



FEDERAL ELECTION COMMISSION

AK003697

WASHINGTON, D.C. 20543

June 3, 1993

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
THE UTAH REPUBLICAN PARTY

Attached please find a copy of the final audit report on Utah Republican Party which was approved by the Commission on May 27, 1993.

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



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20546

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REPORT OF THE AUDIT DIVISION
ON THE
UTAH REPUBLICAN PARTY

I. Background

A. Overview

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This report is based on an audit of the Utah Republican Party ("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 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 March 16, 1978, as a state committee of the Utah Republican Party. The Committee maintains its headquarters in Salt Lake City, Utah.

The audit covered the period from January 1, 1989 through December 31, 1990. The Committee reported a beginning cash balance of -\$38.95; total receipts for the period of \$166,079.59; total disbursements for the period of \$165,890.98; and a closing cash balance on December 31, 1990, of \$149.66.

This 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 the Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the Committee during the period covered by the audit was Mr. Michael L. Jones. The current Treasurer is Mr. Dan E. James.

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.

II. Audit Findings and Recommendations

A. Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code states, in part, a committee is required to report the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's bank accounts to its disclosure reports filed during calendar years 1989 and 1990 indicated material differences between amounts reported by the Committee and amounts reflected on their bank records.

It was noted in the interim audit report that the Audit staff was unable to perform a reconciliation of the Committee's reported receipts and disbursements through March 16, 1989 due to the lack of bank documentation. The amounts presented covered March 17, 1989 through December 31, 1989, with adjustments to the Committee's reported figures for January through March 16, 1989. The interim audit report addressed a number of specific transactions which accounted for the apparent misstatements. However, it was also noted that additional information was needed to determine the exact nature of these transactions. (see Finding II.B.). At the exit conference, the Treasurer stated that the Committee was headed by new officers willing to correct the past problems and comply with the regulations.

In the interim audit report it was recommended that the Committee file comprehensive amended reports for calendar years 1989 and 1990 correcting the apparent misstatements. It was further recommended that additional records be provided to document the transactions that caused many of the apparent errors. The records provided were to include documentation for Certificates of Deposit purchased by the Committee, and documentation for a number of deposits and disbursements. Further, it was recommended that bank records be provided for the

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first part of 1989 and amended disclosure reports be filed as appropriate.

In its response to this and other findings contained in the interim audit report, the Committee supplied most of the missing records. Using these additional records a revised reconciliation was prepared between reported and recorded receipts and disbursements. This revised reconciliation indicates that the Committee's disclosure reports are materially correct as filed.

Recommendation #1

The Audit staff recommends no further action.

B. Recordkeeping

Sections 432(c) and (d) of Title 2 of the United States Code states, in part, that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee; the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person; and, the identification of any person who makes a contribution or contributions aggregating more than \$200 during calendar year, together with the date and amount of any such contribution; the treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Sections 431(13)(A) and (B) of Title 2 of United States Code states that the term "identification" means, in the case of any individual, the name, the mailing address, and the occupation, as well as name of his or her employer; and in the case of any other person, the full name and address such person.

Section 432(i) of Title 2 of United States Code states that when a treasurer of a Committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with the Act.

As previously mentioned, at the time of the audit fieldwork, the Committee did not provide bank statements for the period January through March 16, 1989. During that period the Committee reported an itemized contribution totaling \$1,000.^{1/} The Committee provided bank statements for March 17 through December

^{1/} The Committee itemized \$1,000 in receipts for this period. Given the beginning and ending cash for the period January 1 to March 17, 1989, the Committee must have received at least \$1,961.05 in order to make a \$2,000 disbursement on February 3, 1989.

1989. However, for the period January through April 1989 the Committee did not maintain contributor records. For the period May 1989 through December 1990, the Committee's contribution records generally consisted of photocopies of contributor checks attached to deposit tickets on which the contributors last name was recorded. The Audit staff's review of the available records for March 17 through December 31, 1989 identified 15 deposits, totaling \$25,216.88, which were not documented. For 1990, we identified 5 deposits, totaling \$8,061.

In the interim audit report, the Audit staff recommended that the Committee provide documentation to support the undocumented deposits noted above including a record of each contributor.

The Committee responded on June 26, and July 30, 1992. In its response the Committee provided deposit slips and copies of contributor checks that supported the receipts noted in the interim audit report.

