



FEDERAL ELECTION COMMISSION

1325 K STREET NW
WASHINGTON, D.C. 20463

November 19, 1979

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: BOB COSTA *RJC*

FROM: JUDY HAWKINS

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT -
WARD FOR CONGRESS COMMITTEE (OK/3)

Attached please find a copy of the final audit report of the Ward for Congress Committee (OK/3) which was approved by the Commission on November 7, 1979.

Informational copies of this report have been received by all parties involved and this report may be released to the public.

With this release, the Oklahoma 3rd District is now complete.

Attachment as stated

cc: FEC Library
RAD
Public Record





FEDERAL ELECTION COMMISSION

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WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE WARD FOR CONGRESS COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Ward for Congress Committee ("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(a)(8) 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 June 23, 1976, in support of Charles Leland Ward candidate for election to the office of U.S. Representative from the 3rd Congressional District of Oklahoma. The Committee maintained its headquarters in Durant, Oklahoma.

The audit covered the period from June 20, 1976 through April 29, 1977, the final coverage date of the termination report filed by the Committee. The Committee reported a beginning cash balance on June 21, 1976, of \$-0-, total receipts for the period of \$134,865.41, total expenditures for the period of \$132,589.20, and a closing cash balance on April 29, 1977 of (\$1,546.16). ^{1/}

^{1/} A negative cash balance was reported due to a Committee error in carrying over year to date totals.



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 during the period covered by the audit were Mr. Don Dage, Chairman, and Mr. Rector Swearingin, Treasurer.

C. Scope

Except as set forth in Findings A, B, and C 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. Audit Findings and Recommendations

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The following matters were referred to the Commission's Office of General Counsel on May 10, 1978, based on the Committee's inadequate response to the Audit Division's letter of audit findings and recommendations. As discussed below, the Commission voted on November 7, 1978 and December 21, 1978, to find reason to believe and reasonable cause to believe, respectively that the Committee had violated several provisions of the Act. After months of negotiation with the Committee, the Commission accepted a signed conciliation agreement on June 5, 1979, along with payment of a \$1,000 civil penalty, and voted to close the file as it pertained to violations by the Committee.

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A. Recordkeeping

Section 432(c) of Title 2, United States Code, states that it is the duty of the treasurer of a political committee to keep a detailed and exact account of (1) all contributions made to or for such committee; (2) the identification of every person making a contribution in excess of \$50, and the date and amount thereof, and, if a person's contributions aggregate more than \$100, the account shall include occupation, and the principal place of business (if any); (3) all expenditures made by or on behalf of such committee; and (4) the identification of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and the office sought by, each candidate on whose behalf such expenditure was made.

A review of the Committee's receipt and expenditure records revealed that the Committee maintained incomplete records on the financial activities of individuals acting on the Committee's behalf in various counties. The Audit staff was provided with a list of 39 individuals identified as "County Chair People" operating on behalf of the Committee in 23 counties. Based on the records available to the Audit staff, it was determined that records maintained by four (4) county organizations reflected more in expenditures than receipts. During telephone conversations with the Audit staff, other county chairpersons indicated the possibility of additional information concerning receipts, expenditures, and debts and obligations not supplied to the Committee and not reported. In addition, although requested, one (1) of the four (4) county organizations that maintained a checking account had not supplied the Audit staff with its bank records. The treasurer of the Committee has stated that he attempted to report all county activity but that he did not have control over the individual counties involved.

On March 30, 1978, the Audit staff recommended that the Committee contact all county Chairpersons and obtain all records relating to receipts, expenditures, and debts and obligations not currently in its possession and submit these for review by the Audit staff within 30 days.

In response to the Audit Division's recommendation the Committee provided copies of the one county's bank records requested; however, the Committee was unable to provide any additional records pertaining to activity in the counties.

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B. Failure to Maintain Campaign Depositories

Section 437b(a) (1) of Title 2 United State Code states, in part, that the principal campaign committee of a candidate shall maintain a single checking account and such other accounts as the committee determines to maintain at its discretion at a depository designated by the candidate and shall deposit any contributions received by such committee into such account. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on such account.

A review of the available county records revealed that of ten county committees which carried on significant financial activities, six (6) counties apparently maintained no bank accounts and thus did not process their receipts and expenditures through a designated depository. The records indicated approximately \$5,810.78 in receipts and \$7,215.09 in expenditures not processed through campaign depositories.

