



FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 8, 2008

MEMORANDUM

To: Robert W. Biersack
Press Officer

From: Wanda J. Thomas *wjt*
Acting Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report – National Right to Life Political
Action Committee

Attached please find a copy of the audit report on the National Right to Life Political Action Committee, which was approved by the Commission on September 24, 2008.

All parties involved have received informational copies of the report and the report may be released to the public on October 8, 2008.

Attachment as stated

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



Report of the Audit Division on the National Right to Life Political Action Committee

January 1, 2003 – December 31, 2004

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)

The National Right to Life Political Action Committee (NRLPAC) is the separate segregated fund of the National Right to Life Committee. NRLPAC qualified for multi-candidate status on June 2, 1980, and is headquartered in Washington, DC. For more information, see the chart on Committee Organization, p.2

Financial Activity (p. 2)

- **Receipts**
 - Contributions from Individuals \$ 4,241,907
 - Contributions from Political Committees 7,500
 - Offsets to Operating Expenditures 44,338
 - Other Federal Receipts 62
 - **Total Receipts** \$ 4,293,807
- **Disbursements**
 - Independent Expenditures \$3,719,773
 - Contributions to Federal Candidate Committees and Other Political Committees 16,304
 - Operating Expenditures 152,536
 - **Total Disbursements** \$ 3,888,613

Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Failure to File Notices of Independent Expenditures (Finding 2)
- Disclosure of Occupation/Name of Employer (Finding 3)
- Disclosure of Receipts (Finding 4)

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 National Right to Life Political Action Committee (NRLPAC) 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.

NRLPAC was not able to provide a useable receipts database, copies of contributor checks, or solicitation devices in a materially complete, organized manner for 2003. Based upon this lack of records, the Audit staff could not accurately evaluate contributions received during 2003 for recordkeeping, itemization, disclosure or permissibility. However, calendar year 2003 represents a small portion of the receipts and expenditures for the audit period.

Other Matters

An enforcement action was initiated by the Commission's Reports Analysis Division (RAD) on January 21, 2005, to address an increase of \$125,100 in receipts reported on the 2003 Year End report. It was this amended report that is the subject of the audit.

NRLPAC filed this report with the Commission on April 8, 2004. This enforcement action resulted in Alternative Dispute Resolution (ADR) Matter #225 and was resolved on August 3, 2005. In the settlement agreement NRLPAC acknowledged that not all receipts were reported in the 2003 Year-End report, as required by the Act.

Part II

Overview of Committee

Committee Organization

Important Dates	NRLPAC
• Date of Registration	July 12, 1979
• Audit Coverage	January 1, 2003 – December 31, 2004
Headquarters	Washington, DC
Bank Information	
• Bank Depositories	2
• Bank Accounts	7 Checking and Money Market Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Amarie C. Natividad
• Treasurer During Period Covered by Audit	Amarie C. Natividad
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Used Commonly Available Campaign Management Software Package	Yes
• Who Handled Accounting and Recordkeeping Tasks	NRLPAC Staffers

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2003-	\$ 20,821
○ Contributions from Individuals	4,241,907
○ Contributions from Political Committees	7,500
○ Offsets to Operating Expenditures	44,338
○ Other Federal Receipts	62
Total Receipts	\$ 4,293,807
○ Independent Expenditures	\$ 3,719,773
○ Contributions to Federal Candidate Committees and Other Political Committees	16,304
○ Operating Expenditures	152,536
Total Disbursements	\$ 3,888,613
Cash on hand @ December 31, 2004	\$ 426,015

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

A comparison of NRLPAC's reported activity to bank records revealed material misstatements in 2003. The beginning cash balance on January 2, 2003 was understated \$32,852; reported receipts were overstated \$130,295; reported disbursements were understated \$35,591 and the ending cash balance on December 31, 2003 was overstated \$133,034 as a results of these discrepancies. Finally, the ending cash balance on December 31, 2004 was overstated \$86,570. In response to the interim audit report, NRLPAC filed amended reports that materially corrected the misstatements. (For more detail, see p. 4)

