

CONGRESSIONAL AUDIT REPORT

Candidate/Committee: Dusty Owens - 11/29/78

State: Florida

District: 07

Location: Tampa

Political Party Affiliation: Republican

Major Opponent(s): Sam Gibbons (D)

Other Candidates Audited: Sam Gibbons - 3/30/78

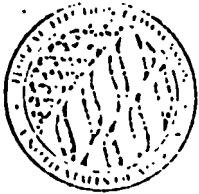
Votes Cast: General Election - Sam Gibbons 102,739 - 65.7%  
Dusty Owens 53,599 - 34.3%

Primary Election - Unopposed

Total Receipts for Period: \$107,637.72

Total Expenditures for Period: \$107,637.72

First Elected (if applicable): N/A



# FEDERAL ELECTION COMMISSION

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

## REPORT OF THE AUDIT DIVISION ON OWENS FOR CONGRESS

### I. Background

#### A. Overview

This report is based on an audit of Owens for Congress (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(d)(3) of Title 2 of the 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 Committee registered with the Federal Election Commission on April 26, 1976 in support of Mr. Robert J. (Dusty) Owens, candidate for election to the U.S. House of Representatives from the 7th Congressional District of Florida. The Committee maintained its headquarters in Tampa, Florida.

The audit covered the period from April 1, 1976 through March 30, 1977, the final coverage date of the latest report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance on April 1, 1976 of \$-0-, total receipts for the period of \$107,637.72, total expenditures for the period of \$107,637.72 and a closing cash balance on March 30, 1977 of \$-0-.

This audit report is based on documents and working papers which support each of the 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.



B. Key Personnel

The principal officers of the Committee at the time of the audit were Mr. Robert Andrews, Chairman and Mrs. Betty Owens, Treasurer.

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. Auditor's Statement

It is the opinion of the Audit staff, based upon examination of the reports and statements filed and the records presented, that, except for the deficiencies noted below, the reports and statements of the Owens for Congress Committee fairly present the financial activities of the Committee for the period covered by the audit. Further, except as noted below, no material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

III. Findings and Recommendations

A. Total Receipts and Expenditures Incorrectly Reported

Section 434(b)(3) of Title 2, United States Code, provides in part that each report under this section shall disclose the total sum of all receipts by or for such committee or candidate during the reporting period. Similarly, Section 434(b)(11) requires that each report shall disclose the total sum of expenditures made by such committee or candidate during the calendar year.

The Committee filed a termination report for the first quarter of 1977, reporting a beginning balance of \$1,502.55, total receipts of \$10,046.26, total expenditures of \$11,548.81, and a closing cash balance of \$-0-. Bank records maintained by the Committee showed total receipts of \$2,997.00 and total expenditures of \$4,499.10 (as adjusted) for this period. The difference between the bank figures and the report total is a result of a series of errors in the reporting of a \$10,000 loan received by the Committee in 1976 from the Candidate. The Committee reported a final loan

payment of \$9,500.00 on March 14, 1977 to liquidate the outstanding debt shown on the Year End Report. The Committee's bank records show that the Committee actually made a payment on the principal of \$2,100.00 and \$147.09 in interest. Furthermore, the Committee reported a receipt of \$8,204.81 from the Candidate on the same date as the source of funds to liquidate the debt. In actuality, the Candidate assumed the obligation for the outstanding balance of the loan (see Finding B). These entries resulted in an overstatement of \$7,049.26 in receipts and \$7,049.11 in expenditures. A Committee official explained that this error is due to a misunderstanding of how this item should be reported.

Subsequent to fieldwork, the Committee filed amended reports deleting the \$9,500.00 payment to the bank and itemizing the actual payment. Also, the \$8,204.81 contribution from the Candidate was deleted and was accompanied by an explanation of the transfer of the loan to the Candidate on the debt and obligation schedule (FEC Schedule C).

#### Recommendation

We recommend no further action in this matter.

#### B. Filing of Disclosure Reports

Section 102.4(b) of Title 11, Code of Federal Regulations, provides that a principal campaign committee may not terminate until the candidate has terminated candidate status under Section 101.1 which requires all debts and obligations for which the candidate is personally obligated arising in connection with the election to be extinguished. Candidacy then may be terminated by letter, containing the same information as that required for termination of committees.

