



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

March 27, 1979

Mr. Robert J. Litshutz, Treasurer
Committee for Jimmy Carter
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Lipshutz:

Enclosed for your information is a copy of the final audit report of the Committee for Jimmy Carter (Primary Election) which was approved by the Commission on March 22, 1979.

Upon notice by return receipt that your informational copy of the report has been received (within approximately five days), it will be issued publicly by the Commission.

Should you have any questions regarding the public release of this report, please contact Mr. Fred Eiland of the Commission's Press Office at (202) 523-4065. Any questions you may yet have related to matters covered during the audit or in the audit report should be directed to Mr. Joseph Stoltz of the Audit Division at (202) 523-4155.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
for the Audit Division

Enclosure as stated

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED





FEDERAL ELECTION COMMISSION

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

March 27, 1979

The Honorable Jimmy Carter
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

Enclosed for your information is a copy of the final audit report of the Committee for Jimmy Carter (Primary Election) which was approved by the Commission on March 22, 1979.

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Robert J. Costa
Assistant Staff Director
for the Audit Division

Enclosure as stated

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FEDERAL ELECTION COMMISSION

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

March 27, 1979

Ronald Eastman, Esquire
Cadwalader, Wickersham & Taft
Eleven Dupont Circle
Washington, D.C. 20036

Dear Mr. Eastman:

Enclosed for your information is a copy of the final audit report of the Committee for Jimmy Carter (Primary Election) which was approved by the Commission on March 22, 1979.

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Sincerely,


Robert J. Costa
Assistant Staff Director
for the Audit Division

Enclosure as stated

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FEDERAL ELECTION COMMISSION

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

REPORT OF THE AUDIT DIVISION ON THE COMMITTEE FOR JIMMY CARTER

(Primary Election)

I. Background

This report covers an audit of the Committee for Jimmy Carter, undertaken by the Audit Division, 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 the Act and Section 9038(a) of Chapter 96 of the Internal Revenue Code of 1954. Section 438(a)(8) of the Act directs the Commission "to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this chapter, and with respect to alleged failures to file any report or statement required under the provisions of this chapter, and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under Chapter 95 or Chapter 96 of the Internal Revenue Code of 1954." Section 9038(a) of Chapter 96 states that "after each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037."

The Committee for Jimmy Carter served as the principal campaign committee of the candidate, James E. Carter, during the primary election period. Its principal officers during the period covered by the audit were Mr. Philip Alston, Jr., Chairman, and Mr. Robert J. Lipshutz, Treasurer.

The audit covered the period January 1, 1975, the effective date of the Act, through June 30, 1978. The Committee reported opening cash of \$16,376.57, total receipts of \$14,635,161.66, total expenditures of \$14,648,080.72 ^{1/} and closing cash of \$3,456.72 during the period.

^{1/} The Committee reported a total expenditure amount subject to limitation of \$10,033,856.50.



This 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.

II. Findings and Conclusions

A. Disclosure of Purpose and Payee of Expenditures

Introduction

Section 434(b)(9) of Title 2 of the United States Code provides in part that each report under this section "shall disclose the identification of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100.00, the amount, date and purpose of each such expenditure. . ." In addition, on September 29, 1976, the Commission informed candidates and committees that a general description of the purpose of expenditures was insufficient to meet the requirements of the Act. Subsequently, the then proposed regulations were amended to include a requirement that the particulars of expenditures be shown on disclosure reports. (See 11 CFR 104.2(b)(9)).

Discussion

In our test of Committee expenditures, certain groups of expenditures were noted where the purpose and/or amount appeared to be inconsistent with the reported payee. For example, amounts paid to business entities for "personal expense reimbursements", "refundable deposits" paid to individuals, and large expenditures for "meeting: fundraising" were identified. Further review of the supporting documentation of these expenditures showed that the disclosure of the items was not always adequate.

As a result of this initial review, four major categories of expenditures were identified for closer study. Of the 284 expenditures tested, 211 fell within these four categories, and 95 were found to be inadequately disclosed.

A discussion of each of the four categories follows:

a) Personal Expense Reimbursements

There were 66 items which were disclosed as personal expense reimbursements. Thirty-eight of these were considered disclosed improperly. Nine of the 38 were payments to business entities, while the other 29 were payments to individuals.

