



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

A85-6

November 4, 1986

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
NATIONAL ORGANIZATION FOR WOMEN
POLITICAL ACTION COMMITTEE

Attached please find a copy of the final audit report of the National Organization for Women Political Action Committee which was approved by the Commission on October 23, 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
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Public Disclosure
Office of General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A85-6

REPORT OF THE AUDIT DIVISION
ON
NATIONAL ORGANIZATION FOR WOMEN POLITICAL ACTION COMMITTEE

I. Background

A. Overview

This report is based on an audit of the National Organization for Women Political Action Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to 2 U.S.C. § 438(b) 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 subsection, 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 April 17, 1978 and maintains its headquarters in Washington, D.C.

The Audit covered the period January 1, 1983 through December 31, 1984. The Committee reported an opening cash on hand balance on January 1, 1983 of \$17,219.11; total receipts for the period of \$364,804.29; total disbursements for the period of \$373,294.66 and a closing cash balance on December 31, 1984 of \$8,728.59. ^{1/}

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 the report and were available to the Commissioners and appropriate staff for review.

^{1/} The totals do not foot due to minor mathematical discrepancies.

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B. Key Personnel

The Treasurer of the Committee during the period covered by the audit was Ms. Alice B. Chapman.

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. The Committee's contribution records did not meet the recordkeeping requirements of 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9(a) or (c), as the Committee was not able to furnish complete contributor records for inspection. Therefore, the audit did not include the standard audit procedure of verification of individual receipt transactions.

II. Audit Findings and Recommendations**A. Misstatement of Financial Activity**

Sections 434(b)(2) and (4) of Title 2, United States Code, require that a committee report the total sum of all receipts and expenditures made during a reporting period and the calendar year.

A reconciliation of the Committee's bank accounts to its disclosure reports indicated that total receipts and total disbursements were each understated by \$20,000. These understatements were apparently the result of disclosure errors made on the monthly reports for April and May, 1984 involving two related transactions: (1) a payment of \$52,797.99 to NOW, Inc., the Committee's connected organization, for costs associated with a fundraising appeal, and (2) the subsequent partial (\$20,000) refund of this payment.

For the month of April, 1984, the Committee recorded expenditures totaling \$104,965.48 in their financial records. The Committee's April monthly report, however, disclosed total disbursements of only \$84,965.48. This \$20,000 understatement was further isolated in the "Operating Expenditures" category on the April monthly report. Committee financial records reflected \$53,940.48 in operating expenditures while the April monthly report disclosed only \$33,940.48.

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A similar reconciliation of total recorded receipts to total reported receipts for May 1984 revealed that the Committee understated its total receipts by \$20,000. The Committee recorded \$50,513.55 in income on its books for the month yet the May monthly report disclosed only \$30,513.55 in total receipts for the period.

Further analysis revealed that an April 25, 1984 payment to NOW, Inc. in the amount of \$52,797.99 was reported as \$32,797.99, or, net of a subsequent \$20,000 partial refund received from NOW, Inc. on May 2, 1984 (before the April monthly report was filed). While the Committee's books reflect the \$52,797.99 payment in April and a \$20,000 "transfer" from NOW, Inc. in May, neither transaction was itemized on the respective disclosure report's Schedules A or B. (The Committee's failure to itemize these transactions is addressed at Finding II.B.3.)

In the interim report the Audit staff recommended that the Committee correct its disclosure reports for the above mentioned items by means of a comprehensive amendment for calendar year 1984. On May 1, 1986, the recommended amendment was filed.

Recommendation

The Audit staff recommends no further action on this matter.

B. Disclosure of Receipts and Disbursements

1. Itemization of Loans and a Loan Repayment

Section 434(b)(6)(B)(ii) of Title 2, United States Code, provides that each report under this section shall disclose the name and address of each person who has received a loan from the reporting committee, together with the date and amount of such loan. Section 104.2(e)(3) of Title 11, Code of Federal Regulations, states that "[p]olitical committees other than authorized committees shall file reports on FEC Form 3X". Instructions for the Detailed Summary Page of FEC Form 3X dictate that for each loan repayment the identification of the person making the loan repayment, as well as the date and the amount shall be provided.