Finding 2. Failure to File Notices of Independent Expenditures

During the audit period, NRLPAC made independent expenditures totaling \$3,718,909. NRLPAC failed to maintain documentation supporting the dissemination date for the majority of these independent expenditures. Where the dissemination date was known, NRLPAC failed to file or untimely filed 24 or 48 hour notices for a material number of independent expenditures. Finally, independent expenditures paid subsequent to the dissemination date were not properly disclosed on Schedule D (Debts and Obligations) and Schedule E (Independent Expenditures). In response to the interim audit report, NRLPAC provided details pertaining to new procedures they plan to implement. (For more detail, see p. 5)

Finding 3. Disclosure of Occupation/Name of Employer

NRLPAC did not adequately disclose the contributor's occupation and/or name of employer for 557 contributions that required itemization on Schedule A (Itemized Receipts). However, responses to additional requests for contributor information were noted in the records, but amended reports were not filed.² In response to the interim audit report, NRLPAC filed amended reports that materially corrected the occupation/name of employer disclosure errors. (For more detail, see p. 8)

Finding 4. Disclosure of Receipts

A sample review of 2004 receipts determined a material number of the contributors itemized on Schedule A had incorrect contributor information. For the most part, the contributor's name was incorrect. In response to the interim audit report, NRLPAC filed amended reports that materially corrected the contributor information disclosure errors. For more detail, see p. 9)

² A previous audit of NRLPAC for the 2002 election cycle contained a similar finding.

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

A comparison of NRLPAC's reported activity to bank records revealed material misstatements in 2003. The beginning cash balance on January 2, 2003 was understated \$32,852; reported receipts were overstated \$130,295; reported disbursements were understated \$35,591 and the ending cash balance on December 31, 2003 was overstated \$133,034 as a results of these discrepancies. Finally, the ending cash balance on December 31, 2004 was overstated \$86,570. In response to the interim audit report, NRLPAC filed amended reports that materially corrected the misstatements.

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

Facts and Analysis

The Audit staff reconciled NRLPAC's reported financial activity to its bank records for 2003 and 2004. The following charts outline the discrepancies.

2003 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance at January 1, 2003	-\$12,031	\$20,821	\$32,852 understated
Receipts	\$385,904	\$255,609	\$130,295 overstated
Disbursements	\$55,287	\$90,878	\$35,591 understated
Ending Cash Balance at December 31, 2003	\$318,586	\$185,552	\$133,034 overstated

Beginning Cash Balance – 2003

The understatement of beginning cash on hand in the amount of \$32,852 was the result of prior period reporting errors.

The overstatement of receipts was the result of the following:

• Unitemized contributions overreported	+	\$125,358
• Miscellaneous adjustments	+	4,937
• Overstatement of Receipts		\$130,295

The understatement of disbursements was the result of the following:

• Disbursements Not Reported	+	\$34,942
• Miscellaneous adjustments	+	\$649
• Understatement of Disbursements		\$35,591

Closing Cash on Hand:

NRLPAC misstated the cash balances throughout 2003 and 2004 because of the errors described above. On December 31, 2004, the cash balance was overstated by \$86,570.

The Audit staff notified NRLPAC representatives of this finding. The representatives stated a computer system crash occurred in March 2004 which resulted in the receipt misstatements. A majority of the disbursements not reported related to transfers from NRLPAC to NRLC that arose from bank deposit errors.

Interim Audit Report Recommendation and Committee Response

The interim audit report recommended that NRLPAC amend its reports to correct the misstatements noted above. In addition, it was recommended that NRLPAC amend the cash balance of its most recent report with an explanation that it resulted from audit adjustments from a prior period. In response, NRLPAC filed amended reports that materially corrected the misstatements.

Finding 2. Failure to File Notices of Independent Expenditures

Summary

During the audit period, NRLPAC made independent expenditures totaling \$3,718,909. NRLPAC failed to maintain documentation supporting the dissemination date for the majority of these independent expenditures. Where the dissemination date was known, NRLPAC failed to file or untimely filed 24 or 48 hour notices for a material number of independent expenditures. Finally, independent expenditures paid subsequent to the dissemination date were not properly disclosed on Schedule D (Debts and Obligations) and Schedule E (Independent Expenditures). In response to the interim audit report, NRLPAC provided details pertaining to new procedures they plan to implement.