Examination of the supporting documentation for the expenditures showed that, rather than reimbursement for personal expenses, the reimbursement was for such expenses as advertising, printing, and the replenishment of petty cash funds.

b) Meetings: ORG/Get Out the Vote

There were 70 expenditures identified in this manner, thirty-four of which were disclosed insufficiently. For example, our review disclosed payments to individuals for advances, election day expenses, and the payment of rent classified in this manner.

c) Meetings: Fundraising

Our review also included 52 expenditures disclosed as "meetings: fundraising"; the individuals and/or vendors providing goods and/or services were not disclosed for 13 of the 52 items reviewed. Instead, the person who received the funds from the Committee to make the expenditures was disclosed. These payments represented items such as the purchase of promotional services, printing of tickets, and salaries.

d) Refundable Deposits

Twenty-three of the 284 items were disclosed as expenditures for refundable deposits. We found that 14 of these payments were used by the payee to make deposits on office space, room deposits, and, in at least eight instances, for telephone deposits. Again, vendors providing services (i.e., phone company, hotel, real estate agent, etc.) should have been disclosed.

Conclusion

The disclosure of the expenditures discussed above was incomplete in that there were less than accurate descriptions of the actual purpose, and in many cases no identification of the persons providing services to the campaign. We believe that these inaccuracies in disclosure were the direct result of the Committee's use of general ledger categories as the purpose for its expenditures. However, it should also be noted that most of the Committee's expenditure activity occurred prior to September 29, 1976, the date on which the Commission issued guidelines requiring a more detailed disclosure of purpose and persons providing services to the campaign.

Recommendation

Since the majority of the Committee's expenditures were made and disclosed prior to the September 29, 1976 guideline, we feel requests for amendments of this nature would not be warranted at this time.

B. Improper Use of Depositories

Section 433(b)(9) of Title 2 of the United States Code provides that the statement of organization required of a political committee under Section 433(a) shall include a listing of all banks, safety deposit boxes or other repositories used.

Section 437b(a)(1) provides in part, that each candidate shall designate one or more national or State banks as his campaign depositories. The principal campaign committee of such candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain a single checking account and such other accounts as the committee determines to maintain at its discretion at a depository designated by the candidate and shall deposit any contributions received by such committee into such account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on such account, other than petty cash expenditures as provided in subsection (b). Section 432(b) prohibits the commingling of all funds of a political committee with any personal funds of officers, members, or associates of such committees.

During the review of the Committee's records, we determined that expenditures in support of the candidate had been made from at least five (5) bank accounts which had not been disclosed on the Committee's statement of organization or amendments thereto as Committee repositories. Committee records show that the accounts were held in the name of individuals who were either employees of the Committee or authorized to make expenditures on behalf of the candidate. The records show the disbursement of Committee funds to these individuals for a number of purposes including personal expense reimbursements, miscellaneous administrative expenses and meetings: fundraising. In some instances, these disbursements drawn on other Committee accounts were deposited directly into the undisclosed accounts. In other instances, Committee disbursements could not be traced to deposits made to the undisclosed accounts due to insufficient documentation in Committee records. However, amounts similar to those disbursed to each account holder were disbursed from the accounts in question to defray the cost of campaign activity.

In addition, we found evidence to suggest that at least three (3) of the holders of those accounts had commingled their own personal funds with those of the Committee.

On February 7, 1978, the Commission found reason to believe that violations of 2 U.S.C. 437b(a)(1), 433(b)(9) and 432(b) had occurred and three (3) of these accounts were made the subject of MUR 484.

The Committee was asked to disclose the other two (2) accounts as campaign depositories. In one instance, the Committee complied, but at the same time, the Committee's attorney noted that based on the facts as the Committee understood them, the other account was not a campaign repository under 2 U.S.C. 433. Consequently, the account in question was also referred to the Office of General Counsel for consideration with MUR 484.

On August 23, 1978, the Commission found reasonable cause to believe that the Committee failed to designate and disclose four (4) campaign repositories in violation of 2 U.S.C. 437b(a)(1) and 433(b)(9). In a subsequent action on December 6, 1978, the Commission retained its finding of August 23, and found

reasonable cause to believe that violations of 432(b) had also occurred in two (2) of the four (4) accounts. As a result, the Committee entered into a conciliation agreement requiring the payment of a \$1,950.00 civil penalty. On January 4, 1979, the Commission received a signed copy of the agreement and a check for \$1,950.00 which has been forwarded to the United States Treasury. On January 17, 1979, the Commission approved the agreement thereby closing the file on this matter.

