



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A85-24

September 30, 1986

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

FROM: ROBERT J. COSTA *RJC*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
NEW JERSEY EDUCATION POLITICAL ACTION COMMITTEE

Attached please find a copy of the final audit report for the above named committee which was approved by the Commission on September 16, 1986.

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
RAD
Office of General Counsel
Public Disclosure

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B. Key Personnel

The Treasurers of the Committee during the period covered by the audit were Mr. Dennis N. Giordano from January 1, 1983 through August 31, 1983 and Ms. Betty Kraemer from September 1, 1983 through the close of the audit period.

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; except the contribution records provided by the Committee met in all material aspects the recordkeeping requirements of 2 U.S.C. §432(c) and 11 C.F.R. § 102.9(a), however, the records were not maintained in a manner which allowed testing for correct aggregate contributor totals, proper itemization, and limitations on contributions.

II. Audit Findings and Recommendations

A. Documentation for Receipts

Sections 432(c)(1), (2), (3) and (d) of Title 2 of the United States Code state that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committees; the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contributions by any person; and the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution. The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

The Audit staff reviewed the Committee's recordkeeping system relative to contributions received from individuals who were members of the New Jersey Education Association (the Committee's connected organization). Contributions by members currently employed were effected via payroll deduction. It was noted that when a member wished to contribute via payroll deduction, he/she would complete a "sign-up application form." This form would authorize the school district to deduct the designated amount from the member's earnings on a monthly basis

and to forward the amount to the Committee. When a member elects to cancel the payroll deduction, he/she would so inform the school district. The school district would then forward this information to the Committee using an "up-date form", stating the effective date of the change.

According to the Committee, the "up-date forms" were retained for only one year, rather than the three years required by the Act. Thus, the Audit staff was precluded from conducting testing necessary to verify the aggregate year-to-date contributions received from certain members, since the "up-date forms" which evidenced when a member changed the amount of his/her contribution were not available for the period from January 1, 1983 through August 31, 1984. It should be noted that based on our limited review, it appeared that members' contributions generally did not exceed \$10 per year (\$1 per month for 10 months).

A Committee official explained that due to the large volume of paper generated for the "up-date forms" received from the various school districts, the Committee only maintains these forms for one year after the preceding school year.

It was recommended in the Interim Audit Report, that the Committee modify its current procedures and begin retaining the "up-date forms" received from the various school districts in support of the reported individual contribution figures for a period of three years after the report is filed.

The Committee's response did not address this matter.

Recommendation

The Audit staff recommends no additional action beyond that contained in the above mentioned Interim Audit Report.

B. Itemization of Disbursements

Section 434(b)(4)(H)(i) of Title 2 of the United States Code states, in part, that each report shall disclose for the reporting period and the calendar year, the total amount of contributions made to other political committees.

Section 104.3(b)(3)(v) of Title 11 of the Code of Federal Regulations states, in part, that each report shall disclose in the case of a contribution to an authorized committee, the candidate's name and office sought (including State and Congressional district, if applicable).

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During the course of the review of disbursements, it was noted that the Committee transferred \$64,000 to 13 so-called "federal ad hoc committees" and itemized transactions, totaling \$63,500, as transfers to affiliated committees (FEC Form 3X, Line 20), and one transaction of \$500 on Line 21 as a reimbursement to a "federal ad hoc committee." Each "ad hoc committee" was set up to make disbursements in support of one federal candidate as evidenced by a federal candidate's name appearing as part of the name of the "ad hoc committee" (e.g., New Jersey Education Association PAC for Florio). The Committee did include in its disclosure reports detailed schedules showing the disposition of the funds transferred. However, bank records pertaining to one of the 13 "ad hoc committees" were not provided during fieldwork.

It should be noted that these 13 "ad hoc committees" were not separate political committees, but bank accounts set up by the Committee to disburse funds, at the district level, in support of designated federal candidates. Thus, the transmittal of funds to these accounts is considered an interaccount transfer which is not a reportable transaction. Such transactions involve the movement of funds between various Committee accounts. Only the actual disbursements made from these accounts should have been disclosed as disbursements on the appropriate line of FEC Form 3X.

A Committee official stated that the Committee was instructed at an FEC Conference to disclose the activity in this manner.

Our review of the Committee's disclosure reports disclosed that approximately \$26,000 in disbursements were itemized on FEC Form 3X, Line 21 "Contributions to Federal Candidates and Other Political Committees" with no indication as to the candidate(s) supported. Our analysis of available documentation indicated that the disbursements in question were not on behalf of a federal candidate(s); rather it appears the funds were expended for operating expenses or other expenses.

