

CONGRESSIONAL AUDIT REPORT

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Candidate/Committee: Jim Madrid

State: California

District: 25

Location: Central Los Angeles

Political Party Affiliation: Republican

Major Opponent(s): Edward Roybal (D)

Other Candidates Audited: Edward Roybal (D)
Marilyn Seals (PFP)

Votes Cast: General Election - Edward Roybal (D) - 57,966 - 71.9%
Jim Madrid (R) - 17,737 - 22%
Marilyn Seals (PFP) - 4,922 - 6.1%

Primary Election - Unopposed

Total Receipts for Period: \$6,396.72

Total Expenditures for Period: \$6,396.72

First Elected (if applicable): N/A

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE COMMITTEE TO ELECT JIM MADRID U.S. CONGRESS, 25TH DISTRICT

I. Background

A. Overview

This report is based upon an audit of the Committee to Elect Jim Madrid-U.S. Congress, 25th District ("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)(3) of Title 2, 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 May 7, 1976, in support of James Benitas Madrid, Candidate for election to the Office of United States Representative from the 25th Congressional District of California. The Committee maintained its headquarters in Los Angeles, California.

The audit covered the period May 1, 1976 through December 28, 1976, the date of the termination report filed by the Committee. The Committee reported a beginning cash balance at January 1, 1976 of \$-0-, total receipts of \$11,016.05, total expenditures of \$7,578.63 and a closing cash balance of \$3,437.42. ^{1/}

This audit report is based on documents and working papers supporting each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report and were available to Commissioners and appropriate staff for review.

^{1/} A review of the Committee's records disclosed that total receipts were overstated by \$4,619.33, total expenditures by \$1,131.91, and ending cash by \$3,437.42. (See Finding F) Also, the Committee's first report began with the period January 1, 1976, however, the Committee's first financial transaction did not occur until May 1, 1976.



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B. Key Personnel

The principal officers of the Committee for the period covered by the audit were Mr. Samuel William Yorty and Mr. Benjamin Fernandez, Honorary Co-Chairmen; Mr. Richard E. Ferraro, First Deputy Chairman; Mr. Charles R. Cook, Treasurer (May 1, 1976 - July 29, 1976) and Mr. Melford Murrie Duncan, Sr., Treasurer (August 23, 1976 - December 28, 1976). 2/

C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supported documentation; analysis of Committee debts and obligations; and, such other audit procedures as deemed necessary under the circumstances.

The audit did not include the review of cancelled checks for 8 of the Committee's 12 expenditures lacking supporting documentation as they were not maintained by the Committee. The auditors were unable to satisfy themselves as to the Committee's compliance with the respective Sections of the Act for these expenditures by means of other auditing procedures (see Finding D).

II. Auditor's Statement and Description of Findings

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 effects of the above mentioned scope limitation and the deficiencies as noted below, the reports and statements of the Committee to Elect Jim Madrid-U.S. Congress, 25th District fairly present the financial activity of the Committee for the period covered by the audit. Further, except for the effects of the above mentioned scope limitation and the findings as noted below, no material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

A. Termination of Principal Campaign Committee with Outstanding Debt and Excessive Contributions

Section 102.4(a) of Title 11, Code of Federal Regulations, in part, prohibits any political committee having outstanding debts or obligations incurred on behalf of Federal candidates from terminating its reporting requirements.

2/ The Committee was advised of this situation which is the subject of Finding G(1).

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Section 434(b)(12) of Title 2, United States Code, in part, requires that a committee disclose the amount and nature of debts and obligations owed by the committee, in such form as the Commission may prescribe, and a continuous reporting of its debts and obligations after the election at such periods as the Commission may require 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.

Section 441a(a)(1)(A) of Title 2, United States Code, prohibits a person from making a contribution to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceeds \$1,000.

Section 441a(f) of Title 2, United States Code, in part, states that no candidate or political committee shall knowingly accept any contribution in violation of the provisions of this section.

The Committee filed a Termination Report with the Commission on March 4, 1977 which disclosed outstanding debts of \$10,937.42. A review of the Committee's accounts payable disclosed that such an amount was yet outstanding.

The Candidate acknowledged the existence of the debt, but indicated it had been incurred by the public relations firm which managed the Committee's financial activity. He stated he instructed the public relations firm not to incur debts on his behalf in excess of the amount of the Committee's cash on hand. Therefore, the Candidate indicated that he did not intend to make, nor had the public relations firm sought, any repayment.

This matter was referred to the Commission's Office of General Counsel on May 10, 1978, where Matter Under Review (MUR) 603(78) was initiated. On September 20, 1978, the Commission found reasonable cause to believe that the Committee had violated 2 U.S.C. 441a(f) in receiving excessive contributions by virtue of the forgiveness of the \$10,937.42 debt.