During April, 1984, the Committee made loans in the amounts of \$5,000 and \$15,000 to NOW Equality PAC ("NEP"), NOW, Inc.'s non-federal committee. Although the total (\$20,000) was listed on Line 25 (Loans Made) of the April 1984 Monthly Report's Detailed Summary Page (DSP), a Schedule B itemizing these loans was not provided.

In addition, Committee records reflect a \$20,000 loan repayment from "NEP" on May 31, 1984. Again, although the total (\$20,000) was listed on Line 14 (Loan Repayments Received) of the May 1984 Monthly Report's DSP, a Schedule A, with the requisite disclosure information was not provided.

It should be noted that Schedules C (Loans) were provided with each of the reports, continuously reporting the status and terms of the loans until extinguished.

2. Itemization of Expenditures

Sections 434(b) (5) and (6) of Title 2, United States Code, require, in relevant part, that each report under this section shall disclose the name and address of: each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a committee operating expense; each authorized committee to which a transfer is made by the reporting committee; and each person who has received a loan from the reporting committee, together with the date, amount and purpose.

During the course of the audit it was noted that the Committee failed to itemize 25 operating expenditures, totaling \$59,755.52. This represents 75.76% of the number and 44.87% of the dollar value of those operating expenditures requiring itemization.

3. Itemization of Operating Expenditures and Related Refund

Section 434(b) (3) (F) of Title 2, United States Code, provides that each report under this section shall disclose the identification of each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200, together with the date and amount of such receipt. Further, 2 U.S.C. § 434(b) (5) requires each report to disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 is made to meet a committee operating expense.

As discussed in Finding II.A. above, the Audit staff's reconciliation of bank accounts to disclosure reports indicated the Committee's FEC reports understated total receipts and disbursements by \$20,000 each. It was noted that these misstatements were the result of disclosure errors on successive

reports relating to a \$20,000 refund received by the Committee and a \$52,797.99 expenditure made by the Committee. Further, neither a Schedule A nor a Schedule B, respectively, was filed with these reports providing the requisite disclosure information for the two identified items.

All of the above noted omissions seem to have resulted from an apparent misunderstanding of disclosure and itemization requirements.

In the interim report the Audit staff recommended that the Committee amend its disclosure reports by filing the appropriate supplemental schedules (Schedule A or B) fully disclosing the above noted receipts and disbursements as part of a comprehensive amendment. On May 1, 1986, the supplemental schedules were filed.

Recommendation

The Audit staff recommends no further action on this matter.

C. Loans to a Non-Federal Committee

Section 100.7(a)(1)(i)(E) of Title 11, Code of Federal Regulations, states, in relevant part, that when a political committee makes a loan, repayment shall be made from funds which are subject to the prohibitions of 11 C.F.R. § 110.4(a) and Part 114. Further, 11 C.F.R. § 102.5(b)(1)(ii) provides that organizations that are not political committees under the Act may demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure or exempted payment, that organization has received sufficient funds subject to the limitations and prohibitions of the Act from which to make such contribution, expenditure or payment.

As noted in Finding II.B.1., the Audit staff determined that during April, 1984 NOW-PAC made loans totalling \$20,000 to NOW Equality PAC ("NEP"), NOW, Inc.'s non-federal committee. In May, 1984, NOW-PAC received repayment of the loan. Neither the loan nor the loan repayment was itemized in NOW-PAC's reports. Moreover, the repayment of the loan with NOW, Inc. general treasury monies raises a question as to the permissibility of such a transaction.

Commission regulations at 11 C.F.R. § 100.7(a)(1)(i)(E) provide that the repayment of such a loan does not constitute a contribution by the debtor to the lender. It does, however, subject the loan to the limitations and prohibitions of 11 C.F.R. Parts 110 and 114. As such, repayment may only be made from funds which are permissible under the Act.

