



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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For the meeting of January 12, 2023

November 29, 2022

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *AP*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Assistant Staff Director  
Audit Division

Rebecca Yarbrough *RY*  
Audit Manager

By: Sheraline Thomas *st*  
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Jim Risch for  
U.S. Senate Committee (A21-06)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presented the Draft Final Audit Report (DFAR) to the Jim Risch for U.S. Senate Committee (JRUSC) on October 20, 2022 (see attachment). JRUSC did not request an audit hearing.

This memorandum provides the Audit staff's recommendation for each finding outlined in the DFAR.

In response to the DFAR, JRUSC provided additional information and documentation, as noted below.

**Finding 1. Misstatement of Financial Activity**

The Audit staff recommends that the Commission find that JRUSC understated its reported beginning cash on hand and ending cash on hand by \$68,101 and \$56,935, respectively, in calendar year 2019; and understated its reported beginning cash on hand, receipts, and ending cash on hand by \$56,935, \$44,412, and \$109,548, respectively, in calendar year 2020.

**Finding 2. Receipt of Contributions in Excess of the Limit**

In response to the DFAR, JRUSC confirmed that it did not receive any requests for refunds following the redesignation letters sent to “certain applicable donors” in response to the Interim Audit Report. JRUSC also provided copies of the front and back of six negotiated checks as supporting documentation of refunds and disgorgements for excessive contributions totaling \$14,700, materially resolving its excessive contributions, albeit untimely. In addition, JRUSC provided a copy of the front of a \$5,600 refund check that was issued and has not yet been negotiated, per the JRUSC’s bank records, along with a supporting email chain on the status of the check.

The Audit staff recommends that the Commission find that JRUSC received excessive contributions from individuals totaling \$74,400.

**Finding 3. Failure to File 48-Hour Notices**

The Audit staff recommends that the Commission find that JRUSC failed to file 48-hour notices totaling \$31,700.

The Office of General Counsel has reviewed this memorandum and concurs with the recommendations.

If this memorandum is approved, the Proposed Final Audit Report will be prepared and circulated within 30 days of the Commission’s approval.

**If this Audit Division Recommendation Memorandum is not approved on a tally vote, Directive No. 70 states that the matter will be placed on the next regularly scheduled open session agenda.**

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Sheraline Thomas or Rebecca Yarbrough at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Jim Risch for U.S. Senate Committee

cc: Office of General Counsel



# Draft Final Audit Report of the Audit Division on the Jim Risch for U.S. Senate Committee

(January 1, 2019 - December 31, 2020)

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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)

Jim Risch for U.S. Senate Committee is the principal campaign committee for James E. Risch, Republican candidate for the United States Senate from the state of Idaho, and is headquartered in Boise, Idaho. For more information, see the Campaign Organization Chart, p.2

## Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 1,672,568
○ Contributions from Other Political Committees	1,179,720
○ Transfers from Other Authorized Committees	76,838
○ Offsets to Operating Expenditures	8,757
○ Other Receipts	31,206
<b>Total Receipts</b>	<b>\$ 2,969,089</b>
• Disbursements	
○ Operating Expenditures	\$ 1,809,619
○ Contribution Refunds	12,227
○ Other Disbursements	3,547
<b>Total Disbursements</b>	<b>\$ 1,825,393</b>

## Findings and Recommendations (p. 3)

- Misstatement of Financial Activity (Finding 1)
- Receipt of Contributions in Excess of the Limit (Finding 2)
- Failure to File 48-Hour Notices (Finding 3)

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<sup>1</sup> 52 U.S.C. §30111(b).



# **Draft Final Audit Report of the Audit Division on the Jim Risch for U.S. Senate Committee**

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(January 1, 2019 - December 31, 2020)

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# Part I

## Background

### Authority for Audit

This report is based on an audit of the Jim Risch for U.S. Senate Committee (JRUSC), 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 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission 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. 52 U.S.C. §30111(b).

### Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the receipt of excessive contributions;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the review of 48-hour notices;
5. the disclosure of individual contributors' occupation and name of employer;
6. the evaluation of a daily cash analysis;
7. the review of political party contribution discrepancies;
8. the consistency between reported figures and bank records;
9. the completeness of records; and
10. other committee operations necessary to the review.