C. Improper Disclosure of the Proceeds from Sale of Items

Introduction

Section 104.3(b), Code of Federal Regulations, provides in part that contributions of stocks, bonds, art objects and other similar items to be liquidated shall be reported as follows:

1) If the item has not been liquidated at the close of a reporting period, the committee shall record as a memo entry (not as cash) the item's fair market value on the date received, including the identification (and where in excess of \$100.00, the occupation and principal place of business) of the contributor.

2) When the item is sold, the committee or candidate shall record the proceeds. It shall report the (i) identification (and where in excess of \$100.00, the occupation and principal place of business) of the purchaser, if purchased directly from the candidate or committee, in which case he or she shall be considered to have made a contribution, and (ii) the identification of the original contributor.

Discussion

The Committee collected a total of \$50,341.53 in proceeds from the sale of contributed items and disclosed the collections as refunds/rebates. A Committee official stated that some of the items were donated to the campaign by various persons and were then sold through a commodities exchange resulting in proceeds of \$33,337.93.

The remaining \$17,003.60 resulted from an auction whereby the Committee auctioned off items donated to the campaign by various persons. A Committee official stated that the donation of each commodity was attributed to more than one person whenever the market value of any item donated exceeded \$1,000.

In accounting for the contributed items, the Committee disclosed each item as an in-kind contribution with an accompanying expenditure in an amount equal to the sale price of each item sold.

The official responsible for preparing the Committee's disclosure report stated he was unsure as to how such proceeds should have been disclosed. Since an in-kind contribution and accompanying expenditure had already been recorded, he disclosed the proceeds as refunds. Since refunds are subtracted from operating expenditures, he was able to avoid including the amounts in the Committee's total expenditure figures a second time.

Conclusion

Although the Committee's method of disclosing the above items results in no misstatement of expenditures subject to limitation, total receipts and expenditures are each overstated by at least \$50,341.53. In our opinion, the treatment of liquidated non-cash contributions was incorrect, affecting the accuracy of the Committee's total receipts, total refunds and rebates, total operating expenditures, and total expenditures.

Recommendation

On January 9, 1978, the Commission directed the Committee to amend its disclosure reports to comply with Section 104.3(b) of Title 11, Code of Federal Regulations. The Committee subsequently filed an amended report correcting the errors as required. Therefore, we recommend no further action be taken on this matter.

D. Repayments to the United States Treasury

1) Apparent Unqualified Campaign Expenses

Section 432(d) of Title 2 of the United States Code requires the treasurer of a political committee to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of \$100 in amount, and for any such expenditure in a lesser amount if the aggregate amount of such expenditure to the same person during a calendar year exceeds \$100.

Section 9038(b)(2) of Title 26 of the United States Code provides that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than

a) to defray the qualified campaign expenses with respect to which such payment was made; or

b) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray qualified campaign expenses, it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary or his delegate an amount equal to such amount.

In an attempt to determine whether the Committee had obtained and kept receipted bills as required, we chose a sample of items from the expenditure sections of the Committee's reports and traced it to the Committee's records file. We found that 67 of the 552 items tested, or approximately 12% of the items sampled, were not supported by a receipted bill or an acceptable contemporaneous memo as required. However, each of the 67 items was supported by a cancelled check.

In addition, the Committee used a Committee check request voucher and a notarized statement in lieu of receipted bills. These documents contained a check number, the account to be charged and a general purpose for which the money was to be spent. Each notarized statement had been endorsed by the payee and included a clause stating the funds had been expended on qualified campaign expenses. However, neither the Committee request voucher nor the notarized statement showed an itemization of expenses incurred. As we believed the rate of unsupported items to be excessive, we expanded our testing procedures to include a general review of the types of expenditures included in the 67 expenditures noted above. We identified an additional 79 items supported with similar documentation.

On January 9, 1978, the Commission directed the Committee to produce acceptable documentation for the 146 items identified. The Commission preiiminarily determined that should the Committee produce acceptable documentation to demonstrate the expenditures connection to the campaign, no further fieldwork would be required. However, it determined that should an acceptable showing not be made, additional fieldwork would be required to identify such other expenditures. In a separate compliance action the Commission directed that 19 other expenditures totaling \$11,527.60 be added to the list of 146 items, bringing the total number of items inadequately supported to 165 and the total dollar value to \$346,343.29.

