



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

November 6, 1980

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: BOB COSTA *RK*

FROM: JUDY HAWKINS *JH*

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT
REPORT-DEMOCRATIC PARTY OF NEW MEXICO

Attached please find a copy of the final audit report of the Democratic Party of New Mexico which was approved by the Commission on October 29, 1980.

Informational copies of the report have been received by all parties involved and this report may be released to the public as of today, November 6, 1980.

Attachment as stated

cc: FEC Library
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Public Record

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON THE
DEMOCRATIC PARTY OF NEW MEXICO

I. Background

A. Overview

This report is based on an audit of the Democratic Party of New Mexico ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of Title 2 of the United States Code which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of the Act.

The Committee registered with the U.S. General Accounting Office on May 17, 1974. The Committee maintains its headquarters in Albuquerque, New Mexico.

The audit covered the period from January 1, 1976 through October 23, 1978, the final coverage date of the most recent report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance on January 1, 1976 of \$2,210.14, total receipts for the period of \$100,496.68, total expenditures for the period of \$101,476.24 and a closing cash balance on October 23, 1978 of \$1,945.97. ^{1/}

This audit report is based on documents and working papers which support each of the factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

^{1/} The reported ending cash is accurate, although receipt and expenditure totals as reported do not include the activity of a Committee account, (see Section II.A. of this report.)

B. Key Personnel

The principal officers of the Committee during the period of the audit were the following:

<u>Name</u>	<u>Office</u>	<u>Period in Office</u>
Mr. Ben Alexander	Chairman	1-1-76 - 2-29-76
Mr. G. M. Glover	Chairman	3-1-76 - 5-15-77
Mr. Dan Croy	Chairman	5-16-77 - 7-21-78
Mr. Lawrence Ingram	Chairman	7-22-78 - 10-23-78
Mr. Odis Echols, Jr.	Treasurer	1-1-76 - 2-29-76
Mr. Jerry N. Smith	Treasurer	3-1-76 - 2-12-78
Mr. Eliu Romero	Treasurer	2-13-78 - 10-23-78

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; and analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. Reporting of Receipts and Expenditures

During the period covered by the audit, Section 434(b)(1) through (3), (8), (9) and (11) of Title 2, United States Code, required, in part, a political committee to include in its reports the amount of cash on hand at the beginning of the reporting period, the identification of each person from whom it has received contributions or made expenditures, which in the aggregate exceeds \$100, during the calendar year together with the date, amount and total sum of all contributions and expenditures within the calendar year.

Our review of Committee reports and records indicated that for the period January 1, to December 31, 1977, the Committee did not report the activity of one (1) of its depositories. As a result, approximately \$42,915.05 in receipts and \$42,155.63 in expenditures were not reported during 1977. The Executive Director had no explanation for the omission but agreed to file a comprehensive amendment to disclose the unreported activity, if necessary.

On January 15, 1980, the Commission forwarded a letter of audit findings to the Committee. The Commission recommended the Committee amend its report disclosing the unreported activity. The Committee responded with a letter which states that due to a lack of cooperation from former Committee officers and the absence of adequate records the current Treasurer is unable to comply. The letter further states that every effort is being made to avoid any recurrence of these problems.

On June 12, 1980, this matter was referred to the Office of General Counsel for non-compliance with the letter of audit findings. In a response dated September 3, 1980, the Office of General Counsel recommended that this matter not be pursued as a Matter Under Review. This recommendation results from the Committee's response to the letter of audit findings discussed above and from consideration of the Committee total Federal activity during the audit period. This Federal activity consisted of \$1,250 in transfers to the National Party Committee compared to total Federal, state and local activity of approximately \$144,000.

Recommendation

The Audit staff is in agreement with the Office of General Counsel and recommends no further action be taken. However, if the Committee contemplates future Federal activity consideration should be given to establishing a separate bank account to be used solely for federal funds.

B. Receipt of Corporate Contribution

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any Federal election to political office, and it is unlawful for any candidate, political committee, or other person to knowingly accept or receive any such contribution.