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Committee officials advised the auditors that NOW Equality PAC is active in non-federal elections throughout the country. They stated that since election laws vary so much from state to state, to be safe, NOW Equality PAC complies with the strictest of state laws, which prohibit corporate and labor funds.

In the interim audit report, the Audit staff apprised the Committee of our opinion that documentation supporting the permissibility of the composition of NOW Equality PAC funds would obviate the finding of violation of 11 C.F.R. Part 114. Further, it was recommended the Committee demonstrate through a reasonable accounting method, or otherwise document, that sufficient permissible funds were contained in NEP's account at the time of the repayment. The Committee's response of May 1, 1986 provided such documentation.

Recommendation

The Audit staff recommends no further action on this matter.

D. Transfer of Funds from Connected Organization to Separate Segregated Fund

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 a Federal election or for a political committee to knowingly accept or receive a contribution prohibited by this section.

Section 441b(b) (2) (C) of Title 2, United States Code, provides that the term "contribution or expenditure" shall not include the establishment, administration, and solicitation of contributions to a separate segregate fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

Section 114.5(b) (3) of Title 11, Code of Federal Regulations, states that if the separate segregated fund pays any solicitation or other administration expenses from its own account which could have been paid by the collecting agent, the collecting agent may reimburse the separate segregated fund no later than 30 calendar days after payment by the separate segregated fund. However, 11 C.F.R. § 114.5(b) prohibits [a connected organization's] use of the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions.

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During a reconciliation of Committee bank accounts to disclosure reports, it was determined that total reported receipts and disbursements were understated by \$20,000. This understatement was attributed to the misreporting of a reimbursement to NOW, Inc. and the subsequent (partial) refund of this payment. See Findings II.A. and II.B.3.

On April 25, 1984, NOW-PAC transferred \$52,797.99 to NOW, Inc. for "administrative services." (Related documentation indicates that the transfer was a reimbursement of a NOW-PAC mailing which appears to have been financed initially by NOW, Inc.) Soon thereafter, on May 2, 1984, NOW-PAC received a \$20,000 transfer from NOW, Inc. According to Committee officials, this represented a partial refund of the reimbursement, however, they could offer no explanation as to why the refund was made.

As cited above, Commission regulations allow connected organizations to utilize general treasury funds in financing the establishment, administration, and solicitation of contributions to its separate segregated fund (11 C.F.R. § 114.5(b)). It is also permissible for the separate segregated fund to pay these expenses directly and receive reimbursement from its connected organization if such reimbursement is received within 30 calendar days (11 C.F.R. § 114.5(b)(3)). However, in the instant situation, NOW, Inc. paid for the NOW-PAC mailing initially, received a (voluntary) reimbursement from NOW-PAC, and then apparently refunded a portion (\$20,000) of the reimbursement back to NOW-PAC.

In the interim audit report, the Audit staff noted that, absent some explanation to the contrary, this refund may be viewed as having resulted in the introduction of corporate general treasury funds into the separate segregated fund, in violation of 2 U.S.C. § 441b(a):-

In their May 1, 1986 response, the Committee advised that in NOW-PAC's reimbursement of NOW, Inc. "...and (sic) error was made and an overpayment resulted. This error was discovered and corrected within a week." The response indicated that the \$52,797.99 payment to NOW, Inc. was reported as \$32,797.99 (or net of the \$20,000 transfer from NOW, Inc. to NOW-PAC, which was not reported).

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Given the circumstances surrounding this transaction, (i.e., the short period of time elapsed between the reimbursement and the transfer together with the fact that NOW, Inc. could have permissibly funded the entire amount of the administrative/solicitation expense one week earlier thus eliminating any impression of the "exchange" of funds), the Audit staff accepts the Committee's explanation and finds that no 2 U.S.C. § 441b violation has occurred.

Recommendation

The Audit staff recommends no further action on this matter.

E. Matters Referred to the Office of General Counsel

Certain matters noted during the audit were referred to the Office of General Counsel.

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DOCUMENT
SEPARATOR