FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON,D.C. 20463

#1-8

August 29, 1979

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: ROBERT J. COSTA RJC

FROM: JUDY HAWKINS

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT-
TRANSPORTATION POLITICAL EDUCATION
LEAGUE (TPEL)

Attached please find a copy of the final audit report for the Transporation Political Education League (TPEL) which was approved by the Commission on August 21, 1979.

As of this date, all 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: FEC Library
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Public Record

FEDERAL ELECTION COMMISSION

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REPORT OF THE AUDIT DIVISION
ON THE
TRANSPORTATION POLITICAL EDUCATION LEAGUE

I. Background

A. Overview

This report is based upon an audit of the Transportation Political Education League ("TPEL") 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, United States Code, which directs 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.

TPEL ("The Committee"), formerly known as the Trainmen's Political Education League associated with the Brotherhood of Railroad Trainmen, has been in operation under the name of TPEL since January 1, 1969. It registered with the U.S. House of Representatives on April 17, 1972 and is a multi-candidate committee as defined in Section 441a(a)(4) of Title 2, United States Code. The Committee maintains its headquarters in Cleveland, Ohio.

The audit covered the period January 1, 1975 through December 31, 1976, the final coverage date of the current report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance at January 1, 1975 of $229,493.32, total receipts of $786,967.08; total expenditures of $835,637.12; and an ending cash balance at December 31, 1976 of $178,406.30.

According to its by-laws, the goals of TPEL are to "develop a program consistent with Federal and State laws in furtherance of political education, to make contributions to political candidates, and to raise and disburse funds in support thereof."

TPEL is financially administered by a National Committee of which the President of the United Transportation Union (UTU) serves as Chairman. TPEL is financed by voluntary contributions from UTU members and employees through payroll deduction plans and by direct individual contributions. The expenditure of all TPEL funds is subject to approval of the National Chairman.

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

B. Key Personnel

The principal officers of the Committee during the period covered by the audit were Mr. A. H. Chesser, Chairman and Mr. John H. Shepherd, Treasurer.

C. Scope

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

II. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that, except for the deficiencies noted below, the reports and statements of the Transportation Political Education League fairly present the financial activity of the Committee for the period covered by the audit. Further, except for the findings noted below, no material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

A. Deposit of Contributions Within 10 Days

Section 103.3(a) of Title 11, Code of Federal Regulations, states that all contributions received by a political committee must be deposited in a checking account in the appropriate campaign depository by the treasurer or his agent within 10 days of the treasurer's receipt thereof.

TPEL receives nearly all of its contributions by one of the three methods described below:

(1) UTU Employee Payroll Deduction Plan

Contributions are received by this method twice monthly immediately after each pay period. TPEL holds these funds in the UTU safe until the last working day of the month, at which time they are deposited into the TPEL depository.

(2) Direct Individual Contributions

This type of contribution is received by TPEL at various times during each month. These funds are also held in the UTU safe until the last working day of each month, at which time they are deposited into the TPEL depository.

(3) UTU Member Payroll Deduction Plan

Under this plan contributions are withheld from a member's wages by his employer along with the member's local and international union dues. These funds are then transmitted by a single check to the UTU local union. The local union then transmits the appropriate amount to TPEL through the international union. We were advised by UTU officials that the Union has approximately 1200 local units and relatively few do not participate in the member payroll deduction plan.

In order to verify the method by which member payroll deduction plan contributions are processed by the employer through the local union to UTU and eventually to TPEL, the Audit Division reviewed the records of five (5) local unions. 1/

Our review disclosed that the railway companies, whose employees participate in the payroll deduction plan through the five local organizations, deduct the contributions to TPEL, local and international dues, etc. approximately one and one-half months prior to the date they are due. They are then transmitted to the local union treasurers who receive them during the month following the month of deduction from the member's earnings.