## Part II

### Overview of Campaign

#### Campaign Organization

<b>Important Dates</b>	
• Date of Registration	October 19, 2007
• Audit Coverage	January 1, 2019 - December 31, 2020
<b>Headquarters</b>	Boise, Idaho
<b>Bank Information</b>	
• Bank Depositories	Five
• Bank Accounts	Five checking accounts, Three CDs
<b>Treasurer</b>	
• Treasurer When Audit Was Conducted	R. John Insinger
• Treasurer During Period Covered by Audit	R. John Insinger
<b>Management Information</b>	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid and Volunteer Staff

#### Overview of Financial Activity (Audited Amounts)

<b>Cash on hand @ January 1, 2019</b>	<b>\$ 1,153,396</b>
<b>Receipts</b>	
○ Contributions from Individuals	1,672,568
○ Contributions from Other Political Committees	1,179,720
○ Transfers from Other Authorized Committees	76,838
○ Offsets to Operating Expenditures	8,757
○ Other Receipts	31,206
<b>Total Receipts</b>	<b>\$ 2,969,089</b>
<b>Disbursements</b>	
○ Operating Expenditures	1,809,619
○ Contribution Refunds	12,227
○ Other Disbursements	3,547
<b>Total Disbursements</b>	<b>\$ 1,825,393</b>
<b>Cash on hand @ December 31, 2020</b>	<b>\$ 2,297,092</b>

## **Part III**

### **Summaries**

#### **Findings and Recommendations**

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

During audit fieldwork, a comparison of JRUSC's reported financial activity with its bank records revealed a misstatement of beginning and ending cash on hand for calendar year 2019, as well as a misstatement of beginning cash on hand, receipts, and ending cash on hand for calendar year 2020. Specifically, for 2019, JRUSC understated beginning cash on hand by \$68,101 and ending cash on hand by \$56,935. For 2020, JRUSC understated beginning cash on hand, receipts and ending cash on hand by \$56,935, \$44,412, and \$109,548, respectively. In response to the Interim Audit Report recommendation, JRUSC corrected the public record for the misstated beginning cash on hand, ending cash on hand, and receipts by filing Form 99's (Miscellaneous Electronic Submission). Additionally, JRUSC corrected the public record by amending its cash balance on its most recently filed report (2022 July Quarterly Report.)

(For more detail, see p. 5)

##### **Finding 2. Receipt of Contributions in Excess of the Limit**

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that JRUSC received apparent excessive contributions, totaling \$74,400. These errors occurred as a result of JRUSC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors or issuing refunds of the excessive portions of contributions in a timely manner. In response to the Interim Audit Report recommendation, JRUSC untimely resolved excessive contributions, totaling \$53,000. JRUSC also provided documentation related to the refund of \$20,300 in excessive contributions, including copies of the front of five refunds checks. Absent JRUSC providing copies of the front and back of the fully negotiated refund checks or the disgorgement of the excessive contributions to the U.S. Treasury, the \$20,300 remains unresolved. JRUSC did not provide any documentation or comments for the remaining \$1,100 in excessive contributions. (For more detail, see p.7)

##### **Finding 3. Failure to File 48-Hour Notices**

During audit fieldwork, the Audit staff identified that JRUSC failed to file or untimely filed 48-hour notices for 31 contributions totaling \$72,300, that were received prior to the primary and general election. In response to the Interim Audit Report recommendation, JRUSC stated that, on May 26, 2022, it received its first communication from the Commission referencing the new primary date and notification of the changed 48-hour notice period.<sup>2</sup> The Audit staff concludes that \$40,600 of the \$72,300 in 48-hour notices

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<sup>2</sup> On April 1, 2020, in response to the COVID-19 pandemic, the Idaho Governor effectively changed the primary election date from May 19, 2020, to June 2, 2020. See Part IV, Finding 3, Section C.



the Interim Audit Report determined to be untimely filed should now be considered timely, given that JRUSC immediately filed the 48-hour notices in response to the Commission's May 26, 2022, notification. The remaining \$31,700 of the \$72,300 in 48-hour notices the Interim Audit Report addressed are contributions for which JRUSC never filed a 48-hour notice. Specifically, JRUSC did not file 48-hour notices for \$9,600 in primary contributions and \$22,100 in general contributions. As such, the Audit staff maintains that JRUSC failed to file 48-hour notices for contributions totaling \$31,700. (For more detail, see p. 11)

