



FEDERAL ELECTION COMMISSION

AK004854

April 4, 1994

MEMORANDUM

TO: SHARON SNYDER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
COMMITTEE TO RE-ELECT SUSAN MOLINARI

Attached please find a copy of the final audit report and related documents on Committee to Re-Elect Susan Molinari which was approved by the Commission on March 16, 1994.

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

REPORT OF THE AUDIT DIVISION
ON

Committee to Re-Elect Susan Molinari

Approved March 16, 1994



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

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Furthermore, Audit staff noted that the Committee routinely telephoned donors of undesignated contributions to find out the intended election designation rather than requesting written designations from donors, as required by FEC regulations at 11 CFR 110.1(b).

In response to the interim audit report, the Committee submitted copies of canceled checks to verify that it had refunded \$18,691 of the excessive amounts, although the refunds were made after the 60-day limit specified at 11 CFR 110.1(b). The Committee did not provide canceled checks for the remaining excessive contributions.

Itemization and Disclosure - Section 434(b). Because of an inadequate system for aggregating year-to-date contributions, the Committee's reports contained errors regarding the disclosure and itemization of contributions from individuals and political committees. Errors were also noted in the itemization of disbursements, generally failure to provide complete addresses.

The Committee filed amended reports which corrected the disclosure errors.



REPORT OF THE AUDIT DIVISION
ON
COMMITTEE TO RE-ELECT SUSAN MOLINARI

I Background

A. Audit Authority

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This report is based on an audit of the Committee to Re-elect Susan Molinari (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 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 audit covered the period from January 1, 1991, through December 31, 1992. The Committee reported a beginning cash balance of \$16,013; total receipts for the period of \$527,563; total disbursements for the period of \$511,773; and an ending cash balance of \$31,803.

B. Campaign Organization

The Committee registered with the Clerk of the U.S. House of Representatives on August 9, 1990 as the principal campaign committee for Susan Molinari, Republican candidate for the U.S. House of Representatives, District 13, from the state of New York. The Committee maintained its headquarters in Staten Island, New York.

The audit indicated that 54% (\$285,585) of the Committee's receipts were from contributions from individuals, 44% (\$232,888) from Political Action Committees and the rest from offsets to operating expenditures, interest and contributions from political committees.

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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.

C. Key Personnel

The Treasurer of the Committee during the period covered by the audit was Mr. Michael Petrides. The current Treasurer is Mr. Anthony J. Maltese.

D. Scope

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (Finding II.B.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed (Finding II.C. and II.D.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (Finding II.E.);
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 (Finding II.A.);
7. adequate recordkeeping for campaign transactions;
8. other audit procedures that were deemed necessary in the situation.

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

II. Findings and Recommendations

A. Misstatement of Financial Activity

Sections 434(b) (1), (2) and (4) of Title 2 of the United States Code require a political committee to report the amount of cash on hand at the beginning of a reporting period and the total amount of all receipts and disbursements for the reporting period and calendar year.

Calendar Year 1991

The Audit staff's reconciliation of the Committee's bank activity to reported activity revealed that both receipts and disbursements were understated in the amount of \$2,763. The understatements were primarily the net result of earned interest, service charges and in-kind contributions not reported.

Calendar Year 1992

The Audit staff's reconciliation of the Committee's bank activity to reported activity revealed that the committee's receipts were overstated \$7,848 and disbursements were overstated \$8,148. Ending cash on hand was understated in the amount of \$300 caused by the discrepancies in receipts and disbursements.

The over-statements were primarily the net result of over-reporting of contributions, earned interest and service charges not reported; the reporting of returned contributor checks as both contributions and disbursements and several mathematical errors.

Subsequent to the commencement of fieldwork, the Committee filed amendments which materially corrected the errors noted above.

B. Apparent 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 110.1(b)(2) of Title 11 of the Code of Federal Regulations states, in part, for purposes of this section, with respect to any election means in the case of a contribution not designated in writing by the contributor for a particular

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election, the next election for Federal office after the contribution is made.

