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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A85-18

April 15, 1988

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

FROM: ROBERT J. COSTA 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
TEXAS REPUBLICAN CONGRESSIONAL COMMITTEE

Attached please find a copy of the final audit report of Texas Republican Congressional Committee which was approved by the Commission on April 5, 1988.

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: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library

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REPORT OF THE AUDIT DIVISION
ON THE
TEXAS REPUBLICAN CONGRESSIONAL COMMITTEE

I. Background

A. Overview

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This report is based on an audit of the Texas Republican Congressional 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(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

The Committee registered with the Federal Election Commission on September 8, 1981, and maintains its headquarters in Austin, Texas.

The audit covered the period January 1, 1983, through December 31, 1984. The Committee reported a beginning cash balance on January 1, 1983, of \$144.44; total receipts for the period of \$4,719,686.21; total disbursements for the period of \$4,711,032.36; and an ending cash balance on December 31, 1984, of \$8,798.29.

This report is based on documents and workpapers 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 Treasurers of the Committee during the period covered by the audit were Mr. Robert McCaig from January 1, 1983 through December 12, 1983, and Mr. John Nolan from December 12, 1983 through December 31, 1984. The current Treasurer is Mr. Henry Santamaria.

C. Scope

The audit included such tests as verification of total reported receipts and disbursements 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 that a large portion of the Committee's contribution records were not available for our review.

II. Audit Findings and Recommendations

A. Joint Fundraising Activity

The Regulations, at 11 C.F.R. § 102.17, describe the procedures which govern joint fundraising activity involving both political committees and unregistered political organizations.

The Audit staff noted a joint fundraising event involving the Committee, a Senate candidate, a county Republican organization, and the National Republican Senatorial Committee as participants. The event was called the "Presidential Nomination Breakfast Ball" and was held on August 23, 1984.

A Committee consultant stated that the Senate candidate's authorized committee served as the fundraising representative for the event and transferred to the Committee its share of funds in accordance with the Regulations. However, the Committee lacked sufficient records in the form of photocopies of contributor checks, response devices, or other contributor-generated documentation for contributions and therefore the Audit staff could not verify the transfer of proceeds relative to the joint fundraising event.

In the Interim Report, the Audit staff recommended that the Committee supply a copy of the joint fundraising agreement and any other documentation that supports the Committee's share of receipts and expenditures, or any additional receipts and expenditures anticipated, related to the event including support for the memo Schedules A disclosed by the Committee.

In their response the Committee provided a copy of the joint fundraising agreement; solicitation material; bank statements; and a reconciliation of receipts, expenditures, and amounts allocated to the participants. In the opinion of the Audit staff, this information supported the entries disclosed on FEC reports and demonstrated the Committee's compliance with 11 C.F.R. § 102.17.

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Recommendation

The Audit staff recommends no further action with respect to this event.

B. Transfers to Federal Candidates

The Act, at 2 U.S.C. § 441a(a)(2)(A), prohibits a multicandidate committee from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. The Regulations, at 11 C.F.R. § 110.1(a)(2)^{A/}, define "with respect to any election" to mean, in the case of a contribution designated in writing for a particular election, but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election.

The Audit staff noted that the Committee made 16 contributions totaling \$60,000 to five candidate committees after their Primary and 2nd Primary (run-off) elections. The Committee disclosed 11 of these contributions totaling \$40,000 for the Primary and/or 2nd Primary elections of the candidates. The remaining contributions (\$20,000) were disclosed by the Committee as General election contributions to four of these same committees.

The Primary election was held May 5, 1984; the 2nd Primary (or run-off) on June 2, 1984. The Primary contributions were made by the Committee between June 22, 1984 and August 10, 1984; 2nd Primary contributions were made on September 10, 1984. The contributions disclosed by the Committee relating to the General election were made between August 10, 1984 and October 5, 1984.

During fieldwork, the Audit staff reviewed disclosure reports filed by the Committee and the Candidates' authorized committees, as well as the cancelled contribution checks maintained by the Committee. Although the Committee indicated on its FEC disclosure reports the election for which the contribution was made, the Committee could not provide documentation to demonstrate that the candidates were informed of the designations at the time the contributions were made. Moreover, one candidate committee did not disclose the election to which a \$2,000 "primary" contribution applied.

^{A/} Citations from Parts 100, 102, 103, 104, and 110 of the Code of Federal Regulations refer to Regulations in effect prior to the April 8, 1987 amendments to 11 C.F.R. §§ 100, 102, 103, 104, 110.

Hence, during fieldwork it appeared that the Committee did not properly designate these contributions. The apparent lack of adequate designation indicated that excessive contributions totaling \$35,000 may have been made to the five candidates. In the Interim Report, the Audit staff recommended that the Committee provide evidence that the contributions were not excessive. Such evidence should have included documentation to show that the recipient committees were informed of the Committee's election designation at the time of the contribution, as well as evidence that the contributions designated for the primary or 2nd primary (run-off) elections were made to candidate committees who had primary debts at the time of the contribution. Alternatively, the Audit staff recommended that the Committee attempt to obtain refunds of the excessive contributions.

In response to the Interim Report, a former Committee political director provided an affidavit in which he stated that both oral and written designations occurred at the time of the contributions. It is the Committee's position that the candidates were properly notified of the appropriate election designation.

Recommendation

The Audit staff recommends no further action on this matter.

C. Allocation of Administrative Expenses

The Regulations at 11 C.F.R. § 102.5(a)(1)(i) require a state party committee financing political activity in connection with both federal and non-federal elections that chooses to establish a separate federal account in accordance with 11 C.F.R. Part 103 to allocate administrative expenses pursuant to 11 C.F.R. Part 106 between federal and non-federal accounts.

The Audit staff reviewed Committee expenditures and noted that the Committee made payments totaling \$910,728.97 to its non-Federal account for administrative expenses and paid \$17,588 in administrative costs directly to vendors.

A Committee consultant said it appeared the Committee used a 33% rate to allocate administrative expenses, but could not find any workpapers or other documentation to justify the use of this percentage. However, it did appear that the Committee was applying this rate in allocating administrative expenses.

In the Interim Report, the Audit staff recommended that the Committee (among other alternatives) supply documentation demonstrating that the expenses already paid represent a reasonable portion of administrative expenses allocable to both the Federal and non-Federal accounts.

In its response to the Interim Report, the Committee supplied an affidavit from its former Executive Director in which AO 76-72 is cited as support for the Committee's allocation of administrative expenses.

The AO cited uses a weighted ballot approach to support a 1/3 federal and 2/3 non-federal allocation ratio. The Audit staff notes that in Texas during the 1984 cycle, voters chose a President, U.S. Senator, U.S. Representatives, State legislators, many state officials including judges, education officials, and railroad commissioner, and numerous county and municipal officials depending on the location. Based on the general principles contained in the AO, it is the opinion of the Audit staff that the Committee's 1/3 federal, 2/3 non-federal allocation appears reasonable.

Recommendation

The Audit staff recommends no further action on this matter.

D. Matters Referred to Office of General Counsel

Certain other matters noted during the audit have been referred to the Office of General Counsel.

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