

FEC Releases Results of Audit Highlighting Additional PAC Errors

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The Federal Election Commission (FEC) recently released the results of its audit of the Democrat, Republican, Independent Voter Education Political Campaign Committee (DRIVE), the political action committee (PAC) of the Teamsters Union. The audit, which focused on DRIVE's activities from January 1, 2001, through December 31, 2002, uncovered a number of mistakes that can arise when operating a PAC.

As noted in our July newsletter article entitled "FEC Corporate PAC Audit Highlights Several Common Errors," the FEC requires a PAC to keep a copy of each employee's Payroll Deduction Authorization (PDA) on file. Based on its analysis, the FEC determined that DRIVE lacked PDAs for contributions totaling more than \$1.2 million. To conform to the FEC's requirements, DRIVE began using an image database to store old and current PDAs. According to DRIVE, the database currently is updated every 30 days, and if a contribution does not match a PDA, it is returned.

During the two-year period, DRIVE also received two bank loans totaling \$500,000 that were questioned by the FEC. In order for a bank loan to be treated as a loan and not as a contribution, the FEC requires that it be "made on a basis that assures repayment." 11 C.F.R. § 100.82(a)(2). On paper, DRIVE appeared to satisfy this requirement with a promissory note and a continuing security agreement with the bank. Upon closer inspection, however, the FEC found numerous problems with the actual transaction. For example, while the loans were ostensibly made using certificates of deposit as collateral, DRIVE did not actually maintain any of these financial instruments. Additionally, the FEC found no evidence that DRIVE provided any financial statements or revenue estimates as proof of a

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source of revenue to repay the loan, a violation of the loan agreement. When DRIVE countered by claiming that the amount of pledged funds and the value of DRIVE's accounts at the bank always exceeded the amount of the loan, the FEC produced bank statements indicating that this claim was inaccurate.

In its audit, the FEC also uncovered a number of misstatements relating to DRIVE's reported financial activity. In 2001, for example, DRIVE had overstated its receipts by \$321,264. DRIVE claimed this resulted from the difficulty in getting local unions and/or employers to send contributor information electronically in a timely manner. As a result, the contribution amount was entered into the database as an un-itemized receipt with the contributor information added at a later date. However, due to problems with data entry, this process resulted in the double-counting of some contributions that could not be fixed by the time the reports were filed. The FEC recommended that DRIVE file amended reports as necessary to correct the errors.