



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

AK007005

September 27, 1995

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
PEOPLE FOR ENGLISH

Attached please find a copy of the final audit report and related documents on People for English which was approved by the Commission on September 21, 1995.

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**

People for English

Approved September 21, 1995



**FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.**

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FINAL AUDIT REPORT
ON
PEOPLE FOR ENGLISH
EXECUTIVE SUMMARY

People For English (the Committee) registered with the United States House of Representatives on September 7, 1993 as the principal campaign committee for Philip S. English, Republican candidate for the U.S. House of Representatives from the Commonwealth of Pennsylvania, 21st District.

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. The audit covered the period from August 26, 1993, through December 31, 1994.

The findings were presented to the Committee at an exit conference held at the conclusion of audit fieldwork (May 12, 1995) and in the interim audit report, which was forwarded to the Committee on July 26, 1995. The Committee's response to the interim audit report has been incorporated in the final audit report findings.

The findings contained in the final audit report are summarized below.

Receipt of Excessive Contributions - 2 U.S.C. §441a(a)(1)(A), 11 CFR §103.3(b)(3) and (4). The Committee received a total of \$4,065 in apparent excessive contributions from nine individual contributors. The Committee issued refund checks for all excessive contributions, although not timely. In response to the interim audit report, the Committee provided copies of the refund checks. One refund check in the amount of \$1,000 has not been negotiated.

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Receipt of Prohibited Contributions - 2 U.S.C. §441b(a), 11 CFR §103.3(b)(1) and (4). The Committee received a total of \$3,200 in apparent corporate contributions from eight contributors. In response to the interim audit report, the Committee issued refund checks for all corporate contributions, although not timely, and provided copies of the refund checks. One refund check in the amount of \$200 has not been negotiated.

Recordkeeping for Disbursements - 2 U.S.C. §432(C)(5). The Committee's disbursement records were missing a number of vendor addresses, and a number of reported disbursements were also disclosed without addresses. In response to the interim audit report, the Committee provided the missing information and filed Schedules B which disclosed most of the vendor addresses.

Disclosure of Occupation and Name of Employer - 2 U.S.C. §434(b)(3)(A), 2 U.S.C. §431(13)(A), 11 CFR §104.7(a) and (b). The Committee itemized a number of contributions from individuals without disclosure of occupation and/or name of employer. Best efforts were not demonstrated.

In response to the interim audit report, the Committee provided copies of letters sent to those individuals whose contributions aggregated over \$200 in a calendar year and whose occupation and name of employer information was incomplete. The Committee also filed Schedules A which disclosed the occupation and name of employer of the individuals who responded to the letters.

Itemization of Offsets to Operating Expenditures - 2 U.S.C. §434(b)(3)(F), 2 U.S.C. §431(13)(B). The Committee failed to itemize one offset to operating expenditure in the amount of \$13,964. The Committee filed an amended Schedule A to correct the public record.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

REPORT OF THE AUDIT DIVISION
ON
PEOPLE FOR ENGLISH

I. Background

A. Audit Authority

This report is based on an audit of People For English (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with 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 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.

B. Audit Coverage

The audit covered the period from August 26, 1993, through December 31, 1994. The Committee reported a beginning cash balance on August 26, 1993 of \$0; total receipts for the period of \$438,288; total disbursements for the period of \$421,988; and an ending cash balance of \$16,300.1/

C. Committee Organization

The Committee registered with the United States House of Representatives on September 7, 1993, and maintained its headquarters in Erie, Pennsylvania. The Committee served as the principal campaign committee for Philip S. English, Republican candidate for the U.S. House of Representatives from the

1/ The figures cited in this report were rounded to the nearest dollar.

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Commonwealth of Pennsylvania, 21st District. The Treasurer of record during the period covered by the audit was Gail F. Sherrred.^{2/}

To manage its financial activity, the Committee maintained two bank accounts and one investment account. From these accounts the Committee made approximately 557 disbursements. Approximately 1,554 contributions (\$236,687) from individuals were received. In addition, the Committee received 228 contributions (\$175,116) from other political committees, two loans (\$5,000) made by the Candidate, four offsets to operating expenditures (\$14,313) and one other receipt (\$4,189).