Legal Standard

Independent Expenditures – Definition. An independent expenditure is a expenditure for a communication, such as a website, newspaper, TV or direct mail advertisement that:

- expressly advocates the election or defeat of a clearly identified candidate; and
- is not made in consultation or cooperation with, or at the request or suggestion of a candidate, candidate's committee, party committee or their agents. 11 CFR §§104.4 and 109.20(a).

Disclosure requirements – general guidelines: An independent expenditure shall be reported on Schedule E, when added to other independent expenditures made to the same payee during the same calendar year, exceeds \$200. Independent expenditures made (i.e., publicly disseminated) prior to payment should be disclosed as “memo” entries on Schedule E and as a reportable debt on Schedule D. Independent expenditures of \$200 or less do not need to be itemized, though the committee must report the total of those expenditures on line (b) on Schedule E. 11 CFR §§104.3(b)(3)(vii), 104.4(a) and 104.11

Last-Minute Independent Expenditure Reports (24-Hour Notices): Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. A 24-hour notice is required for each additional \$1,000 that aggregates. The 24-hour notice must be filed on a Schedule E. The date that a communication is publicly disseminated serves as the date that the Committee must use to determine whether the total amount of independent expenditures has, in the aggregate, reached or exceeded the threshold reporting amount of \$1,000. 11 CFR §§104.4(f) and 104.5(g)(2).

Last-Minute Independent Expenditure Reports (48-Hour Notices): Any independent expenditure aggregating \$10,000 or more with respect to any given election, at any time during a calendar year, up to and including the 20th day before an election, must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. 11 CFR §§104.4(f) and 104.5(g)(1).

Facts and Analysis

During the audit period, NRLPAC made 1,545 independent expenditures (\$3,718,909) on behalf of 74 federal candidates. For the majority of the expenditures, NRLPAC failed to maintain documentation to support the dissemination date of the communications. Since the dissemination date was not known, NRLPAC filed 24 and 48 hour notices based on the check date for the expenditures.

Seventy-one independent expenditures, totaling \$176,721 on behalf of 16 candidates were made during the period January 1, 2003 through September 30, 2004. A review of these transactions indicated 24/48 hour notices for 42 independent expenditures, totaling \$110,168, were either not filed (9) or filed untimely (33). Twenty-nine of the untimely notices were filed after the general election. These notices were not only filed untimely but NRLPAC did not properly disclose the respective independent expenditures.

Between October 1, 2004 and December 31, 2004 NRLPAC made 1,474 independent expenditures, totaling \$3,542,188, on behalf of 62 candidates. A sample review of these independent expenditures determined that the required notice was either not filed or filed

untimely for 30% of the items tested. Similar to the above, a number of independent expenditures paid subsequent to the general election were not properly disclosed.³

The reporting requirement for independent expenditures is based on the dissemination date, and, in certain cases the reporting requirement is based on both the dissemination date and the check date. An independent expenditure paid subsequent to the dissemination date should be disclosed as a memo entry on Schedule E and as a debt owed to the vendor on Schedule D in the reporting period that the independent expenditure was disseminated. When this independent expenditure is paid, it is reported on Schedule E and the reported debt on Schedule D is then disclosed as paid. For these independent expenditures, NRLPAC merely disclosed the independent expenditure on Schedule E at the time of payment.

This matter was discussed with the NRLPAC representatives during the exit conference. The representatives stated that they itemized all independent expenditures and filed 24/48 hour notices by check date rather than by dissemination date. They related that they planned to hire additional staff in the future and had developed a new procedure to track independent expenditures by dissemination date.

Interim Audit Report Recommendation and Committee Response

The interim audit report recommended that NRLPAC provide evidence that the 24/48 hour notices were timely filed or submit any written comments it considered relevant. Further, it was recommended that NRLPAC submit and implement revised procedures for tracking the dissemination date for independent expenditures and the relevant aggregation for both 24 and 48 hour notices.