Pursuant to the Commission's request, the Committee submitted documentation sufficient to establish connection with the campaign for 62 of the 67 previously inadequately supported expenditures noted in our sample. Thus, five (5) (approximately one (1) percent of the items sampled) totaling \$555.00 (less than one (1) percent of the total amount sampled) remained unsupported when the Commission considered the Committee's efforts to comply with its request. At that time, the Commission determined that no further fieldwork was necessary, since it believed the Committee's response to be an acceptable showing. In addition, it determined that documentation supporting the remaining five (5) items from the sample plus 16 others, for which the Committee had not submitted documentation, did not show a sufficiently detailed purpose to establish connection with the campaign. Consequently, the Commission determined that these 21 expenditures totaling \$6,072.60 were unqualified campaign expenses and were repayable in full to the United States Treasury (see Attachment I). Subsequent actions resulted in that amount being revised downward to \$5,872.60.

In a letter dated October 12, 1978, the Committee was provided 90 days to repay the amount discussed above. On January 4, 1979, the Audit Division received a check payable to the United States Treasury for \$5,872.60.

Recommendation

Since the Committee has paid the full amount as required, we recommend no further action be taken on this matter.

2) Refund of Excess Matching Funds

Section 9038(b)(3) of Title 26 of the United States Code states that if the Commission determines that any portion of the payments to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under Section 9034, it shall notify the candidate, and the candidate shall pay to the Secretary or his delegate an amount equal to the amount of the excess payments.

Section 134.3(c)(2) of Title 11, Code of Federal Regulations, provides that if, on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received thereafter may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations. However, as of the date when the amount or amounts of matching funds received after ineligibility equal(s) the amount of the candidate's net outstanding campaign obligations, the candidate shall be obliged to repay to the Treasury that portion of any unexpended balance remaining on that date in the candidate's accounts (less the matching payments so received), which bears the same ratio to such balance as the total amount bears to the aggregate of all contributions and matching funds deposited in all the depositories through that date.

As of July 14, 1976, the date on which the Commission determined to be the candidate's ineligibility date, the Committee had net outstanding campaign obligations of \$1.32 million. Net matching funds received after that date totaled \$.81 million. ^{2/} Since the amount of matching payments received after the date of ineligibility was not equal to or in excess of the candidate's net outstanding campaign obligations, no repayment of excess matching funds is required.

Recommendation

The Audit staff recommends that no action be taken with respect to this matter.

^{2/} This amount consists of \$933,086.00 in matching payments paid to Candidate post July 14, 1976, minus a voluntary refund on August 29, 1977 of \$126,515.00.

III. Auditor's Statement

Except for the matters specifically noted in this report, the audit disclosed that the Committee for Jimmy Carter conducted its activities in conformity with the Federal Election Campaign Act of 1971, as amended, and in conformity with Chapter 96 of Title 26, U.S.C., in all material aspects.

EXPENDITURES FOUND TO BE INSUFFICIENTLY DOCUMENTED BY AUDIT

<u>PAYEE</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>AMOUNT SUPPORTED</u>	<u>AMOUNT UNSUPPORTED</u>	<u>PURPOSE</u>
Individual	5/11/76	200.00	0	200.00	election day transit, CT
Individual	5/11/76	200.00	0	200.00	election day transit, CT
Individual	4/26/76	800.00	0	800.00	election day ex.
Individual	4/26/76	460.00	0	460.00	get out vote
Individual	4/26/76	780.00	0	780.00	get out vote
Individual	5/28/76	800.00	452.40	347.60	LA meeting, Mexican American
Individual	12/31/75	300.00	0	300.00	Advances other

EXPENDITURES FOUND TO BE INSUFFICIENTLY DOCUMENTED BY AUDIT

<u>PAYEE</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>AMOUNT SUPPORTED</u>	<u>AMOUNT UNSUPPORTED</u>	<u>PURPOSE</u>
Individual	1/23/76	\$ 100.00	0	\$ 100.00	Personal Exp. reimbursement
Individual	1/26/76	580.00	0	580.00	Mtgs. ORG-GOTV
Individual	5/17/76	750.00	0	750.00	Personal Exp. reimbursement
Individual	1/4/76	25.00	0	25.00	Personal Exp. reimbursement
Individual	3/12/76	100.00	0	100.00	Personal Exp. reimbursement
Individual	4/7/76	25.00	0	25.00	Personal Exp. reimbursement
	4/26/76	205.00	0	205.00	Consultant Fees
Organization	5/21/76	<u>1,000.00</u>	<u>0</u>	<u>1,000.00</u>	Advances other
Total		<u>\$6,325.00</u>	<u>\$452.40</u>	<u>\$5,872.60</u>	



FEDERAL ELECTION COMMISSION

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

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 # 487.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



