



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

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January 21, 1981

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

FROM: BOB COSTA *RJC*

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
AUTOMOBILE AND TRUCK DEALERS ELECTION
ACTION COMMITTEE

Attached please find a copy of the final audit report of the Automobile and Truck Dealers Election Action Committee which was approved by the Commission on October 7, 1980.

Informational copies of the report have been received by all parties involved and this report may be released to the public.

Attachment as stated

cc: FEC Library
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✓ Public Record



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REPORT OF THE AUDIT DIVISION ON THE AUTOMOBILE AND TRUCK DEALERS ELECTION ACTION COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Automobile and Truck Dealers Election Action Committee ("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 Secretary of the United States Senate on July 17, 1975, reporting the National Automobile Dealers Association (NADA), a trade association, as its connected organization. The Committee maintains its headquarters in McLean, Virginia.

The audit covered the period from January 1, 1977 through March 31, 1979, 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, 1977 of \$316,146.03, total receipts for the period of \$1,568,867.72, total expenditures for the period of \$1,601,953.72 and a closing cash balance on March 31, 1979 of \$283,060.03.

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.

B. Key Personnel

The principal officers of the Committee during the period audited were William E. Hancock, Jr., Chairman, and Edwin J. Mullane, Treasurer.

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. Solicitation of Non-Members

Section 114.8(a) of Title 11, Code of Federal Regulations, defines, in part, a trade association as a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce.

Section 114.7(a) of Title 11, Code of Federal Regulations, states in relevant part, that membership organizations, or their separate segregated funds may solicit contributions to the fund from members of the organization.

Section 114.1(e) of Title 11, Code of Federal Regulations, defines "members" as all persons who are currently satisfying the requirements for membership in a membership organization, trade association, co-operative, or corporation without capital stock. Further, Section 114.1(g) of Title 11, Code of Federal Regulations defines "soliciting" as the manner in which the solicitation is undertaken including, but not limited to, mailings, oral requests for contributions, and hand distribution of pamphlets.

We determined that during the audit period, the Committee utilized two (2) major fundraising methods. In February of 1977 and 1978 the Committee held large fundraising dinners (Diamond Dinners) at the conclusion of the annual NADA convention, to which former Committee contributors were invited and urged to purchase tickets at \$150 a ticket. The second fundraising method revolved around a formally established pledge system which functions with the assistance of regional and state volunteer Chairpersons. These people are requested by the Committee to hold meetings to which area auto dealers are invited

and, after obtaining the required permission form in the case of dealers who operate their businesses as corporations, the solicitation is made on behalf of the Committee. Dealers in attendance are asked to sign a pledge form on which they agree to contribute a certain amount, usually annually or quarterly, to the Committee. The pledge is considered perpetually in effect until revoked by the contributor. The Committee itself supports this system by quarterly pledge reminders and various solicitation mailings. Committee officials have stated that under this method, the solicitations, both personally and by mail, are directed at the NADA "representative" at the particular dealerships which in almost all cases is the dealer/owner himself. They have added that the policy of the Committee regarding solicitation of personnel of corporate members of NADA is to solicit the dealer/owner only and not go beyond him to solicit the dealership's stockholders, executive and administrative personnel, or their families. Under both solicitation methods, contribution checks and pledge forms were and are sent directly to the Committee.

It should be noted, however, that the requirement of membership in NADA was neither implicitly nor explicitly stated in any of the Committee's solicitation material viewed by the Audit staff during the course of the audit. When questioned about this issue, an official admitted that the Committee exercised no real control over who attends the pledge solicitation meetings for the Committee. Regarding the Diamond Dinners, the responsible Committee official stated that one of the major reasons why the Committee has decided to discontinue these functions was the lack of control over who was being solicited. When discussing the method of processing contributions made to the Diamond Dinners, the official stated that NADA membership status was not checked.

During our review of the Committee's receipts, we noted 13 items that were received from non-members of NADA, indicating apparent solicitation of individuals whose dealerships were not dues-paying member of NADA at the time of solicitation. In 12 instances contributions were actually accepted by the Committee from individuals involved and one (1) instance involved a pledge to contribute only. Total contributions accepted during the audit period from non-member regular pledge/contributors identified amounted to \$1,355.00.

Our review of Diamond Dinner contributions disclosed 10 contributions from 10 individuals and organizations, totaling \$4,050.00, not related with member dealerships of NADA at the time of the contribution. Included in these totals were three (3) automobile dealer associations operating on a statewide level as political action committees (State Pacs), that contributed a total of \$2,100, with no single contribution being in excess of \$1,000. 1/ ..