1/ Local #[illegible] Macon, Georgia
Local #624 Washington, D.C.
Local #1117 Las Vegas, Nevada
Local #1251 Atlanta, Georgia
Local #[illegible] [illegible], D.C.

The UTU local treasurer deposits these funds into a local union treasury bank account and performs a reconciliation process to determine whether the amount(s) received correspond with deductions authorized by each member. The subsequent transfer to the UTU is not generally made for approximately another month.

The funds and the reconciliations from all participating locals are generally received at the UTU International Headquarters between the 20th and 25th of the month. At this time a second reconciliation process is undertaken and on the last working day of the month, the TPEL funds are deposited into the TPEL depository. As a result, four (4) to eleven (11) weeks have lapsed between the time of the initial deposit of the funds at the local level and the subsequent transfer and deposit into the TPEL depository.

The method of transmittal of these contributions and a commingling of funds issue is discussed below in Finding F.

In an interim audit report dated March 26, 1979, the Audit staff recommended that the Committee deposit contributions received through plans (1) and (2) within 10 days of their receipt. With respect to plan (3), the Audit staff recommended that the UTU local treasurers be required to remit that portion of TPEL contributions via separate check payable to TPEL which must be deposited into the TPEL depository within 10 days of the local treasurers' receipt thereof.

On May 10, 1979, the Audit staff met with representatives of TPEL who advised that contributions received through plans (1) and (2) are now being deposited into the TPEL depository on a weekly basis which complies with the Audit staff's recommendation.

With respect to the Member Payroll Deduction Plan (plan (3) above), on July 25, 1979, the Committee treasurer provided the Audit staff with a copy of a memorandum sent to all treasurers of UTU locals regarding the implementation of new procedures in order to comply with the above-mentioned recommendations of the Audit staff. The local treasurers were advised that, commencing with the August, 1979 billing, TPEL funds must be separated from union funds upon receipt from the employing carriers by remitting TPEL funds immediately via separate check to TPEL to facilitate the deposit of these funds into the TPEL depository within 10 days.

Recommendation

Since the Committee has taken steps to fully comply with the recommendations of the Commission, the Audit staff recommends that no further action is necessary.

B. Segregation of Committee Funds From Union Dues

Section 441b(b)(3)(A) of Title 2, United States Code, in part prohibits the use of: dues, fees, or other monies required as a condition of membership in a labor organization; or as a condition of employment; or monies obtained in any commercial transaction in connection with an election for Federal office.

Section 114.2(b) of Title 11, Code of Federal Regulations, in part, prohibits a labor organization or a corporation from making a contribution or expenditure in connection with any Federal election.

UTU Member Payroll Deduction Plan

The funds that are received through the member payroll deduction plan are transmitted in one check to each UTU local treasurer by each employer. Included in the checks are amounts authorized by each employee/member to be deducted from his earnings for such items as insurance premiums, local and national dues, and TPEL contributions. Upon receipt by the UTU local treasurer, the funds are deposited into the UTU local treasury bank account. A reconciliation process is conducted to determine if the amounts received from the members' employers are consistent with the amounts per a monthly billing provided by the national UTU. This billing shows all deductions (including contributions to TPEL) for each member. (The locals also receive direct contributions from members not participating in the payroll deduction plan which are included on the UTU monthly billing). Upon completion of the reconciliation process, the UTU local treasurer draws a check payable to the UTU International Headquarters for the amount(s) due. This is the amount(s) received less the local UTU union dues.

Upon receipt of these checks from the local union treasury accounts the UTU International Headquarters deposits the checks into the UTU International depository for safekeeping pending completion of a second reconciliation process. Thereafter, the UTU Accounting Department draws a check payable to TPEL for the amount(s) due and deposits the check into the TPEL depository.