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## Part IV

# Findings and Recommendations

### Finding 1. Misstatement of Financial Activity

#### Summary

During audit fieldwork, a comparison of JRUSC's reported financial activity with its bank records revealed a misstatement of beginning and ending cash on hand for calendar year 2019, as well as a misstatement of beginning cash on hand, receipts, and ending cash on hand for calendar year 2020. Specifically, for 2019, JRUSC understated beginning cash on hand by \$68,101 and ending cash on hand by \$56,935. For 2020, JRUSC understated beginning cash on hand, receipts and ending cash on hand by \$56,935, \$44,412, and \$109,548, respectively. In response to the Interim Audit Report recommendation, JRUSC corrected the public record for the misstated beginning cash on hand, ending cash on hand, and receipts by filing Form 99's (Miscellaneous Electronic Submission). Additionally, JRUSC corrected the public record by amending its cash balance on its most recently filed report (2022 July Quarterly Report.)

#### Legal Standard

**Contents of Reports.** Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 52 U.S.C. §30104(b)(1), (2), (3), (4), and (5).

#### Facts and Analysis

##### A. Facts

During audit fieldwork, the Audit staff reconciled JRUSC's reported financial activity with its bank records for calendar years 2019 and 2020. The reconciliation determined that JRUSC's 2019 beginning and ending cash on hand was understated by \$68,101 and \$56,935, respectively. The cash on hand discrepancies resulted primarily from prior period adjustments, as well as non-material misstatements of both receipts and disbursements during calendar year 2019. The following chart details the 2020 discrepancies between JRUSC's disclosure reports and its bank activity.

<b>2020 Campaign Activity</b>			
	<b>Reported</b>	<b>Bank Records</b>	<b>Discrepancy</b>
Beginning Cash on hand @ January 1, 2020	\$1,975,388	\$2,032,323	\$56,935 Understated
Receipts	\$1,660,227	\$1,704,639	\$44,412 Understated
Disbursements	\$1,448,070	\$1,439,869	\$8,201 Overstated
Ending Cash on hand @ December 31, 2020	\$2,187,545	\$2,297,093	\$109,548 Understated

The 2020 understatement of receipts resulted from the following:

• Contributions from individuals not reported	+ \$20,950
• Contributions from political committees not reported	+ 1,000
• Contributions from political committees under-reported	+ 2,500
• Contributions from individuals over-reported	- 1,600
• Transfers from authorized committees over-reported	- 6,419
• Transfers from authorized committees not reported	+ 3,383
• Interest/Investment income not reported	+ 795
• Vendor refund not reported	+ 8,757
• Unexplained differences	+ 15,046
<b>Net Understatement of Receipts</b>	<b><u>\$44,412</u></b>

The 2020 overstatement of disbursements resulted from the following:

• Disbursements not reported	+ \$11,167
• Transfer to unauthorized committee not reported	+ 2,500
• Disbursements reported twice	- 22,514
• Disbursement reported that did not clear the bank	- 1,243
• Unexplained differences	+ 1,889
<b>Net Overstatement of Disbursements</b>	<b><u>(\$8,201)</u></b>

The \$109,548 understatement of the ending cash on hand was a result of the reporting discrepancies described above.

## **B. Interim Audit Report & Audit Division Recommendation**

The Audit staff discussed this matter during the exit conference with JRUSC representatives and provided schedules detailing the misstatement of financial activity. JRUSC representatives did not provide any comments.

JRUSC representatives did not provide an exit conference response.

The Interim Audit Report recommended that JRUSC amend its disclosure reports or file a Form 99 (Miscellaneous Electronic Submission)<sup>3</sup> to correct the misstatements noted above and to reconcile the cash balance on its most recently filed report to include these adjustments and correct any subsequent discrepancies.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, JRUSC explained that \$20,150 of contributions not reported was due to “a single monthly spreadsheet that was not uploaded into the Committee’s reporting software.” JRUSC further explained that it has implemented a new policy wherein all uploaded data is double checked to ensure the data is properly reflected in the reporting system. Regarding the misstated disbursements, JRUSC stated that \$10,000 of the \$11,167 in unreported disbursements was for what JRUSC viewed as a deposit for last minute media buys and not as a “reportable distribution.” JRUSC further stated it now understands how to report similar disbursement transactions.