The Audit Division recommended in our letter of audit findings that the Committee:

- 1) Refund the \$1,355 of contributions received from non-member solicitees in connection with the Committee's regular pledge/contribution program, and provide evidence of the refunds to the Audit staff.
- 2) Refund to the contributors involved the \$4,050 of contributions received from non-member solicitees (both individuals and the three (3) State Pacs) in connection with the Diamond Dinner fundraisers and provide evidence of the refunds to the Audit staff.
- 3) With respect to non-member solicitees who are part of the regular pledge/contribution program, remove all those individuals from the Committee's pledge system files and provide documentation of the deletion or provide documentation of present membership status in NADA.
- 4) Implement procedural changes and revise the Committee's solicitation literature to reduce the incidence of solicitation of non-members, and provide documentation of the Committee's efforts to the Audit staff for review.
- 5) Disclose all refunds made in the Committee's next disclosure report in accordance with 2 U.S.C. 434(b)(7).

1/ State Pac officials, acting as volunteer Chairpersons, assist the Committee by holding dealer meetings and soliciting pledges (with contributions under the system sent directly to the Committee) and, in exchange, the State Pac receives 20% of the resulting contributions thus raised for the Committee from dealers in the particular state. Funds are transferred from the Committee to the various participating State Pacs on the conditions that receipt of such monies does not violate any applicable state law and the State Pac agrees to use the funds in connection with State and local campaigns only.

On February 6 and May 6, 1980, the Committee submitted acceptable documentation demonstrating refunds of all the contributions received from non-members noted above. The Committee has also disclosed the refunds in its reports to the Commission. In addition, the Committee submitted evidence of procedural changes and copies of revised solicitation literature, aimed at preventing the future solicitation of non-members of NADA.

Recommendation

Based on the Committee's response as noted above, the Audit staff recommends no further action in this matter.

B. Improper Use of Solicitation Guideline

Section 114.8(e)(4) of Title 11, Code of Federal Regulations, states that solicitations made by a trade association and/or its separate segregated fund are subject to the provisions of Section 114.5(a) of the Regulations.

Section 114.5(a)(2) of Title 11, Code of Federal Regulations, states that a guideline for contributions may be suggested (by a trade association or its separate segregated fund), provided that the person soliciting or the solicitation informs the persons being solicited -

- (i) that the guidelines are merely suggestions; and
- (ii) that an individual is free to contribute more or less than the guidelines suggest and that the (trade association) will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.

During our review of the Committee's solicitation material we noted the contribution pledge form utilized by the Committee suggested a guideline for contributions based on the dealer's number of new car sales during the previous year. In discussions with Committee officials, Auditors were informed that this was patterned after the dues structure established by NADA in computing membership dues for automobile and truck dealers throughout the country.

The pledge form provided for the contributor to indicate whether he wished to contribute on his pledge quarterly or annually, but allowed no flexibility in determining the amount of his contribution which was rigidly geared to the dealer's number of new car sales, as mentioned above.

The Audit staff recommended in our letter of audit findings that the Committee revise its contribution pledge form to comply with the requirements set forth above, and furnish the Audit staff with copies of appropriate documentation for review.

On February 6, 1980, the Committee filed a copy of its revised contribution pledge form which complies with the requirements of 11 C.F.R. 114.5(a)(2).

Recommendation

Based on the Committee's response as noted above, the Audit staff recommends no further action in this matter.

C. Reporting of Interest and Investment Income

During the period of the audit, Section 434(b)(7) of Title 2, United States Code, stated that each report of receipts and expenditures filed with the Commission shall disclose each contribution, rebate, refund, or other receipt in excess of \$100 not otherwise listed under Section 434(b), paragraphs (2) through (6).

During the course of the audit we noted that the Committee reported interest and investment income, totaling \$47,212.74 for the audit period, on the detailed Summary Schedule line for unitemized contributions, where the total for the reporting period was listed with the notation "Interest Income." Our audit confirmed that each instance of interest receipt, except one (1), was in excess of \$100.

The Audit staff recommended in our letter of audit findings that the Committee file comprehensive amendments for the periods 1977, 1978, and the first quarter of 1979, itemizing the interest and investment income receipts as required.

On June 19, 1980, the Committee filed supplements to its comprehensive amendments for 1977, 1978, and 1979, filed on February 6, 1980, which included the required information.

Recommendation

Based on the Committee's response as noted above, the Audit staff recommends no further action in this matter.

D. Reporting of Transfers to Federal Candidates

During the period of the audit, Section 434(b)(4) of Title 2, United States Code, required political committees to disclose in reports filed with the Commission the name and address of each committee or candidate to which the committee made a transfer of funds, together with the amount and dates of all transfers.*

During our review of Committee expenditures, we noted one (1) instance where the Committee failed to itemize a \$2,000 transfer to a Federal candidate, and two (2) instances where the Committee misreported the amounts of transfers to Federal candidates by \$900 each.

The Audit staff recommended in our letter of audit findings that the Committee include the omitted transaction and correcting entries in its 1978 comprehensive amendment.

The omitted transaction and correcting entries were included in the Committee's comprehensive amendment which was filed with the Commission on February 6, 1980.

Recommendation

Based on the Committee's response as noted above, the Audit staff recommends no further action in this matter.

E. Other Matters

Certain other matters noted during the audit were referred to the Office of General Counsel for their consideration.



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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 # 1307.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



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