Our review of the funds of the five (5) local unions noted in Part A above disclosed that on occasion members are in arrears on authorized deductions from not working during the pay period, due to: suspension, sickness, disability, furlough, etc. The local union's treasurer covers these shortages of deductions (including contributions to TPEL) by drawing funds from the local union treasury. The individuals eventually repaid the local union, TPEL's portion of which ranged from $.25 to $1.25. The latter amount represented a member's contribution to TPEL being in arrears for five months. Although the shortages which occured in the 5 locals are minimal in amount, they do represent the use of union treasury funds for Federal purposes.

Further, our review of the UTU headquarters account disclosed that again, shortages between the amounts forwarded by local unions to UTU and the amounts billed to the local unions by the UTU each month are covered through the use of treasury funds from the national UTU treasury accounts, until the local treasurer remits funds to cover them the following month. These shortages consisted, at least in part, of contributions to TPEL. The UTU Director of Billings explained that these shortages occur when a local union treasurer makes a mathematical error on his billing and reports remitting the total per the UTU billing, but does not remit the full amount.

To determine the extent of this practice, a sample of 133 locals was drawn. The records available for our review consisted of the 1976 files of the 133 locals in the sample including the monthly billings and UTU internal adjustment sheets which reflect shortages or overages in amounts forwarded by the local unions to UTU. As a result, we determined that a total of 28 shortages from 14 locals occurred where contributions to TPEL were involved. The shortages amounted to $58.64 in total during 1976 ranging from $.25 to $28.95 per month.

We advised the Committee Treasurer and UTU officials that the practice of covering shortages of contributions to TPEL from local or national UTU union treasury funds constitutes a loan from the local union or UTU to TPEL for those months when the shortages involved TPEL contributions.

In the interim audit report dated March 26, 1979, the Audit staff recommended that the Committee modify its procedures to avoid utilizing union funds to cover these shortages of TPEL contributions in the future.

In the May 10, 1979 meeting with TPEL representatives, the auditors were advised that TPEL officials were unaware that local treasurers were covering members' shortages with local treasury funds, but that the local treasurers have been advised to discontinue such practices.

Further, since the TPEL contributions through the Member Payroll Deduction Plan will now be transmitted via separate checks and deposited directly into the TPEL depository (as discussed in Finding A), TPEL shortages will no longer be covered through the use of national treasury funds.

Recommendation

Since the Committee has taken steps to fully comply with the Commission's recommendations, it is the Audit staff's opinion that no further action is necessary.

C. Unitemized Contributions

Section 434(b)(2) of Title 2, United States Code, requires a committee to disclose the identification of each person who has made one or more contributions aggregating in excess of $100 to the Committee in a calendar year, together with the amount and date of such contributions and the contributor's occupation and principal place of business, if any.

Section 100.11 of Title 11, Code of Federal Regulations defines occupation as the principal job title or position and whether or not self-employed.

Section 100.12 of Title 11, Code of Federal Regulations defines principal place of business as the full name under which the business is conducted and the city and state in which the person is employed or conducts business.

During the entrance conference, Committee personnel stated that, for reporting purposes, the Committee had no system for aggregating multiple contributions from one (1) individual. As noted [illegible] above, the Committee received contributions through three (3) plans. Records relating to each of the three (3) methods were reviewed as follows:

(1) UTU Member Payroll Deduction Plan

The UTU member payroll deduction plan included a monthly average of 72,177 members in 1975 and 71,654 in 1976.

Testing of 1975 contribution records relating to this plan indicated that none of the contributions received had been itemized on any Committee disclosure report and that a small percentage (less than 1%) of the individuals participating in the plan had made contributions aggregating in excess of $100. A similar test was not performed for 1976 since the Committee stated that the operation and reporting of the plan was the same in both years.

At the conclusion of fieldwork, the Committee was developing a computerized system for aggregating contributions received through the member payroll deduction plan. The computerized system would contain information for calendar year 1976 and later. At this time we recommended to the Committee that amended reports be filed itemizing all contributions aggregating in excess of $100 for both calendar years 1975 and 1976.