JRUSC’s Form 99, filed on June 13, 2022, attempted to “cumulatively amend” the 2019 and 2020 misstatements, however, the Form 99 did not include the necessary transaction details required to correct the public record. The Audit staff advised JRUSC during the exit conference and in the Interim Audit Report that if JRUSC chose to file a Form 99 instead of amending its disclosure reports to correct the misstatements, the Form 99 must contain all pertinent information that is required on each schedule of a campaign finance report. Following the receipt and review of the Form 99, the Audit staff advised JRUSC of the requirement to provide all pertinent information related to the misstated transactions. JRUSC filed a subsequent Form 99 on September 22, 2022, with all pertinent information needed to correct the public record for the misstated beginning cash on hand, ending cash on hand and receipts. Additionally, JRUSC corrected the public record by amending its cash balance on its most recently filed report (2022 July Quarterly Report)

## **Finding 2. Receipt of Contributions in Excess of the Limit**

### **Summary**

During audit fieldwork, the Audit staff reviewed contributions from individuals to determine if any exceeded the contribution limit. This review indicated that JRUSC received apparent excessive contributions totaling \$74,400. These errors occurred as a result of JRUSC not resolving the excessive portions of contributions by forwarding presumptive redesignation or reattribution letters to its contributors or issuing refunds of the excessive portions of contributions in a timely manner. In response to the Interim Audit Report recommendation, JRUSC untimely resolved excessive contributions totaling \$53,000. JRUSC also provided documentation related to the refund of \$20,300 in excessive contributions, including copies of the front of four refunds checks. Absent JRUSC providing copies of the front and back of the fully negotiated refund checks or the disgorgement of the excessive contributions to the U.S. Treasury, the \$20,300

<sup>3</sup> JRUSC was advised by the Audit staff that if it chose to file a Form 99, instead of amending its disclosure reports, the form must contain all pertinent information that is required on the schedule.

remains unresolved. JRUSC did not provide any documentation or comments for the remaining \$1,100 in excessive contributions.

### **Legal Standard**

**A. Authorized Committee Limits.** For the 2020 election, an authorized committee may not receive more than a total of \$2,800 per election from any one person or \$5,000 per election from a multicandidate political committee. 52 U.S.C. §§30116(a)(1)(A) and (a)(2)(A); 11 CFR §§110.1(a) and (b) and 110.9.

**B. Handling Contributions That Appear Excessive.** If a committee receives a contribution that appears to be excessive, the committee must either:

- Return the questionable check to the donor; or
- Deposit the check into its federal account and:
  - Keep enough money in the account to cover all potential refunds;
  - Keep a written record explaining why the contribution may be illegal;
  - Include this explanation on Schedule A if the contribution has to be itemized before its legality is established;
  - Seek a reattribution or a redesignation of the excessive portion, following the instructions provided in the Commission regulations (see below for explanations of reattribution and redesignation); and
  - If the committee does not receive a proper reattribution or redesignation within 60 days after receiving the excessive contribution, refund the excessive portion to the donor. 11 CFR §§103.3(b)(3), (4) and (5) and 110.1(k)(3)(ii)(B).

**C. Joint Contributions.** Any contribution made by more than one person (except for a contribution made by a partnership) must include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A joint contribution is attributed equally to each donor unless a statement indicates that the funds should be divided differently. 11 CFR §110.1(k)(1) and (2).

**D. Reattribution of Excessive Contributions.** The Commission regulations permit committees to ask donors of excessive contributions (or contributions that exceed the committee's net debts outstanding) whether they had intended their contribution to be a joint contribution from more than one person and whether they would like to reattribute the excess amount to the other contributor. The committee must inform the contributor that:

- The reattribution must be signed by both contributors;
- The reattribution must be received by the committee within 60 days after the committee received the original contribution; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3).