C. Reporting of Receipts and Expenditures

Section 434(b) (8) and (11) of Title 2, United States Code, states in part, that a political committee shall report the total sum of all receipts for the committee and the total sum of expenditures made by the committee during the calendar year. In addition, Section 434(b) (2) and (9) of Title 2, United States Code, requires a committee to 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 to or for such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions; and, the identification of each person to whom expenditures have been made by the committee or on behalf of the committee or candidate within the calendar year in an aggregate amount or value in excess of \$100 with the amount, date, and purpose of the expenditure.

For the period covered by the audit, the Committee reported total receipts of \$134,865.41 and total expenditures of \$132,589.20. A review of the Committee's bank records along with available records on county activity disclosed receipts of \$141,881.49 and expenditures of \$143,560.30. Therefore, at a minimum, the Committee's reports understated receipts by \$7,016.08 and expenditures by \$10,971.10. Since these corrected totals are based on incomplete records maintained by the ten county committees having significant financial activity the Audit staff is unable to verify the totals as accurate.

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On March 30, 1978, the Audit staff recommended that the Committee file amended reports within 30 days of notification to include the unreported receipts and expenditures, itemizing those aggregating in excess of \$100, and any additional receipts and expenditures determined to have been made by the county organizations for which the Committee did not have records available at the time of the audit.

The Committee agreed in the conciliation agreement signed on May 14, 1979, to amend its reports to the fullest extent possible from the records available to reflect the unreported receipts and expenditures. An amended report was filed on July 26, 1979, correcting the Committee's reported year-to-date totals.

D. Corporate Contributions

Section 441b(a) of Title 2, United States Code, states in part, that it is unlawful for any corporation to make a contribution or expenditure 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.

A review of the Committee's contribution records revealed a \$500 contribution received from an incorporated entity on July 6, 1976.

On March 30, 1978, the Audit staff recommended that the Committee present to the Audit staff evidence that the contribution did not contain corporate funds or refund the contribution and submit documentation thereof to the Audit staff within 30 days of notification.

The Committee provided the Audit staff with a copy of a check dated July 29, 1978, refunding the contribution. Based on the Committee's actions the Commission voted on December 21, 1978, to take no further action in regards to the contribution.

E. Receipt of Excessive Loan

Section 441a(a)(1)(A) of Title 2 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.

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Section 441a(f) of Title 2 United States Code states that no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. Section 431(e)(1) of Title 2 United States Code states, in part, that a loan is a contribution and Section 431(e)(5)(g)(ii) states, that a loan of money by a national or State bank shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors.

According to disclosure reports filed, the Committee received an \$8,000 loan on September 20, 1976, from the First National Bank of Durant endorsed by only three individuals. Therefore, each endorser is liable for \$2,666.66 and thus placing each in excess of the \$1,000 limitation. The loan was repaid on October 27, 1976.

F. Debts and Obligations

Section 434(b)(12) of Title 2, United States Code, states in part, that a political committee's reports shall disclose the amount and nature of debts and obligations owed by the committee and a continuous reporting of their debts and obligations after the election until such debts and obligations are extinguished together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor.

A comparison of the Committee's expenditures made and invoices maintained revealed seven (7) invoices totaling \$7,453.14 for which no indication of payment nor debt settlement statement was provided by the Committee. The Committee did not disclose the debts on a debt and obligation schedule and had filed a termination report. The treasurer of the Committee stated that some bills were not paid due to lack of funds and also because the Committee was not aware they had been incurred.

On March 30, 1978, the Audit staff recommended that the Committee resume filing reports disclosing all debts and obligations until extinguished or provide information on the settlement of the debts.

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The Committee was able to provide the Audit staff with a paid invoice for one debt of \$527.03 bringing the total to \$6,926.11. The Committee agreed in the conciliation agreement signed on May 14, 1978, to file debt settlement schedules for the remaining \$6,926.11 in outstanding debts. The Committee was unable to provide the debt settlement statements; however, an amended termination report was filed on July 26, 1979, disclosing the debts as outstanding. The Committee has and will continue to report these outstanding debts until they are paid or until satisfactory debt settlements are accepted by the Commission.

G. Disclosure of Depositories

Section 433(b)(9) and (c) of Title 2, United States Code, requires a committee to include on its statement of organization a listing of all banks, safety deposit boxes, or other repositories used and report any change in information previously submitted in a statement of organization to the Commission within a 10 day period following the change.

