



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1999

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

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

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

Attached please find a copy of the final audit report and related documents on Amorello for Congress which was approved by the Commission on July 21, 1999.

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

22.07.025.3422

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AMORELLO FOR CONGRESS

EXECUTIVE SUMMARY

Amorello for Congress (the Committee) registered with the Federal Election Commission on November 4, 1997 as the principal campaign committee for Matthew J. Amorello (the candidate), Republican candidate for the U.S. House of Representatives from the state of Massachusetts for the Third District. The Committee maintained its headquarters in Worcester, Massachusetts.

The audit was conducted pursuant to 2 U.S.C. Section 438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The finding from this audit was presented to the Committee at an exit conference held subsequent to the completion of field work on May 7, 1999 and later in an interim audit report. The Committee's response to the finding is included in this final audit report.

The following is an overview of the finding contained in the final audit report.

Receipt of Contributions in excess of the Limitation — 2 U.S.C. 441a(a)(1)(A) and 11 CFR §§102.9(f), 103.3(b)(3) & (4), 110.1(b)(2), (5)(i)(C) & (5)(ii), 110.1(k)(3)(i) & (ii)(A) & (B) and 110.1(l)(1), (3) & (5). The audit revealed that the Committee failed to comply with the prescribed methods for designation, redesignation or reattribution of contributions received from individuals. In doing so, the Committee received contributions from fifty-nine individuals which were in excess of those individuals' \$1,000 per election contribution limit for the primary election. The total excessive amount received by the Committee equaled \$43,825.

In response to the interim report, the Committee agreed to refund the excessive contributions.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A99-09

REPORT OF THE AUDIT DIVISION

ON

AMORELLO FOR CONGRESS

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Amorello for Congress (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 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 the Committee's initial deposit on October 31, 1997, through December 31, 1998. The Committee reported a beginning cash balance of \$0; total receipts for the audit period of \$681,874; total disbursements for the audit period of \$681,012; and an ending cash balance of \$3,042 on December 31, 1998.¹

¹ The figures cited in this report are rounded to the nearest dollar. The amounts reported do not foot.

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C CAMPAIGN ORGANIZATION

The Committee registered with the Federal Election Commission on November 4, 1997 as the principal campaign committee for Matthew J. Amorello (the candidate), Republican candidate for the U.S. House of Representatives from the state of Massachusetts for the Third District.

The treasurer of the Committee during the audit period and currently is Patricia M. Finnegan. The Committee maintained its headquarters in Worcester, Massachusetts.

To manage its financial activity, the Committee maintained one bank account. From this account, the Committee made approximately 650 disbursements. Into this account the Committee deposited approximately 3,600 contributions totaling \$675,463.

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of 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;
3. proper disclosure of receipts 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;
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 campaign debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records;
7. adequate recordkeeping for campaign transactions; and

8. other audit procedures that were deemed necessary in the situation.

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. Unless specifically discussed below, no material non-compliance 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 CONTRIBUTIONS IN EXCESS OF THE LIMITATION

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 102.9(f) of Title 11 of the Code of Federal Regulations states that the treasurer shall maintain the documentation required by 11 CFR 110.1(l) concerning designations, redesignations, reattributions and the dates of contributions. If the treasurer does not maintain this documentation, 11 CFR 110.1(l)(5) shall apply.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in relevant part, that the treasurer shall be responsible for examining all contributions received for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitation 11 CFR 110.1. Contributions which on their face exceed the contribution limitations set forth at 11 CFR 110.1 and contributions which do not appear to be excessive on their face, but which exceed the contribution limits set for in 11 CFR 110.1 when aggregated, may be either deposited into a campaign depository under 11 CFR 103.3(a) 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) or 110.1(k). If a redesignation or reattribution is not obtained, the treasurer shall, within sixty 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 a contribution, which appears to be illegal under 11 CFR 103.3(b)(3) and is deposited in a campaign, 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 or maintain sufficient funds to make all such refunds.

Section 110.1(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that with respect to any election means in the case of a contribution designated in writing by the contributor for a particular election, the election so designated and in the case of a contribution not designated in writing by the contributor for a particular election, the next election for that Federal office after the contribution is made.

Section 110.1(b)(5)(i)(C) of Title 11 of the Code of Federal Regulations states, in part, that the treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if the contribution was not designated in writing for a particular election, and the contribution exceeds the limitation on contributions.

Section 110.1(b)(5)(ii) of Title 11 of the Code of Federal Regulations states, in part, that a contribution shall be considered to be redesignated for another election if the treasurer of the recipient authorized political committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request the refund of the contribution as an alternative to providing a written redesignation; and that within sixty days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of the contribution for another election, which is signed by the contributor.

Section 110.1(k)(3)(i) of Title 11 of the Code of Federal Regulations states, in part, that if a contribution to a candidate, either on its face or when aggregated with other contributions from the same contributor, exceeds the limitations on contributions, the treasurer of the recipient committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person.

Sections 110.1(k)(3)(ii)(A) and (B) of Title 11 of the Code of Federal Regulations state, in part, that a contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient 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 if 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 attributed to each contributor if the equal attribution is not intended.

Section 110.1(l)(1) of Title 11 of the Code of Federal Regulations state, in part, that if a political committee receives a contribution designated in writing for particular election, the treasure shall retain a copy of the written designation.

Section 110.1(l)(3) of Title 11 of the Code of Federal Regulations states, in part, that if a political committee receives a written reattribution of a contribution to a

different contributor, the treasurer shall retain the written reattribution signed by each contributor.

Section 110.1(l)(5) of Title 11 of the Code of Federal Regulations states, in part, that if a political committee does not retain the written records concerning designation the contribution shall not be considered to be designated in writing for a particular election and the provisions of 11 CFR 110.1(b)(2)(ii) will apply.