Within 60 days after receiving the excessive contribution, the committee must either receive the proper reattribution or refund the excessive portion to the donor. 11 CFR §§103.3(b)(3) and 110.1(k)(3)(ii)(B). Further, a political committee must retain

written records concerning the reattribution in order for it to be effective. 11 CFR §110.1(l)(5).

Notwithstanding the above, any excessive contribution that was made on a written instrument that is imprinted with the names of more than one individual may be attributed among the individuals listed unless instructed otherwise by the contributor(s). The committee must inform each contributor:

- How the contribution was attributed; and
- The contributor may instead request a refund of the excessive amount. 11 CFR §110.1(k)(3)(ii)(B).

**E. Redesignation of Excessive Contributions.** When an authorized candidate committee receives an excessive contribution (or a contribution that exceeds the committee's net debts outstanding), the committee may ask the contributor to redesignate the excess portion of the contribution for use in another election. The committee must inform the contributor that:

- The redesignation must be signed by the contributor;
- The redesignation must be received by the committee within 60 days after the committee received the original contribution; and
- 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).

When an individual makes an excessive contribution to a candidate's authorized committee, the campaign may presumptively redesignate the excessive portion to the general election if the contribution:

- Is made before that candidate's primary election;
- Is not designated in writing for a particular election;
- Would be excessive if treated as a primary election contribution; and
- As redesignated, does not cause the contributor to exceed any other contribution limit. 11 CFR §110.1(b)(5)(ii)(B)(1)-(4).

The committee is required to notify the contributor of the redesignation within 60 days of the treasurer's receipt of the contribution and must offer the contributor the option to receive a refund instead.

## Facts and Analysis

### A. Facts

#### 1. Facts

During audit fieldwork, the Audit staff conducted a review of contributions to identify apparent excessive contributions from individuals, as noted below.

<b>Excessive Contributions - Testing Method</b>	
High Dollar Review Contribution Error Amount	\$74,400
<b>Total Amount of Excessive Contributions</b>	<b>\$74,400</b>
<b>Reason for Excessive Contributions</b>	
Contributions not resolved via presumptive letter or refund	\$74,400
<b>Total Amount of Excessive Contributions</b>	<b>\$74,400</b>

#### 2. Additional Information

JRUSC did not maintain a separate account for questionable contributions. However, based on its cash on hand balance at the end of the audit period, it appears that JRUSC did maintain sufficient funds to refund the apparent excessive contributions.

### B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with JRUSC representatives and provided a schedule of the apparent excessive contributions. JRUSC representatives asked for clarification regarding the timing of the presumptive redesignation and/or reattribution letters. The Audit staff explained that presumptive letters sent to contributors in response to the exit conference would untimely resolve any excessive contributions.

JRUSC representative did not provide an exit conference response.

The Interim Audit Report recommended that JRUSC:

- Provide evidence demonstrating that the contributions in question were not excessive, or if excessive, were resolved in a timely manner. This evidence should have included documentation that was not made available to the Audit staff during the audit, including copies of solicitation cards completed by the contributors at the time of their contribution that clearly inform the contributors of the limitations; timely letters sent to contributors eligible for presumptive redesignation and/or reattribution; or timely refunds (copies of the front and back of negotiated refund checks), redesignations, or reattributions for excessive contributions.
- Absent such demonstration, for any excessive contributions that JRUSC could have resolved by sending presumptive redesignation and/or reattribution letters, it may now send letters to inform the contributors how the committee redesignated

and/or reattributed the contribution and offer a refund. JRUSC must provide evidence of such refunds (copies of front and back of negotiated checks). For a reattribution, both the contributor and the individual to whom a contribution was reattributed must be notified. Absent the contributor's request for a refund, these letters will obviate the need to refund the contributions.

- If funds were not available to make such refunds, JRUSC should have reported the excessive contributions as debts owed on Schedule D (Debts and Obligations) until funds became available to make the refunds.

### C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, JRUSC stated that the majority of the excessive contributions fall into the "presumptive" category and only four were "true" excessive contributions. In response to the Interim Audit Report recommendation, JRUSC also submitted presumptive letters dated June 5, 2022:

Corrective Action Taken by Committee – Excessive Contributions	
Dollar Amount of Presumptive Letters Sent – <i>Untimely</i>	\$53,000

The Audit staff concludes that the presumptive letters sent in response to the audit are in compliance with the Interim Audit Report recommendation.

