



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

February 27, 1980

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: BOB COSTA *HJC*

FROM: JUDY HAWKINS *JH*

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT -
AMERICAN PARTY OF THE UNITED STATES
(NEW CARROLLTON, MARYLAND)

Attached please find a copy of the final audit report of the American Party of the United States (New Carrollton, Maryland) which was approved by the Commission on February 14, 1980.

Informational copies have been received by all parties involved and this report may be released to the public as of today, February 27, 1980.

Attachment as stated

cc: FEC Library
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Public Record

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE AMERICAN PARTY OF THE UNITED STATES

I. Background

A. Overview

This report is based upon an audit of the American Party of the United States ("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, United States Code, which directs 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 American Party of the United States, a fundraising affiliate of the American Party (national committee), registered with the Office of the Secretary of the United States Senate on August 15, 1975. For the period covered by the audit, the American Party of the United States was located in New Carrollton, Maryland while the American Party (national) was headquartered in Pigeon Forge, Tennessee.

The audit covered the period August 18, 1975, the date of the Committee's first financial transaction, through December 31, 1976, the final cut-off date of the bank statement containing the last significant financial activity of the Committee. The Committee reported a beginning cash balance at August 18, 1975 of \$-0-, total receipts for the period of \$55,199.97, total expenditures for the period of \$54,986.74, and an ending cash balance at December 1, 1976 1/ of \$213.23. 2/

1/ Our review of Committee records revealed that the Committee's termination report (covering the period October 1, 1976 - December 1, 1976) did not disclose the Committee's final financial activity. Two (2) expenditures totaling \$250.00 were made subsequent to December 1, 1976 that were not reported by the Committee. (See footnote 2/ and Finding D).

2/ For the period August 18, 1975 - December 31, 1976, the Committee overstated total receipts by \$1,586.36, total expenditures by \$1,394.77, and ending cash on hand by \$191.59, see Finding D.

This audit 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.

B. Key Personnel

The principal officers of the Committee for the period covered by the audit were: Mr. Thomas Anderson, Chairman; and Mr. Alan MacNeil, Treasurer (Committee inception - April 12, 1976) and Ms. Mary Ellen Gardner, Treasurer (April 12, 1976 - Committee termination). Mr. John L. Henderson was an authorized agent of the Committee and served as de facto treasurer for the period covered by the audit (i.e., handled financial transactions, recordkeeping and reporting for the Committee).

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. Contribution in the Name of Another -
Corporate Contribution

Section 441f of Title 2, United States Code, states, in part, that no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. Section 431(e)(1) of Title 2, United States Code defines a loan as a contribution.

Section 441b(a) of Title 2, United States Code, states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any Federal election to any political office and unlawful for any Federal candidate, political committee, or other person to knowingly accept or receive any contribution from a corporation.

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Our review of the Committee reports revealed that the Committee disclosed a loan from, and repayment to, Consulting Research and Development Corporation, on August 18, 1975 and September 29, 1975 respectively, in the amount of \$3,000.

Discussions with a Committee official disclosed that the Committee was loaned \$3,000 by an incorporated lobby group to open the Committee's bank account and initiate direct mailing to solicit contributions. A Committee official stated that the check was deposited into his personal business account, Consulting Research and Development (C.R. & D.), and later transferred as the initial deposit in the Committee's account. The Committee reported the loan from and repayment to C.R. & D., interpreting the loan as from the lobby group to the Committee official personally and then to the Committee, rather than directly from the lobby group to the Committee.

In a letter of notification of audit findings and recommendations, the Audit staff recommended that the Committee:

a) attempt to obtain and provide copies of or the original checks documenting the:

1. deposit of the lobby group's check into the C.R. & D. account;
2. transfer of \$3,000 from C.R. & D. to the Committee's account;
3. repayment of \$3,000 from the Committee to C.R. & D.;
4. repayment of \$3,000 from C.R. & D. to the lobby group; and

b) file amended reports disclosing the loan from, and repayment to, the lobby group.

In response, on September 25, 1978, the Committee official provided a statement that he either misstated the sequence of events or was misinterpreted and that the \$3,000 check from the lobby group was deposited directly into the Committee's account. On October 19, 1978, the amended reports recommended above were filed disclosing this transaction.

The incorporated status of the lobby group at the time the loan was made was confirmed with the appropriate Secretary of State's Corporate Division on June 19, 1978.

The matter was referred to the Commission's Office of General Counsel on November 7, 1978, where Matter Under Review 886 was initiated. The Commission found reasonable cause to believe that the Committee violated 2 U.S.C. 441b(a) by accepting a corporate contribution. A conciliation agreement was signed and on November 8, 1979, the Commission voted to close the file on the matter.

B. Retention of Supporting Documentation for Expenditures

Section 432(d) of Title 2, United States Code, in part, requires the treasurer 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 \$100.00, or for expenditures aggregating in excess of \$100.00, to the same person within a calendar year.