As cited above, the Commission's regulations provide that a committee may, within ten days, return or deposit, any contribution which is either excessive on the face or excessive when aggregated with contributions previously received by the committee from the same contributor. When an excessive contribution is deposited, a committee has sixty days from receipt to obtain from the contributor either a written redesignation of the excessive portion to the next election or a written reattribution which indicates that the contribution is a joint contribution and identifies the individual(s) making the contribution; in either case the contributor must be informed that he/she may request a refund as an alternative to a redesignation or reattribution. Additionally, a committee may maintain a separate account for the deposit of questionable contributions but must maintain funds sufficient to make all refunds; until the legality of these contributions is established, the committee may not use the funds. Each excessive contribution (or excessive portion) for which a committee is not able to obtain a reattribution or redesignation must be refunded to the contributor, within the same sixty day period.

This Committee began receiving contributions in October of 1997. Solicitation response cards used throughout the campaign by this Committee stated that either "Campaign finance laws" or "Federal election laws" limit campaign contribution to \$2,000 maximum per person per election cycle. Beginning in April, 1998, the solicitation response cards were modified and this request was added, "If you have already contributed \$1000, please write For Use in General Election in the memo area of your check." No attempt, however, was made to explain that the aforementioned "\$2,000 maximum" represented two separate limits combined. An individual's contributions in the aggregate are limited to \$1,000 for the primary election and \$1,000 for the general election. It appears the Committee was aware that contributions in excess of or aggregating in excess of \$1,000 received from an individual before the date of the primary needed to be designated for use in the general election.

The primary election for the Third Congressional District of Massachusetts was held on September 15, 1998; the general election was held on November 3, 1998. Through September 15, 1998, the Committee received approximately \$366,000 or 67% of the value of total contributions received from individuals.

We conducted a comprehensive review to identify all apparent excessive contributions. This review identified contributions, totaling \$43,825, received from fifty-nine individuals which were in excess of those individuals' \$1,000 per election

contribution limit for the primary election. The Committee issued checks totaling \$2,000 representing the timely return of otherwise potentially excessive contributions; however, with one exception, only in instances where an individual's aggregate contributions exceeded \$2,000. No documentary evidence was provided which established that the \$43,825 in contributions were designated for use in the general election or that the Committee had sought to redesignate, reattribute or refund the excessive portions. By October 10, 1998, the Committee no longer maintained a balance in its campaign account sufficient to allow it to refund these excessive contributions.

A schedule detailing the results of the excessive review was provided to the Committee at the exit conference. The Committee representative stated at that time that it was the intention of the Committee to refund the contributions in question and would begin the process soon.

In the interim audit report, the Audit staff recommended that the Committee provide evidence demonstrating that the contributions in question were not excessive. This evidence was to include documentation showing that the excessive portions of these contributions had either been correctly designated to the general election, timely redesignated or reattributed, or timely refunded. Absent such evidence, it was recommended that the Committee refund the excessive contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund checks) for our review. If funds were not available to make the necessary refunds, those contributions requiring refunds should be disclosed as debts on Schedule D (Debts and Obligations) until such time that funds became available to make the refunds.

The Committee responded to the interim audit report as follows:

"This letter will acknowledge that Amorello for Congress must refund to 59 individuals sums totaling \$43,825, representing excessive contributions for the 1998 primary. These individuals shall be listed as Schedule D debts in our July, 1999 filing.

"To date we have refunded the sum of \$2048..."

Provided that debt schedules are filed² detailing the amounts to be refunded, it appears the Committee has begun the process necessary to refund³ the aforementioned excessive contributions.

² This report is due July 31, 1999.

³ Copies, front and back, of the negotiated refund checks (\$2,048) were not included in the Committee's response.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1999

Ms. Patricia M. Finnegan, Treasurer
Amorello for Congress
484 Main Street, #570
Worcester, MA 01608

Dear Ms. Finnegan:

Attached, please find the Report of the Audit Division on Amorello for Congress. The Commission approved the report on July 21, 1999.

The Commission approved Audit Report will be placed on the public record on July 28, 1999. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220 or toll free at (800) 424-9530. Any questions you have related to matters covered during the audit or in the report should be directed to Marty Kuest or Wanda Thomas of the Audit Division at (202) 694-1200 or the above toll free number.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

cc: Robert E. Amorello

22.07.025.3432

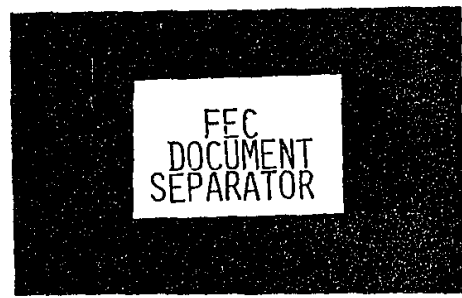
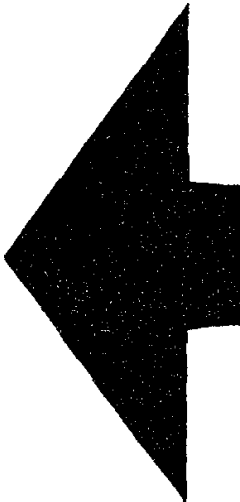
CHRONOLOGY

AMORELLO FOR CONGRESS

Audit Fieldwork	04/26/99 TO 05/07/99
Interim Audit Report to the Committee	June 3, 1999
Response Received to the Interim Audit Report	July 7, 1999
Final Audit Report Approved	July 21, 1999

22.07.025.3433

22.07.025.3435



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