On February 23, 1979, the Candidate (on behalf of the Committee) signed a conciliation agreement and on March 14, 1979 the Commission voted to close the file with no further action.

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B. Excessive Cash Contribution and Corporate Contribution

Section 441g of Title 2, United States Code, provides in part, 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.

Section 110.4(c)(2) of Title 11, Code of Federal Regulations, in part, requires a candidate or committee receiving a cash contribution in excess of \$100 to promptly return the amount over \$100 to the contributor.

Section 441b(a) of Title 2, United States Code, in part, prohibits any corporation from making a contribution in connection with any Federal election and prohibits any candidate or political committee from accepting any contribution from a corporation.

Our review of the contribution records disclosed that the Committee deposited a third party check drawn on a corporate account for \$1,000 on June 7, 1976, which was returned by the bank due to insufficient funds. On June 11, 1976, the Committee deposited \$1,000 in currency from the same contributor. The Candidate stated that he thought that the third party check drawn on a corporate account constituted a corporate contribution that could not be accepted; therefore, he advised the contributor that he could not accept the check, but could accept \$1,000 in cash. The Candidate stated that he was not aware of the prohibition in the Act or the requirement of the Commission's Regulations regarding excessive contributions of currency.

Our review also disclosed that the Committee inadvertently accepted a \$20.00 contribution dated May 27, 1976, which was drawn on a corporate account.

On April 24, 1978, the Committee provided documentation that the corporate contribution had been refunded.

The matter relating to the excessive cash contribution was referred to the Office of General Counsel on May 10, 1978 and was also the subject of MUR 603(78). Based on:

1. the fact that the Committee made attempts to contact the contributor to make a refund,

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2. the Candidate's misunderstanding of the related Sections of the Act, i.e. thinking a 3rd party check drawn on a corporate account constituted a corporate contribution, and

3. the signing of a conciliation agreement by the contributor, the Commission voted on March 14, 1979 to close the file with no further action.

Recommendation

Since the corporate contribution has been refunded and MUR 603(78) has been closed, the Audit staff recommends that no further action be taken on these matters.

C. Itemization of Transfers

Section 434(b)(4) of Title 2, United States Code, requires in part, that a committee itemize the name and address of each political committee from which the reporting committee or candidate received any transfer of funds, together with the amounts and dates of all transfers. Further, Section 100.4(a)(4) of Title 11, Code of Federal Regulations, expands the meaning of "transfer of funds" to include those received from other political organizations or similar sources whether or not such organizations are political committees.

Our review of the contribution records disclosed that the Committee received a total of nine (9) transfers of funds totaling \$632.50, none of which were itemized on FEC reports. The Candidate stated that he was not aware that these contributions, which were from local organizations, were considered transfers requiring itemization on a separate line/schedule of FEC reports regardless of amount.

Upon our recommendation an amended report was filed on April 24, 1978 itemizing these nine (9) transfers.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

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D. Retention of Supporting Documentation for Expenditures

Section 432(d) of Title 2, United States Code, in part, requires the 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, or for expenditures aggregating in excess of \$100, to the same person within a calendar year.

Section 102.9(c) of Title 11, Code of Federal Regulations, in part, provides that when a receipted bill is not available, the treasurer may keep the cancelled check(s) showing payment of the bill; and the bill, invoice, or other contemporaneous memorandum of the transaction.

Our examination of the Committee's records revealed that of 16 expenditures requiring supporting documentation, 12 expenditures or 75% lacked a receipted bill, voucher, invoice or contemporaneous memorandum. These 12 expenditures totaled \$3,089.38, and represented 77.25% of the dollar amount of expenditures requiring such documentation.

In addition, the Committee had misplaced four (4) bank statements and the related cancelled checks (nine (9) checks totaling \$2,599.62). The Audit staff requested that the Committee obtain copies of the bank statements from the bank, but not the missing cancelled checks, due to the Committee's financial position. As a result, of the 12 expenditures lacking supporting documentation (receipted bill or bill, invoice, or contemporaneous memorandum together with the cancelled check) eight (8) were lacking cancelled checks.

Ten of the 12 expenditures lacking documentation were made to the Committee's public relations firm which managed the campaign. Two (2) mailings were made by the Candidate to obtain copies of the missing receipted bills or some other documentation for these 12 expenditures. Both were returned by the Postmaster "unclaimed". A third mailing was made by the Audit staff, but, it too was unsuccessful.