Section 104.1 of Title 11, Code of Federal Regulations, requires in part, that a political committee or a candidate file quarterly reports in a non-election year, when contributions or expenditures, or both, the total amount of which, taken together, exceeds \$5,000. In addition, in the first quarter for which a report is not required, the committee or candidate must notify the Commission on FEC Form 3a or by letter.

The Candidate requested a waiver of reporting when filing his Statement of a Candidate for Nomination or Election on April 28, 1976. Hence, the principal campaign committee reported all receipts and expenditures for the campaign until it filed a termination report on March 31, 1977.

Committee officials stated that as of March 31, 1977, the Candidate assumed the obligation to pay an outstanding bank loan of \$7,400.00. Committee records show that the balance of the loan was paid in full as of January 3, 1978. However, the Candidate failed to file reports after March 31, 1977 to show outstanding obligations or the payment of a debt. In addition, the Committee failed to file reports until the debt was extinguished by the Candidate. Therefore, reports should have been filed by both the Candidate and Committee for the period April 1, 1977 through January 3, 1978.

Subsequent to fieldwork, the Candidate filed the required reports showing the dissolution of the debt on Schedule C, line 25, but failed to itemize each expenditure on Schedule B, line 22. The Committee also filed reports for the same period as required.

#### Recommendation

We recommend that the Commission take no further action in this matter.

#### C. Itemization of Contributions and Transfers from Political Committees

Section 434(b)(2) of Title 2, United States Code, requires in part that a committee must report the full name and mailing address, occupation and principal place of business, if any, of each person who has made one or more contributions in an aggregate amount or value in excess of \$100 within a calendar year, together with the date and amount of such contributions.

Furthermore, Section 434(b)(4) provides that each report shall disclose the name and address of each political committee or candidate from which the reporting committee or the candidate received, any transfer of funds, together with the amounts and dates of all transfers.

The Committee received 98 contributions totalling \$32,748.50 which are required to be itemized on disclosure reports. The Committee failed to itemize 34 (35%) of these contributions totalling \$4,728.00 (14% of the total dollar amount).

A Committee official explained that, although some of the contributions were apparently not itemized due to an oversight, a portion of the error was due to a misunderstanding of whether a contribution should be attributed to husband and wife where the contribution was drawn on a joint account.

The Committee received 10 transfers from political committees totalling \$9,100.00. The Committee did not itemize two (2) transfers (or 20%) totalling \$2,100.00 (or 23% of the total dollar amount). Also, the disclosure report summary sheets filed by the Committee disclosed transfers received as part of individual contributions, line 15, rather than transfers-in line 18. As a result, the summary sheets indicate that the Committee received all of its funds from individuals and none from other committees.

The Committee did not provide an explanation for the failure to itemize transfers from political committees.

At the request of the Audit staff, the Committee filed amendments itemizing the contributions and transfers noted above. In addition, these amendments reflect the corrected totals for individual contributions (line 15) and transfers-in (line 18) on the summary sheets.

#### Recommendation

We recommend no further action in this matter.

#### D. Retention of Supporting Documentation for Expenditures

Section 432(3) of Title 2, United States Code, requires each 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 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

In addition, Section 102.9(c)(4) of Title 11, Code of Federal Regulations, provides that when a receipted bill is not available, the treasurer may keep a cancelled check and a bill, invoice or other contemporaneous memorandum.

The Committee made 320 expenditures, totalling \$87,434.00 in 1976 which require maintenance of supporting documentation. We found 20 expenditures (or 6%), totalling \$10,504.93 (or 12% of the total dollar amount), which did not have acceptable supporting documentation. However, each of those expenditures is supported by a cancelled check. Committee officials acknowledged the discrepancies noted by the Audit staff.

Subsequent to fieldwork, the Committee submitted documentation in support of five (5) expenditures totalling \$3,529.03, reducing the total amount of expenditures inadequately supported to 15 (5%) totalling \$6,975.80. In addition, the Committee provided evidence that they were unable to contact three (3) vendors because they were no longer in business and received no response from five (5) vendors after several attempts to obtain documentation. The remaining undocumented expenditures were for "petty cash", and "reimbursed expenses" from individuals which the Committee did not make attempts to obtain.