On January 16, 1978, the Committee filed an amended report for calendar year 1976 disclosing contributions received through the member payroll deduction plan from 516 participants whose aggregate contributions exceeded $100. The Committee stated that a similar amended report for calendar year 1975 would require a great deal of preparation time since the aggregation would be a manual process. No amended report for 1975 was filed. Further, the Committee did not adequately disclose the occupation and principal place of business of any of the 516 contributors disclosed under the amendments filed for 1976.

(2) UTU Employee Payroll Deduction Plan

Aggregation of contributions by members of the employee payroll deduction plan was performed manually by TPEL's accounting department. However, this information was not used to prepare the disclosure reports. Hence, no contributions received through the employee payroll deduction plan were itemized on the Committee's reports. We recommended that the Committee file amendments itemizing the contributions aggregating in excess of $100 for calendar years 1975 and 1976. On March 14, 1977, the Committee filed an amendment for calendar year 1976, itemizing contributions from 35 participants in the employee payroll deduction plan. No amended reports were filed for calendar year 1977.

(3) Direct Individual Contributions

Generally, direct contributions received were itemized if the contribution was $100 or greater. The Committee did not aggregate multiple direct contributions of less than $100. In both 1975 and 1976 all contributions itemized on Committee disclosure reports resulted from direct contributions.

Additional testing indicates that a portion of the contributors participated in more than one of the above plans. However, the Committee made no attempt to aggregate contributions from one (1) individual received through more than one (1) contribution plan. In addition, the computerized system under development at the time of the fieldwork did not provide for inter-contribution plan aggregation. The Committee was advised of this problem in the proposed system at the exit conference.

In the interim audit report dated March 26, 1979, the Audit staff recommended that no further action be taken with respect to TPEL's 1975-76 reports. However, the Audit staff did recommend that the disclosure of contributor information should be improved in TPEL's future reports to the Commission.

In the May 10, 1979 meeting with the Audit staff, TPEL representatives advised that the TPEL computer system now has the capacity to provide for inter-contribution plan aggregation. Also, TPEL has agreed to provide more detailed information in disclosing the contributors' occupations and principal places of business in its future reports to the Commission to fulfill the regulatory definitions set forth in 11 CFR 100.11 and 100.12.

Recommendation

Based on the above Committee action, we recommend that no further action is necessary.

D. Non-Member Participation in the UTU Employee Payroll Deduction Plan

Section 114.5(a)(2) of Title 11, Code of Federal Regulations, prohibits a labor organization, or a separate segregated fund established by a labor organization from soliciting contributions to such a fund from any person other than its members and their families. However, under the provisions of 11 CFR 114.5(j) a separate segregated fund may accept contributions from persons otherwise permitted by law to make contributions.

As previously noted, our review disclosed that UTU did maintain a payroll deduction plan through which contributions are made to TPEL. However, the Committee advised us they do not solicit non-members of UTU, or executive or administrative personnel and stockholders of the corporations whose employees the labor organization represents.

Our review disclosed that eight (8) employees of UTU, who are non-members of the union, made contributions to TPEL through the payroll deduction plan. The employees consisted of seven (7) secretaries who held positions with the various UTU state legislative boards and one (1) secretary who held a position with the General Committee of Adjustments. Seven (7) contributors participated in the payroll deduction plan from January 1, 1975 through December 31, 1977, although one (1) non-member married a member in December of 1976. The remaining contributor participated from January 1, 1975 until May 31, 1975 when she retired. All of these contributors submitted to UTU a written authorization for the payroll deduction. However, Committee officials advised us that they did not know how the eight (8) non-members of UTU became participants in the payroll deduction plan.

