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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON THE
ASSOCIATION FOR BETTER CITIZENSHIP

I. Background

A. Overview

This report is based on an audit of the Association For Better Citizenship ("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 U. S. House of Representatives on June 8, 1972, subsequently reporting the California Teachers Association as its connected organization. The Committee maintains its headquarters in Burlingame, California.

The audit covered the period from January 1, 1976 through June 30, 1978, the date of the Committee's latest report filed at the time of the audit. The Committee reported a beginning cash balance on January 1, 1976 of \$-0-, total receipts for the period of \$316,783.78, total expenditures of \$316,443.94, and a closing cash balance at December 31, 1977 of \$339.84. 1/

This audit report is based on documents and workpapers which support each of its 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.

1/ The Committee filed an FEC form 3a for the first quarter 1978 and was waived from filing for the second quarter.

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B. Key Personnel

The Committee treasurer during the period covered by the audit was Matthew C. Krier. The Committee did not identify a Chairman for the period, although members of its Board of Directors were included on amendments to its statement of organization.

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. Audit Findings and Recommendations

A. Use of Reverse Check-off Payroll Deduction To Collect Contributions

Section 441b(b)(3)(A) of Title 2, United States Code, in part, prohibits a separate segregated fund established by a labor organization for political purposes from making a contribution or expenditure by utilizing dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

Section 114.5(a) of Title 11, Code of Federal Regulations, further states that fees or monies paid as a condition of acquiring or retaining membership or employment are monies required as a condition of membership or employment even though they are refundable upon request of the payor.

Our review of ABC's records and system of receiving contributions revealed that virtually its sole source of funds was its \$5 annual membership fees (political contributions) solicited and collected by way of reverse check-off payroll deduction at the school district level, i.e., membership dues were automatically deducted from a member's payroll check unless otherwise stipulated. ABC's Treasurer stated that this method was utilized in 1976 but discontinued thereafter on the federal level pending the outcome of the court case involving the National Education Association (NEA) and the Commission regarding the legality of the reverse check-off method.

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On March 28, 1979, this matter was referred to the Office of General Counsel where subsequently Matter Under Review #949 was initiated. On May 17, 1979, the Commission found reason to believe that the Committee and the California Teachers Association (CTA) may have violated 2 U.S.C. 441b(b)(3)(A) and 11 CFR 114.5(a) by using the reverse check-off procedure to collect contributions for the Committee. Following additional investigation in this matter, on November 27, 1979, the Commission found reasonable cause to believe that the Committee and CTA had violated this Section of the Act. Subsequently, respondents were included in a comprehensive conciliation agreement, with other NEA affiliates, which provided for a civil penalty of \$75,000. Upon receipt from respondents of the signed conciliation agreement and payment of the civil penalty, the Office of General Counsel recommended to the Commission that the file on this matter be closed. On May 29, 1980, the Commission approved this recommendation and closed the file.

B. Segregation of Committee Funds From Union Funds

Section 441b(a) of Title 2 of the United States Code, states, in part, that it is unlawful for any labor organization to make a contribution or expenditure in connection with any Federal election.

Section 103.3(a) of Title 11, Code of Federal Regulations requires, in part, that all contributions received by political committee(s) shall be deposited in a checking account in the appropriate campaign depository by the treasurer of the committee or his/her agent, within 10 days of receipt. Subsequent to the audit fieldwork, Section 432(b)(2) of Title 2, United States Code was amended to require, in part, that contributions be forwarded to the Committee treasurer within 30 days of receipt, or in the case of contributions in excess of \$50.00, within 10 days of receipt.

According to ABC officials, NEA collected its annual membership dues by way of reverse check-off payroll deduction through each of its states' local affiliates which transferred them to the state affiliates which, in turn, transmitted them to NEA. It was also noted that only members of CTA/NEA could be members of ABC and as a result ABC contributions were also collected via this payroll deduction.

As a result of this process, the ABC contributions were forwarded from each local to the CTA membership department together with NEA dues, CTA dues, chapter dues, health benefits, insurance premiums, NEA-PAC contributions, etc. and deposited into one (1) bank account. The CTA membership department director stated that checks from locals were received throughout the month and that the majority were received between the 1st and the 15th of the month. ABC maintained a ledger account for each of the local districts by which the monies in the bank account were divided. The employee stated that these amounts were then transferred to the intended recipients daily with the exception of ABC. She, as had ABC's treasurer in one (1) of its reports to the Commission, indicated that the transfers from the CTA membership department to ABC were made on a monthly basis.

Until early 1976, ABC's portion of monthly contributions were transferred first from the CTA Membership Department to the ABC state accounts and then from ABC state accounts to ABC-Federal. In March, 1976, ABC opened a federal account and requested that funds in the amount of anticipated federal support for the period be transferred directly from the CTA Membership Department to the ABC-Federal account on an as-needed basis. Our review disclosed that there were eight (8) transfers into this account totaling \$139,500.00. Six (6) of these transfers totaling \$110,000.00 were made after periods exceeding 10 days.

The Office of General Counsel included this matter in MUR #949. On May 17, 1979, the Commission found reason to believe the Committee and CTA may have violated 2 U.S.C. 441b(a) by commingling Committee and CTA funds in the same account. Subsequently, after additional investigation by the Counsel's Office, the Commission, on November 27, 1979, found reasonable cause to believe that the Committee and CTA had violated this section of the Act by not routinely transferring to ABC every 10 days of receipt by CTA. The Commission had held that such a transmittal procedure (payroll deduction) was lawful under the Act only if the political monies were deposited in a designated depository of the committee within 10 days (see Advisory Opinions 1978-42 and 1978-98).

Subsequently, respondents were included in the previously mentioned conciliation agreement. Upon receipt from respondents of the signed conciliation agreement and payment of the civil penalty, the Office of General Counsel recommended to the Commission that the file in this matter be closed. On May 29, 1980, the Commission approved this recommendation and closed the file.

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1125 K STREET N.W.
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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 # 949.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



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