In response, NRLPAC related that members of its staff had attended a FEC seminar in 2003, but they did not fully comprehend the significance of the independent expenditure dissemination date, and therefore, had incorrectly reported the independent expenditures based upon when they were incurred and paid. NRLPAC related it has since established new procedures that included the assignment of a person identified as an Independent Expenditure Coordinator (Coordinator). The Coordinator will be responsible for tracking and aggregating independent expenditures and identifying when 24 and/or 48 hour notices are required. The Coordinator will provide the appropriate NRLPAC representatives with the necessary reporting information so that the required notices can be filed. Lastly, the response reflected that NRLPAC staff will continue to attend FEC conferences to keep up-to-date with reporting requirements.

³ The Audit staff noted that subsequent to the general election, and in response to Requests for Additional Information from the Reports Analysis Division, NRLPAC filed over 400 24/48 hour notices pertaining to communications reported as disseminated between October 1 and November 1, 2004, totaling about \$1,800,000. Obviously these notices were filed late.

Finding 3. Disclosure of Occupation/Name of Employer

Summary

NRLPAC did not adequately disclose the contributor's occupation and/or name of employer for 557 contributions that required itemization on Schedule A (Itemized Receipts). However, responses to additional requests for contributor information were noted in the records, but amended reports were not filed. In response to the interim audit report, NRLPAC filed amended reports that materially corrected the occupation/name of employer disclosure errors.

Legal Standard

A. Itemization Required for Contributions from Individuals. A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. 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 calendar year-to-date 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).

C. 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).

D. Definition of Best Efforts. The treasurer and the committee will be considered to have used "best efforts" with respect to contributions 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).

Facts and Analysis

NRLPAC did not adequately disclose the contributor's occupation and/or name of employer for 557 contributions that required itemization on Schedule A. "Information requested" or "requested" was disclosed for 537 of these transactions; the remaining disclosures were incomplete. Solicitations made available did request complete contributor information.

NRLPAC provided a folder containing 81 documents, such as follow-up letters to contributors and responses received. It appears that 60 contributors responded to a follow-up letter and provided the necessary information; however, NRLPAC did not disclose this information. Based on the responses, it is obvious that an additional effort was made to obtain and maintain the contributor information. Therefore, filing amended reports, disclosing the information obtained, would satisfy the best efforts requirements.

This matter was discussed at the exit conference. NRLPAC representatives stated they had not been aware that "best efforts" letters were missing until the audit. The representatives also agreed to amend their reports with the new information provided by the contributors.

Interim Audit Report Recommendation and Committee Response

The interim audit report recommended that NRLPAC file amended reports disclosing the occupation and/or name of employer for those contributors who responded to the additional request. In response, NRLPAC filed amended reports that materially corrected the occupation/name of employer disclosure errors

Finding 4. Disclosure of Receipts

Summary

A sample review of 2004 receipts determined a material number of the contributors itemized on Schedule A had incorrect contributor information. For the most part, the contributor's name was incorrect. In response to the interim audit report, NRLPAC filed amended reports that materially corrected the contributor information disclosure errors.

Legal Standard

A. Itemization Required for Contributions from Individuals. A political committee other than an authorized committee must itemize any contribution from an individual if it exceeds \$200 per calendar year, either by itself or when combined with other contributions from the same contributor. 2 U.S.C. §434(b)(3)(A).

B. 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 calendar year-to-date 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).

Facts and Analysis

A sample review of receipts determined a material number of the contributions itemized on Schedule A contained incorrect contributor information; primarily the contributor's name was incorrect. It appeared NRLPAC disclosed the name that appeared on the solicitation device, rather than the name of the individual who signed the check. Other errors pertained to non-disclosure of the contributor's full address; including the city and state.

This matter was discussed at the exit conference. NRLPAC representatives related they were unaware of these disclosure errors.

Interim Audit Report Recommendation and Committee Response

The interim audit report recommended that NRLPAC file amended disclosure reports to correct these errors. In response, NRLPAC filed amended reports that materially corrected the contributor information disclosure errors.