In view of the fact that the activity emanating from the "ad hoc" bank accounts was disclosed, the Audit staff noted in the Interim Audit Report that amending action to reclassify the reported transfers as non-reportable, with appropriate revisions to the various reported beginning and ending cash figures was not necessary.^{2/} However, the Interim Audit Report

^{2/} In disclosing the disbursements made from the "ad hoc" bank accounts, the Committee filed "Memo" schedules. The amounts in the "Memo" schedules were not reflected in summary page totals, hence the totals for disbursements as originally reported are not misstated.

stated that amending action was necessary (1) to reclassify to Line 21 the itemizations of the funding transfers originally disclosed on Line 20; and (2) to clarify the purpose of the disbursements itemized on Line 21 without any candidate designation.

In addition, the Committee solicited contributions for the National Education Association Political Action Committee ("NEAPAC") in conjunction with its own solicitations. The Committee received and reported contributions representing funds for NEAPAC and itself, which were deposited into the Committee's account. Generally, a \$1.00 contribution would be split \$0.85 to the Committee and \$0.15 to NEAPAC. NEAPAC's share was then forwarded by the Committee and disclosed as a transfer to an affiliated committee.

The Audit staff recommended in the Interim Audit Report that the Committee amend its reports to correct the irregularities concerning disbursements apparently misclassified on FEC Form 3X, Lines 20 and 21. In addition, the required documentation for the 13th "ad hoc committee" is to be obtained and presented for review. Additional amendments are to be filed if necessary, based on the review of the documentation. In the future, activity involving bank accounts set up to conduct activity on the local level should be disclosed in accordance with the Act.

With respect to the disclosure of contributions to be split between the Committee and NEAPAC, the Audit staff recommends that future reports should include a memo entry stating that individuals have made contributions to NEAPAC, as well as NJEAPAC and that the transfer represents that portion of the contributions attributable to NEAPAC.

On August 18, 1986, the Committee filed amendments to its disclosure reports to reclassify as required, those irregularities noted above. In addition, the Committee provided documentation for the 13th "ad hoc committee."

Recommendation

Based upon the Committee's action, the Audit staff recommends no further amending action with respect to reports filed for the period covered by the Audit. However, it should be noted that future reports should include a memo entry stating that individuals have made contributions to NEAPAC, as well as NJEAPAC and that the transfer represents that portion of the contributions attributable to NEAPAC.

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C. Partisan Communication Costs

Under 11 C.F.R. § 114.3(a)(1), a labor organization may make communications including partisan communications to its members and executive or administrative personnel and their families on any subject.

Sections 431(9)(B)(iii) and 441b(b)(2)(A) of Title 2, United States Code, excludes from the definition of "expenditure" any partisan communication cost (as defined by 11 C.F.R. § 114.3(a)(1)) made by a labor organization.

The Committee's disbursement records were reviewed to determine the total amount expended by the Committee on behalf of Federal candidates. It was noted that the Committee expended \$40,161.26 in the form of exempt communication costs on behalf of a Presidential candidate; \$11,127.24 for the 1984 primary election and \$29,034.02 for the 1984 general election. The Committee reported most of these expenditures on Line 21 (Contributions to Federal Candidates and Other Political Committees) and did not identify these disbursements as exempt partisan communication costs.

Based on our review of the Committee's documentation with respect to these disbursements, the Audit staff determined that the \$40,161.26 in disbursements, the purpose of which was to expressly advocate the election of a Presidential candidate, meet the requirements for partisan communication costs under 11 C.F.R. § 114.3. It is the opinion of the Audit staff that even though these costs were not paid from treasury funds, they are exempt from the contribution limitations.

The Committee official responsible for the preparation of the disclosure reports stated that these expenditures were partisan communication costs and therefore exempt from the contribution limitations as set forth at 2 U.S.C. § 441a(a)(2)(A). She added that these expenditures were paid from the Committee's account, as opposed to from treasury funds, because at the time of the transactions, she was unfamiliar with the requirements of the Act.

The Audit staff provided Committee officials with schedules necessary to clarify the public record.

In the Interim Audit Report, it was recommended that the Committee file amendments which itemize on Line 19 (Operating Expenditures) those disbursements comprising the \$40,161.26 made to expressly advocate the election of the Presidential candidate. Finally, the amended schedules should include the information required under 11 C.F.R. § 104.6(c).

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On August 18, 1986, the Committee filed amendments to its disclosure reports itemizing the above disbursements as required.

Recommendation

The Audit staff recommends no further action on this matter.

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SEPARATOR

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