Recommendation #2

The Audit staff recommends no further action.

C. Disclosure of Loans

Section 434(b)(2)(H), (3)(E), and (8) of Title 2 of the United States Code states, in part, that each report shall disclose for the reporting period and calendar year, the total amount of all loans; the identification of any endorser or guarantor of such loan, and date and amount and nature of outstanding debts and obligations owed by or to such political committee.

The Audit staff's review of the Committee's loans indicated that the Committee made payments on four loans during the audit period. Available records on three of the loans did not include a copy of the loan agreements but, rather only a record of payments made from the Federal and Non-Federal accounts and in two cases a loan number. The fourth loan was documented by a copy of a loan agreement with the First Security Bank of Utah. The agreement was dated May 17, 1990 and indicated an unsecured loan of \$10,154.79 at an interest rate of 16% for 36 months. In its June 30, 1991 disclosure report the Committee reported this loan on Schedule C.

According to the loan agreement for this fourth loan, the loan proceeds were "credited to your debt with us (account number) 078110505229." Both the Committee's Federal and Non-Federal accounts made payments on the loan in 1990 totaling \$2,141.90. The Committee reported 1991 payments of \$9,915.98, and in its 1991 year end report disclosed that the loan had been paid

in full. No other information with respect to loan 078110505229 was found in our review of Committee records.

In the interim audit report, it was recommended that for the three loans for which no loan agreements were available that the Committee provide copies of the loan agreements that would establish the identity of the borrower, the collateral for the loans, the identity of any guarantors, the interest rate, the depository into which the proceeds were deposited and if the loans were Federal activity, file the necessary amended disclosure reports.

With respect to the fourth loan it was recommended that the Committee provide documentation with respect to First Security Bank of Utah loan 078110505229, to include a copy of the loan document that identifies the date and amount of the loan, the interest rate, any guarantor, the collateral used to obtain the loan, and the terms of repayment. In addition, the Committee was to provide documentation for the receipt of the loan proceeds to include bank records for the depository into which the funds were deposited, and the disposition of the proceeds. If this loan was federal activity, the Committee was to file amended schedules as appropriate to disclose the loan from its inception until its disposition.

The Committee responded on June 26 and July 30, 1992. In its June 26, 1992 response the Committee stated that they had been unable to locate any of the loan agreements or other documentation requested in the records of the Utah Republican Party. The Committee stated that they had requested First Security Bank to research their archives and to provide copies of all documents related to the loans. On July 30, 1992, the Committee provided loan agreements and associated documentation relating to the three loans for which no records had been available at the time of the audit. All three loans had been made in 1989 and were in the amounts of \$1,500 on March 17, 1989, \$4,500 on March 24, 1989 and \$10,000 on May 12, 1989. In each case the Committee had purchased a certificate of deposit that was used to secure the loan and the proceeds were deposited into the Non-Federal account. For the two smaller loans the Committee made one interest payment and the Non-Federal account paid the balance. For the \$10,000 loan, the Committee made all of the payments. In all three cases when the certificates of deposit were no longer needed to secure the loans, they were redeemed and the funds were redeposited into the Committee's account.

For the fourth loan (*0781105055229) no additional information was provided. Therefore, though it was known that the loan was satisfied with the proceeds of another loan dated May 17, 1990, on which the Committee made the majority of the payments, it was not known how much was borrowed, when the loan was obtained, the terms of the loan, and whether the proceeds of loan *078110505229 were deposited into the Committee's accounts or into the Non-Federal accounts. If the proceeds were deposited into

the Committee's accounts, amended disclosure reports would be required to report the obligation.

To obtain the necessary information, the Commission issued a subpoena on March 2, 1993 to the lending institution that made the loan. On April 29, 1993 a response to the subpoena was received. Copies of the loan documents were provided stating the terms of the loan and explaining that the proceeds were to be used to pay year end expenses. Also provided were bank statements for both the Federal and Non-Federal accounts covering the period in which the loan proceeds were disbursed. These records document a \$10,000 loan cosigned by the Party Chairman. The loan documents were signed on December 28, 1989. On that same date a \$10,000 deposit is shown in the Non-Federal account. No similar deposit is shown in the Committee's account.

Given the above, it is concluded that the loan was a Non-Federal loan and that no additional action is required by the Committee.

Recommendation #3

The Audit staff recommends no further action.