During the course of the audit, it was determined that the Committee maintained six (6) checking accounts in six (6) depositories. Five (5) of these depositories were not disclosed on the Committee's statement of organization filed on June 23, 1976. The treasurer of the Committee stated that the undisclosed accounts were maintained by four of the county organizations and he was unaware of their existence at the time the statement was filed.

On March 30, 1978, the Audit staff recommended that the Committee file an amended statement to include the missing information within 30 days of notification.

The Committee filed an amended statement of organization disclosing the five (5) depositories. Based on the Committee's actions the Commission voted on December 21, 1978, to take no further action in the matter.

H. Expenditures Not Fully Supported

Section 432(d) of Title 2, United States Code, states in part, that it shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars for every expenditure made in excess of \$100, and for expenditures in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

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

The Committee did not maintain proper supporting documentation for 81 expenditures made, totaling \$58,866.24. These expenditures accounted for 47.89% of the total dollar amount and 32.40% of the total number of expenditures requiring such documentation. The Committee treasurer stated that he would attempt to gather the missing information.

On March 30, 1978, the Audit staff recommended that the Committee obtain supporting documentation for the 81 expenditures and submit copies for review, or present evidence of their efforts to do so, within 30 days of notification.

Prior to referral to the Commission's Office of General Counsel, the Committee provided the Audit staff with supporting documentation for 39 of the 81 expenditures totaling \$7,786.90. On February 12, 1979, the Committee provided documentation or evidence of their best efforts to obtain the documentation for the remaining 42 expenditures to the Commission's Office of General Counsel.

I. Contributions in Excess of Limit

Section 441a(a)(1)(A) of Title 2, United States Code, and Section 110.1(a)(1) of the Code of Federal Regulations state 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. In addition, Section 110.9(a) of the Code of Federal Regulations states, in part, that no candidate or political committee shall accept any contribution or make any expenditure in violation of Part 110.

A review of the Committee's records revealed \$1,979.40 in contributions made to the Committee and expenditures made on behalf of the Committee by a county chairman from July 24, 1976 through October 14, 1976. One thousand one hundred and ten dollars of this amount was expended between the date of the primary (August 24, 1976) and the runoff election (September 21, 1976). Therefore, it appeared the individual exceeded his personal contribution limit for the runoff election.

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On March 30, 1978, the Audit staff recommended that the Committee either present evidence that the excessive portion of the contribution relates to other than the runoff election or refund the amount in excess of the limit to the contributor within 30 days of notification.

On February 12, 1979, the Committee provided a copy of cancelled checks dated February 11, 1977, refunding \$748.05 to the county chairman. Based on the fact that the amount of the excessive contribution was de minimus and that the Committee had refunded more than was required under the Act, the Commission voted on December 21, 1978, to take no further action against the Committee and the contributor.

J. Cash Contributions in Excess of Limit

Section 441g of Title 2, United States Code, states that no person shall make contributions of currency to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

Contribution records maintained by the Committee indicate the receipt of \$250 in cash on September 13, 1976, attributed to one (1) individual. The Committee treasurer could offer no explanation as to why the contribution was accepted.

On March 30, 1978, the Audit staff recommended that the Committee refund the amount in excess of the limit to the contributor and submit copies of both sides of the refund check within 30 days of notification.

The Committee provided the Audit staff with a copy of a letter dated June 20, 1978, from the contributor stating that his contribution amounted to \$100 with the remainder being attributed to six other individuals in amounts of \$100 or less. Based on this information the Audit Division recommends no further action on this matter.

K. Other Matter

Presented below is other matter noted during the audit for which the staff feels no further Commission action is warranted. The Committee was made aware of the discrepancies and informed of the respective requirement of the Act.

In four (4) instances the Committee drew checks payable to cash in excess of \$100 which were not used to replenish a petty cash fund. The checks totaled \$1,233.60 and were paid to various campaign workers in reimbursement for duties performed.

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ADDITIONAL INFORMATION REGARDING THIS ORGANIZATION
MAY BE LOCATED IN A COMPLETED COMPLIANCE ACTION
FILE RELEASED BY THE COMMISSION AND MADE PUBLIC IN
THE PUBLIC RECORDS OFFICE. FOR THIS PARTICULAR
ORGANIZATION'S COMPLETED COMPLIANCE ACTION FILE
SIMPLY ASK FOR THE PRESS SUMMARY OF MUR # 581.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.

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