D. Audit Scope and Procedures

The audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (See Finding II.A.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (See Finding II.B.);
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions or other receipts when required, as well as, the completeness and accuracy of the information disclosed (See Findings II.D., E.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. proper disclosure of Committee debts and obligations;
6. accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records;
7. adequate recordkeeping for Committee transactions (See Finding II.C.);

^{2/} According to Edwin H. Lund, the Committee's accountant, Ms. Sherrred served as Treasurer until September 6, 1994; at which time Mr. Lund became Treasurer. An amendment to the Committee's Statement of Organization was filed on February 14, 1995 to correct the public record. Mr. Lund was replaced as Treasurer by Mr. Edward E. Smith on August 17, 1995. An amendment to the Committee's Statement of Organization was filed to correct the public record.

8. other audit procedures as deemed necessary per the circumstances.

Unless specifically discussed below, no material non-compliance with statutory or regulatory requirements was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

II. Audit Findings and Recommendations

A. Receipt of Excessive Contributions

Section 441a(a)(1)(A) of Title 2 of the United States Code states 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 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitations may be deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b). 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.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that any contribution which appears to be illegal under 11 CFR 103.3(b)(3), and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

The Audit staff's review of contributions received from individuals indicated that nine contributors exceeded their limitation by \$4,065. Excessive contributions from five contributors, totaling \$3,275, were refunded but not timely. One of the contribution refund checks for \$1,000 remains outstanding. The excessive contributions from the remaining four contributors, totaling \$790, were unresolved. The Committee did not establish a separate account in a campaign depository for such contributions; however it has maintained sufficient funds to make the refunds pursuant to 11 CFR 103.3(b)(4).

The Audit staff discussed this matter with the Committee's representatives at the exit conference and provided a schedule detailing these excessive contributions. The Committee's representatives agreed to refund the remaining excessive contributions.

Subsequent to the exit conference, the Committee's representatives provided the Audit staff photocopies of the front of checks refunding the four unresolved excessive contributions noted above.

In the interim audit report the Audit staff recommended that the Committee provide evidence of refunds of all unresolved excessive contributions in the form of photocopies of the front and back of the negotiated refund checks.

In response to the interim audit report, the Committee provided evidence of refunds, which materially complied with the Audit staff's recommendation. However, for one excessive contribution in the amount of \$1,000, the refund check has not been negotiated and it remains unresolved.

B. Receipt of Prohibited Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation organized by authority of any law of Congress, to make a contribution in connection with any election to any political office, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section.

Section 103.3(b)(1) of Title 11 of the Code of Federal Regulations states, in part, that contributions that present genuine questions as to whether they were made by corporations may be, within ten days of the treasurer's receipt, either deposited or returned to the contributor. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states that any contribution which appears to be illegal under 11 CFR 103.3(b)(1), and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

During fieldwork, the Audit staff identified eight apparent corporate contributors that made 14 contributions totaling \$3,200. None of these contributions had been refunded. Each contributor's corporate status was verified with the appropriate Secretary of State's Corporate Division. The Committee did not establish a separate account in a campaign depository for such contributions, but has maintained sufficient funds to make the refunds pursuant to 11 CFR \$103.3(b)(4).

The Committee's representatives were informed of the results of this review and provided a schedule detailing these items. The Committee's representatives agreed to refund the prohibited contributions.

Subsequent to the exit conference, the Committee's representatives provided the Audit staff photocopies of the front of checks refunding the corporate contributors noted above.

In the interim audit report the Audit staff recommended that the Committee provide photocopies of the front and back of the negotiated refund checks.

In response to the interim audit report, the Committee provided evidence of refunds which materially complied with the Audit staff's recommendation. However, for one prohibited contribution in the amount of \$200, the refund check has not been negotiated and it remains unresolved.

C. Recordkeeping for Disbursements

Section 432(c)(5) of Title 2 of the United States Code states that the treasurer of a political committee shall keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of \$200.

The Audit staff conducted a sample review of the Committee's disbursements. This review indicated that approximately 8% of the Committee's disbursement records did not include the vendor's address. The Audit staff noted that several of the errors occurred during the July 1, 1994 through the September 30, 1994 report period. The Committee's canceled checks, check stubs, and general ledger did not contain addresses; and corresponding invoices for these disbursements were not available to satisfy the recordkeeping requirement. The Audit staff also noted a number of reported disbursements for which no address was disclosed.

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At the exit conference, The Audit staff informed the Committee's representatives of its recordkeeping problem. The Committee's representatives agreed to obtain the missing information and disclose the information on amended Schedules B.

In the interim audit report, the Audit staff recommended that the Committee review its records and identify those vendors for which no address has been recorded. It was further recommended that the Committee obtain the missing addresses and provide the Audit staff with the information obtained. The Audit staff also recommended that the Committee file amended Schedules B to fully disclose the above noted disbursements.