JRUSC also provided copies of the front of four refund checks totaling \$15,100 and provided a copy of a letter to a contributor which indicated that an additional \$200 was refunded, however, a copy of this refund check was not provided. In addition, JRUSC explained that two contributions identified by the Audit staff as excessive were discovered by the campaign within days of receipt and were immediately refunded. JRUSC provided copies of the two refund checks totaling \$5,000.

The Audit staff notes that JRUSC did not provide copies of the front and back of the \$20,300<sup>4</sup> in negotiated checks or evidence that any refunds not cashed by the contributors have been disgorged to the U.S. Treasury. Absent this documentation demonstrating that the excessive contributions are no longer in JRUSC's bank account, the Audit staff concludes that JRUSC has not resolved this finding.

## Finding 3. Failure to File 48-Hour Notices

### Summary

During audit fieldwork, the Audit staff identified that JRUSC failed to file or untimely filed 48-hour notices for 31 contributions totaling \$72,300, that were received prior to the primary and general election. In response to the Interim Audit Report recommendation, JRUSC stated that, on May 26, 2022, it received its first communication from the Commission referencing the new primary date and notification of the changed 48-hour

<sup>4</sup> \$15,100 + \$200 + \$5,000 = \$20,300



notice period.<sup>5</sup> The Audit staff concludes that \$40,600 of the \$72,300 in 48-hour notices that the Interim Audit Report determined to be untimely filed should now be considered timely, given that JRUSC immediately filed the 48-hour notices in response to the Commission's May 26, 2022, notification. The remaining \$31,700 of the \$72,300 in 48-hour notices the Interim Audit Report addressed are contributions for which JRUSC never filed a 48-hour notice. Specifically, JRUSC did not file 48-hour notices for \$9,600 in primary contributions and \$22,100 in general contributions. As such, the Audit staff maintains that JRUSC failed to file 48-hour notices for contributions totaling \$31,700.

### 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 the banks. 11 CFR §104.5(f).

### Facts and Analysis

#### A. Facts

During audit fieldwork, the Audit staff identified 78 contributions, totaling \$205,300, that equaled or exceeded \$1,000 and were received during the 48-hour notice reporting period for the primary and general election. A review of these contributions indicated that JRUSC did not file 48-hour notices for 18 contributions totaling \$31,700 and untimely filed 48-hour notices for 13 contributions totaling \$40,600. These contributions are summarized below.

	Primary	General	Total
48-Hour Notices - <i>Not Filed</i>	\$9,600	\$22,100	\$31,700
48-Hour Notices - <i>Filed Untimely</i> <sup>6</sup>	\$35,600	\$5,000	\$40,600
<b>TOTAL</b>	<b>\$45,200</b>	<b>\$27,100</b>	<b>\$72,300</b>

#### B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed this matter during the exit conference with the JRUSC representatives and provided a schedule of the contributions for which 48-hour notices were not filed or filed untimely. JRUSC representatives asked questions regarding

<sup>5</sup> See Section C, below.

<sup>6</sup> See section C, Committee Response to Interim Audit Report, below, for updates related to the removal of the \$40,600 in untimely 48-hour notices from the finding. All \$40,600 of the untimely-filed notices, including for the \$5,000 general election contribution, were received in the primary election 48-hour notice period. Each of these untimely-filed notices were filed on the day after JRUSC received notification of the changed 48-hour notice period.

whether the change in the date of the primary election was considered. The Audit staff explained that this change was taken into consideration.<sup>7</sup>

JRUSC representatives did not provide an exit conference response.

The Interim Audit Report recommended that, JRUSC submit documentation demonstrating that the 48-hour notices for the contributions in question were timely filed, the contributions were received outside of the 48-hour notice reporting period or provide any comments it deemed necessary with respect to this matter.