In their legal analysis of this finding, the Office of General Counsel concluded that, in their opinion, a payroll deduction plan necessarily involves communications in the nature of a solicitation, and therefore, TPEL is in apparent violation for accepting contributions from non-members who voluntarily contribute to TPEL through the payroll deduction plan. Accordingly, based on the approach set forth in 11 CFR 114.12(a), the Office of General Counsel recommended that the contributions made to TPEL by non-members of UTU through the payroll deduction plan after December 31, 1976 should be refunded to the contributors or disbursed in a manner that would not be a contribution or expenditure under the Act and Commission Regulations. The Committee was notified of the Counsel's recommendation in the interim audit report dated March 26, 1979.

In the May 23, 1979 letter to the Audit staff, TPEL's treasurer advised that the Committee had been unaware that voluntary contributions from non-members could not be collected through payroll deduction. The Committee also agreed to refund all contributions received from non-members via payroll deduction after December 31, 1976, and to terminate the contributions of those non-members who are currently contributing through payroll deduction.

On July 2, 1979, TPEL supplied the Audit staff with copies of cover letters and refund checks sent to nine (9) non-UTU members who had contributed or were currently contributing through payroll deduction. Included in the nine (9) refunds were the six (6) individuals noted in our review that were not members or family of members and whose contributions had been received subsequent to December 31, 1976.

Recommendation

Based on the above Committee action, we recommend that no further action is necessary.

E. Failure To Disclose A Committee Depository

Section 433(b)(9) and (c) of Title 2, United States Code, requires the Committee to file a Statement of Organization listing all banks where accounts are maintained, and to amend this filing when that information changes.

It was disclosed during the entrance conference that TPEL maintained a checking account at the National Bank in North Kansas City, Missouri which was not disclosed on its Statement of Organization or amendments thereto. On March 14, 1977, TPEL filed an amendment disclosing the depository.

Recommendation

The Audit staff recommends the Commission take no further action on this matter.

F. Overstatement Of Receipts And Expenditures, Understatement Of Beginning Cash-On-Hand, and Disclosure Of Transfers

Section 434(b)(8) and (11) of Title 2, United States Code, requires that a committee report the total sum of all receipts and expenditures made during the calendar year.

Section 434(b)(1) of Title 2, United States Code, requires that a committee report the amount of cash-on-hand at the beginning of each reporting period.

Section 434(b)(4) of Title 2, United States Code, states in part that the committee's report shall disclose the name and address of each political committee or candidate to which that committee made any transfer of funds, together with the amounts and dates of all transfers.

(1) In September, 1975, TPEL changed despositories from the Union Commerce Bank to the National City Bank. TPEL reported as unitemized receipts the transfer of the remaining funds totaling $4,825.48. The effect of this transaction was to overstate receipts by the above amount in 1975.

(2) TPEL did not report the receipt of contributions totaling $41.25 in 1975 and $54.16 in 1976 that were deposited in the Kansas City, Missouri, bank account. This resulted in an understatement of receipts in both 1975 and 1976 by the above amount(s).

(3) TPEL reported interbank transfers from the depository in Cleveland to the depository in Kansas City, Missouri, as expenditures. This resulted in an overstatement of expenditures by $22,237.66 in 1975 and $4,824.18 in 1976.

(4) TPEL made five (5) transfers to candidates or committees ranging in amounts from $20.00 to $100.00 and totalling $260.00 in 1975 from the depository in Kansas City, Missouri. In 1976 they made 19 similar transfers ranging in amounts from $25.00 to $1,000.00 and totalling $4,450.00 from the same depository. The transfers were not reported as itemized or unitemized disbursements resulting in an understatement of expenditures and non-disclosure of the transfers by the above amount(s).

The net effect of the above transactions is that TPEL had overstated receipts by $4,784.23 in 1975 and understated receipts by $54.16 in 1976; overstated expenditures by $21,977.66 in 1975 and $374.13 in 1976; and understated beginning cash-on -hand by $17,193.43 on January 1, 1976 and by $17,621.77 on January 1, 1977.

On March 14, 1977 and July 27, 1979, TPEL filed amendments correcting all the above mentioned misstatements.

Recommendation

We recommend that no further action be taken on this matter.