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Recommendation

Based on the Committee's efforts outlined above, the Audit staff recommends that the Commission determine that the Committee has demonstrated its best efforts to comply with 2 U.S.C. 432(d) and that no further action be taken on this matter. (Refer to scope limitation in "Scope" Section and qualification in "Auditor's Statement" Section).

E. Itemization of Expenditures

Section 434(b)(9) of Title 2, United States Code, in part, requires the committee to disclose the name and address of each person to whom expenditures have been made by such committee or candidate which in the aggregate exceed \$100 within a calendar year, together with the purpose, amount and date of the expenditures.

Our examination of the Committee's expenditure records revealed that seven (7) expenditures of a total of 16 itemizable expenditures (43.75%) were not itemized in the disclosure reports. The expenditures totaled \$1,399.76 (35% of \$3,999.38 in itemizable expenditures).

Upon our request an amended report was filed on April 24, 1978 itemizing these seven (7) expenditures.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

F. Overstatement of Receipts, Expenditures and Cash-on-Hand

Section 434(b)(1), (3), and (11) of Title 2, United States Code, in part, requires a committee to report the amount of cash on hand at the beginning of the reporting period and the total sum of all receipts and expenditures by or for such committee or candidate during the reporting period.

Our review of the Committee's records disclosed that the Committee, for a period from June 2, 1976, through December 28, 1976, overstated total receipts by \$4,619.33, total expenditures by \$1,131.91, and ending cash as of December 28, 1976, by \$3,437.42. The Committee's overstatement of receipts was due largely to:

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1. \$3,437.42 in debts to the Committee's public relations firm having been erroneously reported as receipts.
2. \$892.00 in receipts having been double reported.
3. A \$339.91 overstatement in the year-to-date figures resulting from a mathematical error.

The Committee's overstatement of expenditures was largely the net effect of:

1. \$3,437.42 in debts owed to the Committee's public relations firm having been erroneously reported as expenditures as well as payables.
2. A \$400.00 and a \$100.00 in-kind contribution from the same individual having been reported as a receipt only.
3. \$2,029.22 in expenditures made by the Candidate from his personal account having been reported in receipts but not expenditures.

Upon our request an amendment was filed on April 24, 1978 correcting the above mentioned misstatements.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

G. Other Matters Not Requiring Amending Action

(1) Reporting of Change in Committee Officials

Section 432(a) of Title 2, United States Code, in part, requires that every political committee shall have a chairman and a treasurer. In addition, no contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof.

Section 433(c) of Title 2, United States Code, requires that a political committee report any change in information previously submitted in a statement of organization to the Commission within a 10-day period following the change.

A review of the Committee's statement of organization and amendments thereto indicates that the Committee's original treasurer resigned in writing (to the Commission) on July 29, 1976 but his successor was not designated on the Committee's statement of organization until August 23, 1976.

(2) Disclosure of Fundraising Events

Section 434(b)(6)(A) of Title 2, United States Code, requires in part, that a committee disclose the total amount of proceeds from the sale of tickets to each dinner, luncheon, rally, and other fundraising event.

During the entrance conference, the Candidate stated that the Committee held two (2) fundraisers and provided us with the promotional literature relating to one (1) of them. The Committee had filed no Schedule D's in its reports to the Commission. The only records made available by the Committee pertaining to fundraising events were a listing of the people, together with dollar amounts, who attended one (1) of the fundraising receptions. The Committee reported the receipts in unitemized receipt totals and, according to the Candidate, reported the related expenditures through payments to its public relations firm. The Candidate stated he was unfamiliar with the Commission Form Schedule D. The Committee filed an amendment on February 5, 1979 disclosing the activity for one (1) fundraising event on Schedule D.

(3) Solicitation and Authorization Statements on Campaign Literature

Section 435(b) of Title 2, United States Code, requires that each political committee shall include on the face or front page of all literature and advertisements soliciting contributions the following notice:

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"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

Section 44ld(1) of Title 2, United States Code, requires in part, that campaign literature expressly advocating the election of a clearly identified candidate through any type of general public political advertising, if authorized by a candidate or his authorized political committee, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the literature has been authorized.

Our examination of the Committee's campaign literature soliciting the purchase of tickets to attend a \$20/plate dinner reception on the Candidate's behalf revealed that the Committee had not included the statement required by Section 435(b). This Committee literature did include the name, address, and phone number of the Committee.

Our examination of the Committee's campaign literature advocating the election of the Candidate revealed that the Committee had not included the required authorization statement. This Committee literature did include the address and phone number of the Committee's campaign headquarters.

In discussing these matters with the Candidate he stated that he was not aware of the solicitation or authorization statement requirements.

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FEDERAL ELECTION COMMISSION

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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 # 605.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



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