### **C. Committee Response to Interim Audit Report**

In response to the Interim Audit Report recommendation, JRUSC stated that it “respectfully disagrees with the Commission’s conclusion that the election date was changed” from May 19, 2020 to June 2, 2020. JRUSC’s based its position on a March 30, 2020, press release from the Office of the Governor citing the announcement from Idaho’s Governor and Secretary of State that there would be no change in the primary 2020 election date of May 19, 2020. JRUSC stated that the Governor’s subsequent April 1, 2020, Proclamation “canceled in-person voting and stated several adjustments to the absentee voting election process but never outright changed the May 19, 2020 election date....” JRUSC stated that, “the campaign went on with its business as planned and filed the appropriate 48-hour Reports and its pre-primary report based off of a May 19, 2020 election date.” JRUSC further stated that it was first notified by the Commission of the new June 2, 2020, primary election date on May 26, 2020, and provided the Audit staff with a copy of a May 26<sup>th</sup> email from the Reports Analysis Division. “In an attempt to comply with a confusing situation,” JRUSC stated that “the campaign began immediately filing 48-hour reports” and “a second pre-primary report as instructed by the Commission.” JRUSC additionally stated that “the campaign believes it did the best it could do under these conflicting and confusing facts” and urged the Commission to consider “these factors as justification which leads to the conclusion that the campaign utilized best efforts in a confusing and unclear circumstance.”

The Audit staff notes that the Governor’s April 1, 2020, Proclamation stated that, “in lieu of the use of polling places on Election Day, the May 19, 2020, Primary Election and Consolidated Elections shall be conducted in accordance with the existing absentee voting by mail process....” The Proclamation further set May 19, 2020, as the deadline to request an absentee ballot and June 2, 2020, as the deadline for absentee ballots to be received and counted. As such, the Commission determined that because voting continued through June 2<sup>nd</sup> and no nominees for the general election would be selected until June 2<sup>nd</sup> or later, June 2<sup>nd</sup> was the date of the primary election for the purposes of filing reports and notices of campaign finance activity.

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<sup>7</sup> On April 1, 2020, the Idaho Governor effectively changed the date of the May 19, 2020, congressional primary election by setting June 2, 2020, as the deadline for absentee ballots. The change was in response to the COVID-19 pandemic. The updated 48-Hour Notice period was May 14 – May 30, 2020. [FEC | Dates and deadlines | Idaho primary election report notice \(2020\)](#).

Following JRUSC's Interim Audit Report response, the Audit staff confirmed with Commission staff that JRUSC was first notified of the June 2<sup>nd</sup> primary election date, and the corresponding May 14 – May 30<sup>th</sup> 48-hour notice period, on May 26, 2020.<sup>8</sup> In response to the May 26<sup>th</sup> notification, JRUSC filed 48-hour notices for contributions totaling \$40,600<sup>9</sup> on May 27, 2020. Although the notices for these \$40,600 in contributions were initially deemed untimely, given that Audit staff is now aware that JRUSC immediately filed the 48-hour notices in response to the Commission's notification, the Audit staff no longer considers these notices untimely.

For the \$31,700 in 48-hour notices not filed, \$9,600 were for primary election contributions. JRUSC did not file these 48-hour notices in response to the Commission's May 26<sup>th</sup> notification, as it did for the \$40,600 in contributions noted above. The remaining \$22,100 in 48-hour notices that were not filed were for general election contributions. As with the \$9,600 in primary election contributions, JRUSC did not file 48-hour notices for the general election contributions. As such, the Audit staff maintains that 48-hour notices for \$31,700 in contributions were not filed. These contributions are summarized below.

#### 48-Hour Notices Summary

	Primary	General	Total
48-Hour Notices - <i>Not Filed</i>	\$9,600	\$22,100	\$31,700
<b>TOTAL</b>	<b>\$9,600</b>	<b>\$22,100</b>	<b>\$31,700</b>

<sup>8</sup> The June 2<sup>nd</sup> primary election date and May 14<sup>th</sup> – May 30<sup>th</sup> primary election 48-hour notice period, in accordance with the [FEC | Dates and deadlines | Idaho primary election report notice \(2020\)](#), were used at each stage of the audit process to determine JRUSC's 48-hour notice reporting requirements.

<sup>9</sup> \$35,600 in primary contributions + \$5,000 in general contributions (received during the primary election 48-hour notice period) = \$40,600.