Section 102.9(c)(4) of Title 11, Code of Federal Regulations, in part, provides that when a receipted bill is not available, the treasurer may keep: i) the cancelled check; and ii) the bill, invoice or other contemporaneous memorandum to support the expenditure.

Our examination of the Committee's records revealed that it did not maintain supporting documentation (a receipted bill or a cancelled check together with the bill, invoice, or other contemporaneous memorandum), for 54 (87.09%) of 62 expenditures, each in excess of or aggregating in excess of \$100.00. These 54 expenditures totaled \$40,760.75, which represented 88.73% of the dollar amount (\$45,936.62) of expenditures requiring supporting documentation.

On September 25, 1978, the Committee provided documentation for 51 of the 54 expenditures mentioned above. For the remaining three (3) undocumented expenditures, the Committee provided copies of letters sent to the vendors/ payees in an effort to obtain the missing documentation.

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Recommendation

Based on the Committee's efforts outlined above, the Audit staff recommends that the Commission determine that the Committee has demonstrated its best efforts to comply with 2 U.S.C. 432(d) and that no further action be taken on this matter.

C. Recordkeeping for Receipts

Section 432(c)(1) and (2) of Title 2, United States Code, in part, requires the treasurer of a political committee to keep a detailed and exact account of all contributions made to or for such committee and the identification of every person making a contribution in excess of \$50.00, and the date and amount thereof and, if a person's contributions aggregate more than \$100.00 the account shall include occupation, and the principal place of business (if any).

Our review of the Committee's contribution records revealed that the Committee retained documentation (name, amount, and for some, date of contribution) for only \$14,539.50 of a total of \$53,613.61 (27.12%) in contributions received by the Committee. A Committee official explained that a portion of the Committee's contribution records had inadvertently been disposed of while in storage.

In the letter of notification of audit findings and recommendations, the Audit staff recommended that any additional records that could be assembled should be presented to the staff for review. On October 17, 1978, the Committee provided reconstructed contribution records documenting \$46,967.61 (87.60%) of the Committee's total receipts.

It is the opinion of the Audit staff that the Committee has provided sufficient documentation and has complied with the staff's recommendation. This opinion is based on the fact that the Committee's average contribution was less than \$50.00 (approximately \$14.00) and that the Committee would not have been required to keep a detailed and exact account of the identification of the contributions for the majority of the remaining \$6,646 in undocumented receipts (12.4% of total receipts).

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Recommendation

Based on the Committee's efforts outlined above, the Audit staff recommends that the Commission determine that the Committee has demonstrated its best efforts to comply with 2 U.S.C. 432(c)(1) and (2) and that no further action be taken on this matter.

D. Overstatement of Total Receipts,
Total Expenditures, and Cash-on-Hand

Section 434(b)(1), (8), and (11) of Title 2, United States Code, in part, requires a committee to report the amount of cash-on-hand at the beginning of the reporting period and the total sum of all receipts and expenditures by or for such committee or candidate during the reporting period.

Our review of the Committee's records disclosed that for the period August 15, 1975 through December 31, 1976, the Committee overstated total receipts by \$1,586.36, total expenditures by \$1,394.77, and ending cash-on-hand by \$191.59.

The Committee's overstatement of receipts was the net effect of the following:

- (1) two (2) checks written by the Committee, but not issued, totaling \$2,000.00 were redeposited and reported as receipts
- (2) in-kind contributions totaling \$353.14 were not reported as receipts
- (3) one (1) deposit of \$177.00 was reported as \$117.00 and one (1) of \$860.50 was reported as \$860.00.

The Committee's overstatement of expenditures was the net effect of the following:

- (1) the Committee's termination report covered October 1, 1976 - December 1, 1976. Two (2) expenditures totaling \$250.00 were made subsequent to December 1, 1976 that were not reported.
- (2) the two (2) checks totaling \$2,000.00 written by the Committee that were not issued were redeposited (cashed) and reported as expenditures.
- (3) the in-kind contributions totaling \$353.14 were not reported as expenditures.
- (4) A \$1.00 bank service charge was not reported.
- (5) two (2) expenditures totaling \$1,576.10 were itemized as \$1,575.00.

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On October 19, 1978, the Committee filed amended reports which corrected the coverage dates of the termination report (and disclosed the \$250.00 in previously unreported expenditures) and corrected all the misstatements noted above.

Recommendation

The Audit staff recommends that no further action be taken on these matters.

E. Itemization of Expenditures

Section 434(b)(9) of Title 2, United States Code, in part, requires a committee to disclose the identification of each person to whom expenditures have been made by such committee which in the aggregate exceed \$100.00 within a calendar year, together with the purpose, amount and date of the expenditure.

Our review of Committee records revealed that eight (8) expenditures of a total of 64 itemizable expenditures (12.5%) were not itemized by the Committee. These expenditures totaled \$900.40 and represented 1.88% of itemizable expenditures (\$47,936.62).

On October 19, 1978, the Committee filed amended reports which itemized the eight (8) expenditures.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

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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 # 856.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



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