A review of the Committee's contribution records and verification with the appropriate Secretary of State, indicated that one (1) corporation made a contribution of \$100 during 1977 to the Committee.

The Committee's Executive Director was unable to provide an explanation of the receipt but agreed to take the appropriate action.

This matter was forwarded to the Office of General Counsel on May 10, 1979, where it was made part of Matter Under Review 999(79).

On August 14, 1979 the Commission found reason to believe that the Committee violated 2 U.S.C. Section 441b(a), voted to close the file and take no additional action on this matter. The Committee was subsequently notified of the Commission's determination.

Recommendation

In view of the Commission's determination, the Audit staff recommends no further action on this matter.

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C. Limitations on Contributions

Section 441a(a)(1)(C) and 441a(f) of Title 2 of the United States Code requires, in part, that no person shall make contributions to any other political committee (State party committee) in any calendar year which, in the aggregate, exceed \$5,000, and that no political committee shall knowingly accept any contribution in violation of the provisions of this Section. Additionally, during the period covered by the audit, Section 100.4(a)(1)(i) of the Code of Federal Regulations defined, in part, a loan to include a guarantee, endorsement, and any other form of security where the risk of non-payment rests with...the guarantor..., and that a loan is a contribution to the extent that the obligation remains outstanding.

During the course of the audit, it was determined that an official of the Committee was the guarantor of a \$10,000 loan incurred by the Committee during March 1977. The loan remained outstanding until November 1978 when the balance (\$8,179.33) was paid off, thus satisfying the obligation.

Further, it was noted the same Committee official made a personal loan to the Committee in the amount of \$750.00 during 1977. The Executive Director was unaware of the details of the loan but indicated that it had been paid off in November 1978.

This matter was referred to the Office of General Counsel on May 10, 1979, where Matter Under Review 999(79) was instituted.

On August 14, 1979 the Commission found reason to believe that the Committee violated 2 U.S.C. Section 441a(f), voted to close the file and take no further action on this matter. The Committee and the official noted above were subsequently notified of the Commission's decision.

Recommendation

In view of the Commission's determination, the Audit staff recommends no further action on this matter.

D. Disclosure of Transfers

During the period covered by the audit, Section 434(b)(3) of Title 2, United States Code stated, in part, that each report shall contain the name and address of each political committee from which the reporting committee received any transfer of funds, together with the amounts and dates of all transfers.

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Further, during the period covered by the audit, Section 104.2(b)(4) of the Code of Federal Regulations stated, in part, that each report shall disclose the identification of each political committee or other political organization from which the reporting committee received any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year-to-date transfers.

During the audit, it was determined that the Committee did not itemize three (3) transfers-in from political organizations totaling \$2,423.00, representing 25% of the number and 13.6% of the dollar amount of all transfers.

The Committee was unable to provide an explanation of why the transfers were not itemized.

On January 15, 1980, the Commission forwarded a letter of audit findings to the Committee. The Commission recommended the Committee amend their reports to disclose the transfers-in.

On June 12, 1980, this matter was referred to the Office of General Counsel for non-compliance with the letter of audit findings. Based on the Committee response to the letter of audit findings discussed in A above and on the Audit Division's determination that the dollar value of these transfers was included in the Committee's total receipts, the Office of General Counsel does not recommend that this matter be the subject of a Matter Under Review.

Recommendation

The Audit staff is in agreement with the Office of General Counsel and recommends no further action be taken.

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

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ADDITIONAL INFORMATION REGARDING THIS ORGANIZATION
MAY BE LOCATED IN A COMPLETED COMPLIANCE ACTION
FILE RELEASED BY THE COMMISSION AND MADE PUBLIC IN
THE PUBLIC RECORDS OFFICE. FOR THIS PARTICULAR
ORGANIZATION'S COMPLETED COMPLIANCE ACTION FILE
SIMPLY ASK FOR THE PRESS SUMMARY OF MUR # 999.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



