



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

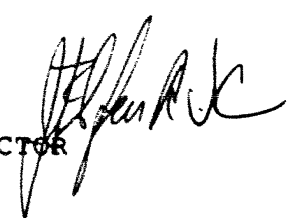
July 17, 1991

MEMORANDUM

TO: FRED EILAND  
CHIEF, PRESS OFFICE

FROM: ROBERT J. COSTA  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
ANNA ESHOO FOR CONGRESS



Attached please find a copy of the Final Audit Report on Anna Eshoo for Congress which was approved by the Commission on July 10, 1991.

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



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REPORT OF THE AUDIT DIVISION  
ON  
ANNA ESHOO FOR CONGRESS

I. Background

A. Overview

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This report is based on an audit of Anna Eshoo for Congress 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 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 Clerk of the House of Representatives on January 4, 1988 and maintained its headquarters in Atherton, California from inception to October 18, 1988. The Committee currently maintains its headquarters in Sacramento, California. The audit covered the period from December 10, 1987, the inception date of the bank activity, through December 31, 1988, the closing date for the latest report filed at the time of the audit. The Committee reported a cash balance on January 1, 1987 of \$-0-; total receipts of \$1,092,768.67; total disbursements of \$1,089,572.79; and a cash balance on December 31, 1988 of \$3,207.86.\*/

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 the Commissioners and appropriate staff for review.

\*/ The totals do not foot due to a discrepancy in the reported cash balances.

B. Key Personnel

The Treasurer of the Committee from inception to October 18, 1988 was Joseph E. Bergeron. The current Treasurer is Lance H. Olson.

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. Excessive Contributions from Individuals

Section 441a(a)(1)(A) of Title 2 of the United States Code states, 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. An election is defined at 2 U.S.C. §431(1)(a) to include general and primary elections.

The regulations at 11 C.F.R. §110.1(b)(2) state, in relevant part, that "with respect to any election" means: in the case of a contribution designated in writing for a particular election, the election so designated; in the case of a contribution not designated in writing, for a primary election if made on or before the date of the primary, and for a general election if made after the date of the primary.

Section 110.1(k) of Title 11 of the Code of Federal Regulations states, in part, that any contribution made by more than one person, except for a contribution made by a partnership, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A contribution made by more than one person that does not indicate the amount to be attributed to each contributor shall be attributed equally to each contributor. If a contribution to a candidate on its face or when aggregated with other contributions from the same contributor exceeds the limitations on contributions, the Treasurer may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution; and within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution,

which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

In addition, 11 C.F.R. § 110.1(l) requires the treasurer to retain written redesignations or reattributions of a contribution signed by each contributor.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitation may be deposited into a campaign depository. If any such contributions are deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 C.F.R. § 110.1(b), 110.1(k) or 110.2(b), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

The Audit staff reviewed contributions from individuals and determined that the Committee had accepted seven contributions, which were in excess of the 2 U.S.C. § 441a(a)(1)(A) limit by \$6,800. The Committee designated four of these excessive portions, totalling \$3,300, to the primary election without written redesignation from the contributor. These contributions were received after the date of the primary election. The Committee attributed a \$500 excessive portion of a \$1,500 contribution from a non-incorporated entity to a person who did not sign the instrument or other attribution documentation. The Committee also designated to the general election a \$2,000 contribution made before the primary, and attributed \$1,000 of this amount to the spouse without election designation or attribution documentation, resulting in a \$2,000 excessive portion. Finally, the Committee failed to refund the \$1,000 excessive portion of a contribution from one contributor.

The Treasurer of the Committee was provided a schedule of the excessive contributions. At the exit conference the Treasurer acknowledged that the documentation available for the redesignation/reattribution of the above contributions was not adequate.

In the interim audit report the Audit staff recommended that the Committee either demonstrate that the apparent excessive contributions were not excessive or refund the excessive portions and provide evidence of the refunds. If funds were not available to make such refunds, the Audit staff recommended that the Committee disclose the excessive contributions as debts owed by the Committee.

In its response to the interim audit report, the Committee states that funds were not available to make these refunds. They attached an amended Schedule D (Debts and Obligations) to their 1990 Year End Report to disclose these refunds as

debts. The Committee further stated that they will continue to report the excessive portions as debts until the matter is resolved.

The Committee further notes that they are planning to send letters to the contributors who made these excessive contributions requesting redesignations or reattributions of the excessive portions. They stated that as an alternative to the refunds, they would furnish the signed letters to the Commission.

The Audit staff notes that based on the Committee's amended Schedule D, they have complied with the interim audit report recommendation. The Audit staff further notes that if the Committee were to submit these letters, they would be able to eliminate the debts they have disclosed in recognition of these outstanding refunds. Once these debts are eliminated, as well as all other outstanding debts, the Committee would then be able to terminate.

Recommendation #1

The Audit staff recommends no further action.

B. Earmarked Contributions not Disclosed as Earmarked

Section 441a(a)(8) of Title 2 of the United States Code, and 11 C.F.R. § 110.6 state, in part, that contributions which are in any way earmarked or otherwise directed to the candidate through an intermediary or conduit are contributions from the person to the candidate. 11 C.F.R. § 110.6(c)(3) states that the intended recipient shall disclose on his next report each conduit through which the contribution passed.

The Audit staff reviewed contributor documentation and determined that EMILY's List and The Peace Political Action Committee ("Peace PAC"), both registered committees, disclosed and/or transmitted contributions totalling \$61,128 and \$13,194 respectively, as earmarked to the Committee during the period July 1, 1988 through December 31, 1988. The Audit staff examined documentation within the Committee files that materially verified the receipt and earmarked nature of these contributions. The Audit staff noted that the source of some earmarked contributions were identified within the Committee data base as "EML" or "PCP". The Committee only reported the earmarked nature of seven contributions, totalling \$635, from EMILY's List and failed to disclose the earmarked nature of any contributions from the Peace PAC for the period July 1, 1988 through December 31, 1988. Thus, the Committee failed to disclose the earmarked nature of contributions totalling \$73,687 (\$61,128 - \$635 + \$13,194).

During the exit conference, the Treasurer indicated that the Committee would be willing to disclose the earmarked nature of these contributions and the conduits' identification through a comprehensive amendment.

In the interim audit report the Audit staff recommended that the Committee file amended reports and disclose on Schedule A the contributor/conduit information for the earmarked contributions.

The Committee filed amended Schedule A's which disclosed the source and earmarked nature of the contributions received through EMILY's List and Peace PAC.

Recommendation #2

The Audit staff recommends no further action on this matter.

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