have electronic copies of PDAs for all individual donors and submitted copies of written instructions sent to all local unions that they must execute new PDAs and provide copies of these to LPL.

Legal Standard

Recordkeeping. Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports and statements. Records to be maintained with respect to the matters required to be reported, include bank records, vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness. The Commission has determined that, under 11 CFR §104.14(b)(1), separate segregated funds established pursuant to Part 114 of the Commission's rules must maintain copies of Contributor Payroll Deduction Authorizations for each

² LPL did not file reports electronically until 2000.

individual who makes any contribution(s) via automatic payroll deduction. *See, e.g.* MUR 4955 (Metropolitan Life). 11 CFR §104.14(b)(1).

Background on Committee Receipt Records

Contributions received by LPL were made through payroll deduction. Union locals and employers transmitted these contributions either by pay period, monthly, quarterly, or semi-annually. Some of the semiannual transmittals were from vacation funds and were therefore properly handled (See Advisory Opinion 1979-60). In some cases the transmittals did not identify which union contributors were included in the transmittal. Union members were given a check-off form to complete in order to voluntarily contribute via payroll deduction or to contribute a specific amount. The suggested contribution was two cents per hour worked. LPL received \$1,371,099 from its union locals with an average individual contribution of approximately \$3 per month. Based on this information, the average contribution would be about \$38 per year per person. According to LPL representatives, the contributor's Payroll Deduction Authorization forms (PDAs) were not maintained at the national office (with the exception of those employed at the national office), but rather were maintained by the union local and/or by the employer. The contributions withheld through payroll deduction were transmitted to LPL by checks ("transmittals") from the district councils, union locals, and employers. Union locals are not associated with a specific employer.

Payroll authorization documentation was considered by the Commission and LPL was notified that it was required to:

- Maintain PDAs for each member who made contributions via payroll deduction. If LPL chose to maintain those records at the various union locals, it was necessary to assemble the PDAs at a central location and in an auditable state for Audit staff review; and,
- Provide documentation to demonstrate that contributions that were transmitted by employers and collecting agents were timely transmitted and deposited.

The Commission also advised that failure to comply may necessitate the issuance of subpoenas and/or the initiation of a compliance action by the Commission.

The Audit staff provided LPL with a list of transmittals and requested that LPL provide copies of PDA's for every individual contributor who had one or more contributions contained in the transmittal. Fieldwork was suspended and LPL was allotted time to gather the necessary records. Fieldwork resumed shortly after expiration of the allotted time.

Facts and Analysis

After the period provided for LPL to gather PDAs for selected transmittals had expired, a sample of transmittals was selected for review. Approximately the first quarter of the sample transmittals were tested to determine whether the associated PDAs had been located by LPL. It was determined that approximately 93% of those PDAs were not available. Discussions with LPL representatives during this review indicated that some PDAs for individual contributors who authorized payroll deductions during calendar year 1999 and 2000 were made available for the Audit staff review; however, for contributors

who authorized payroll deductions prior to 1999 and contributed during the 1999 through 2000 period, the respective PDA's were not provided. Further, LPL representatives explained that it would be extremely difficult and time-consuming to provide PDAs executed by the union members throughout the country because of the large turnover of union membership and the fact that many union members work for numerous employers during the course of a year. Given this explanation, along with the large number of missing PDAs, the review for PDAs was discontinued.

Interim Audit Report Recommendation

The Audit staff recommended that LPL demonstrate its compliance and provide any comments it had relative to these matters. Absent such a demonstration, it was recommended that LPL implement policies and procedures to ensure that PDAs and other records are maintained in an auditable state. Copies of the procedural instructions were to be submitted with LPL's response and the response was to include an action plan for implementation of the changes. Once these procedures are in place, the Audit staff will verify that they are adequate to assure compliance via follow-up audit work. Although LPL may choose to maintain PDAs at the local level, it was recommended that the national office maintain copies.