#### Recommendation

We recommend no further action in this matter.

#### E. Itemization of Expenditures

Section 434(b)(9) and (10) of Title 2, United States Code, provides, in part, that each report shall disclose the identification of each person to whom expenditures have been made in an aggregate amount or value in excess of \$100, the amount, date, and purpose of each such expenditure.

The Committee made 320 expenditures in 1976 totalling \$87,434.00 which are in excess of or aggregate in excess of \$100 within the calendar year. The Committee did not itemize 29 (or 9%) of these expenditures, totalling \$3,114.98 (or 4% of the total dollar value). Also, the Committee failed to report the correct amount for 61 expenditures totalling \$8,055.50. This represents 19% of the total number of expenditures requiring itemization and 9% of the total dollar value. A Committee official stated that the

errors in the reported amounts were due to a misunderstanding of whether to report payroll expenditures at net or gross figures. As a result, salary payments were reported at the gross amounts and payments to various taxing authorities for amounts withheld from salaries were not disclosed.

As recommended by the Audit staff, the Committee filed an amended report itemizing the 29 expenditures incorrectly included in unitemized totals. In addition, an entry detailing the payments to taxing authorities and an explanation of the manner in which salary payments were reported was also included in the amendment.

Recommendation

We recommend no further action in this matter.

F. Contributions in Excess of the Limitations

Section 441a(a)(1)(A) of Title 2, United States Code, provides in part, that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Section 441a(F) of Title 2, United States Code, provides that no candidate or political committee shall accept any contribution or make any expenditure in violation of this section.

In addition, Section 431(e)(5)(G) of Title 2, United States Code provides in part, that a loan from a national or state bank made in the ordinary course of business is a loan from each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

During our review of Committee receipt records, we determined that seven (7) individuals had exceeded their contribution limitations by endorsing a \$10,000 loan received by the Candidate on August 25, 1976; the proceeds of which were given to his campaign committee. Each individual remained an endorser until December 15, 1976 when their names were removed from the loan agreement.

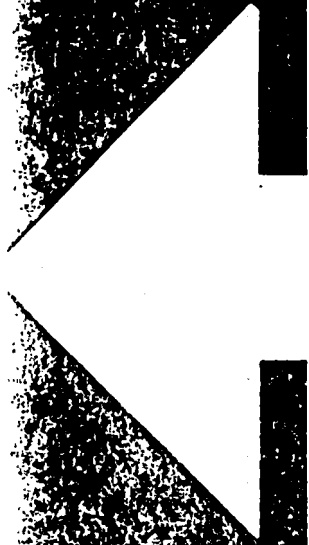


On February 6, 1978, this matter was referred by the Audit Division to the Office of General Counsel. On March 23, 1978, the Commission initiated NDR 526, finding reason to believe that each of the individuals had violated Section 441a(a)(1)(A) of Title 2 by endorsing a loan to a federal candidate in excess of contribution limitations, and further that the Candidate had violated Section 441a(f) of Title 2 by accepting endorsements on a campaign-related loan which exceeded the contribution limitations of these individuals. Subsequently, the Candidate and endorsers signed conciliation agreements requiring the payment of a civil penalty. Based on the receipt of the penalties, the Commission voted on September 11, 1978 to close the file on this matter.

G. Other Matters

The following is a matter noted during the audit for which no further action is recommended:

The Audit staff noted from Committee expenditure records that two (2) fundraising events were held for which no records of the proceeds or dates of the events were maintained by the Committee. The costs of food and hall rental associated with these events were \$225.75 and \$917.23, respectively. Because detailed records were not kept by the Committee, the Audit staff was unable to determine with certainty the total proceeds from these events in order that amended reports could be filed (FEC Schedule D). The Committee was advised of the record-keeping provisions with respect to fundraising events and, therefore, we recommend no further action.



THE  
FEDERAL BUREAU OF INVESTIGATION  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, D. C. 20535