In response to the interim audit report, the Committee provided a record of vendor addresses which materially complied with the Audit staff's recommendation. The Committee also filed amended Schedules B, disclosing the vendor addresses, as recommended.

D. Disclosure of Occupation and Name of Employer

Section 434(b)(3)(A) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year together with the date and amount of any such contribution.

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

Sections 104.7(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act. With regard to reporting the identification of each person whose contribution(s) to the political committee and its affiliated committees aggregate in excess of \$200 in a calendar year, the treasurer will only be deemed to have exercised best efforts to obtain, maintain and report the required information if; (1) All written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include the following statement: "Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year."; and (2) For each contribution received aggregating in

excess of \$200 per calendar year which lacks required contributor information, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. Such effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. The writing must be made no later than thirty (30) days after receipt of the contribution.

The Audit staff reviewed contributions from individuals on a sample basis and determined that for approximately 40% of these contributors, the occupation and/or name of employer was not disclosed as required. Some of the information was available on the Committee's receipts data base, but was not disclosed on its reports.

A review of some of the Committee's solicitation devices showed that the Committee did request occupation and name of employer information and that the Committee did inform the contributors that the information was required by law. However, the Committee could not produce evidence that documented its attempts to contact contributors for the information subsequent to the receipt of the contribution.

The Audit staff spoke to former treasurer, Gail Sherred, who stated that she had only made telephone calls to obtain the information, and that any information obtained would have been written on the original reports. A review of the original reports did not reduce the number of errors and no written record of the telephone contacts was maintained.

At the exit conference, the Audit staff informed the Committee's representatives of this matter. The Committee's representatives agreed to contact contributors to request the missing occupation/name of employer information and would keep a written journal to document the contacts.

In the interim audit report, the Audit staff recommended that the Committee take the following action:

- ° produce documents to demonstrate best efforts has been satisfied; or
- ° absent such demonstration, make an effort to contact those individuals whose contributions aggregate in excess of \$200 in a calendar year and whose occupation and name of employer information is incomplete. The contributors should be requested to provide the necessary information and be informed that Federal law requires the Committee to report such information;
- ° maintain documentation or a written log of such contacts;

- ° file amended memo Schedules A to disclose any occupation and/or name of employer information obtained from those contacts.

In response to the interim audit report, the Committee filed memo Schedules A, which provided additional disclosures of occupation and name of employer. Based on our analysis of the Committee's response, the Audit staff determined that for approximately 24% of contributions from individuals, the occupation and name of employer remained undisclosed.

The Committee also provided copies of the letters sent to contributors which requested their occupation and name of employer. The letters were not sent within 30 days after the receipt of each contribution, as required by 11 CFR 104.7(b). Further, the language in the letters is not in accordance with 11 CFR §104.7(b). The Committee's letters state "Federal Election Commission law requires..." rather than Federal law requires.

E. Itemization of Offsets to Operating Expenditures

Section 434(b)(3)(F) of Title 2 of the United States Code states 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 within the calendar year, together with the date and amount of such receipt.

Section 431(13)(B) of Title 2 of the United States Code states, in part, that the term "identification" means in the case of any other person, other than an individual, the full name and address of such person.

During fieldwork, the Audit staff identified four offsets to operating expenditures totaling \$14,313. One offset, an advertising refund from Optima Direct, Inc. in the amount of \$13,964, was not itemized as required on Schedule A.

At the exit conference, the Audit staff advised the Committee's representatives on this matter. The Committee's representatives agreed to file the required amendment.

Subsequent to the exit conference, the Committee's representatives filed the required amendment to correct this matter.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

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September 22, 1995

Mr. Edward E. Smith
People for English
P.O. Box 1840
Erie, PA 16512

Dear Mr. Smith:

Attached please find the Final Audit Report on People for English. The Commission approved the report on September 21, 1995.

The Commission approved Final Audit Report will be on the public record on September 27, 1995. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. Any questions you have related to matters covered during the audit or in the report should be directed to Bill Antosz or Joe Stoltz of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,

Robert J. Costa
Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

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CHRONOLOGY

PEOPLE FOR ENGLISH

Audit Fieldwork	5/1/95 - 5/12/95
Interim Audit Report to the Committee	7/26/95
Response Received to the Interim Audit Report	8/28/95
Final Audit Report Approved	9/21/95

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