Committee Response to Recommendation and the Audit Staff's Assessment

In response to the interim audit report, Counsel for LPL (Counsel) disagreed with the legal premise on which these findings were based as well as the factual conclusions reached. He stated that the requirements in this report to maintain PDAs for each member who made contributions via payroll deduction and make available for audits staff review are not found in the statute. He further stated that FEC's regulation "requires a union or other collecting agent to retain only 'records of contribution deposits and transmittals' and requires a separate segregated fund such as LPL to keep records only of all transmittals of contributions received from collecting agents." In addition, regarding the Commission's regulation at 11 CFR §104.14(b)(1), (that states, a political committee that files report with the Commission shall maintain records from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness), Counsel emphasized that PDAs are not necessary to verify, explain, or clarify any items required to be reported by a separate segregated fund, nor are they necessary to check any reported items for accuracy and completeness.

Counsel also disagreed that 93% of PDAs were not available for review. He stated that contrary to the statement in the interim audit report, for the majority of the transfers in the sample, all authorizations were provided, including authorizations executed prior to the audit period. According to Counsel, the Audit staff could have reviewed authorizations for a majority of the transfers.

Nonetheless, aside from having serious reservations about the legal basis for requiring separate segregated funds to maintain and make available PDAs for all individual contributors, Counsel outlined procedures LPL has initiated to ensure that it will have electronic copies of PDAs for all individual donors. Counsel submitted copies of written

instructions sent to all local unions that, among other things, they must execute new PDAs and provide copies of these to LPL.

Finding 3. Untimely Transmittal of Contributions

Summary

Based on a sample of transmittals from union locals and employers, the Audit staff projected that contributions totaling \$236,515 had not been transmitted timely to LPL. The Audit staff recommended that LPL demonstrate that the contributions were forwarded timely or absent such a demonstration, LPL was to implement changes to its system and provide a description of such changes for Audit staff review. The Audit staff further recommended that LPL send letters to union locals and employers notifying them of their requirements under the Act when withholding contributions by payroll deduction and transmitting contributions to LPL. In response, LPL described changes that it has initiated and provided the Audit staff with an action plan for implementation.

Legal Standard

A. Definition of Collecting Agents. A collecting agent is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. 11 CFR §102.6(b)(1).

B. Transmittal of Contributions. The full amount of each contribution collected by a collecting agent, or any other person, on behalf of a separate segregated fund shall be transmitted to that fund within 10 days of receipt if the amount of the contribution exceeds \$50; and, within 30 days of receipt if the amount of the contribution is \$50 or less. Finally, date of receipt is the date such person takes possession of the contribution. 11 CFR §§102.6(c)(4) and 102.8(a) & (b).

C. Separate Segregated Fund Responsible for Acts of Collecting Agent. The separate segregated fund is responsible for ensuring that the recordkeeping, reporting and transmittal requirements are met and is responsible for the acts of a collecting agent. 11 CFR §102.6(c)(1).

Facts and Analysis

The Audit staff conducted a sample review of transmittals that had sufficient information to determine when contributions were withheld from members' salary (78% of the total sample) for the timely forwarding of contributions by union locals, district offices, regional offices and/or employer. Due to the lack of records, the test was very limited in its scope. The portion of the sample for which the necessary information was available was used to project the dollar value of the untimely transmittals. The projected value of transmittals that were not forwarded timely was at least \$236,515.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that LPL demonstrate that contributions were transmitted timely and provide any comments it had relative to these matters. Absent such a demonstration, we recommended that LPL implement changes to its procedures and provide a description of such changes along with an action plan for implementation of the changes. After implementation, the policy and procedural changes would be subject to

review by the Audit staff. The Audit staff further recommended that LPL send letters to union locals, district offices, regional offices, and employers notifying them of their requirements under the Act when handling contributions from individuals and transmitting contributions to LPL. In response to the recommendation, LPL described changes that it has initiated to its procedures and provided the Audit staff with an action plan for implementation. In addition, LPL submitted copies of written instructions sent to all local unions concerning, among other things, the transmittal of payroll deduction contributions to LPL. No information was sent to employers since LPL contends that there is no evidence that the problem is related to timely transmittal from the employers to the union.