Section 431(11) of Title 2 of the United States Code defines the term person to include among others a partnership or committee.

Section 100.5(e)(3) of Title 11 of the Code of Federal Regulations defines a multi-candidate committee as a political committee which (i) has been registered with the Commission, Clerk of the House or Secretary of the Senate for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates.

Section §103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which on their face exceed the contribution limitations set forth in 11 C.F.R. 110.1 or 110.2, and contributions which do not appear to be excessive on their face but which exceed the contribution limits set forth in 11 C.F.R. 110.1 or 110.2 when aggregated with other contributions from the same contributor may be either deposited into a campaign depository under 11 C.F.R. 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer may request a written redesignation or re-attribution of the contribution in accordance with 11 C.F.R. §110.1(b), 110.1(k) or 110.2(b). If a redesignation or re-attribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

1. Contributions from Individuals

A review of the committee's records relating to contributions, identified 22 individuals and one partnership who exceeded their contribution limitations by a total of \$22,974. The Committee's records contained a letter from one contributor whose contribution was excessive in the primary election which re-attributed \$50 to the general election, however the letter was dated 94 days after the contribution was deposited. The Committee also refunded \$3,316 to 4 contributors, however the refunds were all made on June 11, 1993, well outside the 60 day period provided by regulation. The final result is \$19,608 in unresolved excessive contributions (\$22,974 - \$50 - \$3,316 = \$19,608) and \$3,366 in untimely resolved excessive contributions.

The Committee supplied a number of solicitation devices which had primary and general election designations handwritten on them. A Committee representative informed the Audit staff that generally when contributions were received without designations, the contributors were phoned and asked how the contributions were to be designated. A Committee representative then added the designations to the solicitations.

It is the opinion of the Audit staff that the designations do not satisfy the requirements of 11 C.F.R. §110.1(b) since they were not signed by the contributors.

2. Contributions Received From Political Committees

The review also identified 4 contributions totaling \$3,400 made with respect to the primary election from the Republican Pro-Choice PAC. According to information supplied by the Commission's Reports Analysis Division, the Republican Pro-Choice PAC did not qualify for multi-candidate status until June 2, 1992. All of the contributions were received prior to the Republican Pro-Choice PAC meeting the qualifications for multi-candidate committee status. Since Republican Pro-Choice PAC did not satisfy the multi-candidate requirements under 11 C.F.R. §100.5(e)(3), it was limited to \$1,000 in contributions per election.

The Committee refunded \$1,500 on August 10, 1992 in response to a letter from the Republican Pro-Choice PAC dated August 7, 1992; however, the refund was made well outside the sixty day period provided by regulation.

Committee representatives were provided with a list of the apparent excessive contributions at the completion of fieldwork.

In the interim audit report, the Audit staff recommended that the Committee provide evidence that the \$20,508 of unresolved contributions noted above were not excessive. Absent such evidence, it was recommended that the contributions be refunded to the contributors and that copies of the front and back of the canceled refund checks be provided to the Audit staff.

During the interim response period the Committee provided copies of canceled refund checks for 16 contributors and the partnership totaling \$18,691.00. To date, canceled refund checks for the remaining 5 contributors and the Republican Pro-Choice PAC have not been provided.

C. Contributions from Individuals - Itemization and Disclosure

Section 434(b)(2)(A) and (3)(A) of Title 2 of the United States Code states that each report under this section shall disclose for the reporting period and calendar year the total amount of all contributions from persons other than political committees; and the identification of each person (other than a political committee) 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, or in any lesser amount if the

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reporting committee should so elect, 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 the occupation of such individual, as well as the name of his or her employer.

Section 104.3(a)(4) of Title 11 of the Code of Federal Regulations states, in part, the identification of each contributor and the aggregate year-to-date total for such contributor shall be reported.

The Audit staff reviewed contributions from individuals on a sample basis. The review indicated material problems regarding itemization and disclosure of contributions. The disclosure errors were primarily the result of the lack of aggregate year-to-date totals.

Prior to the commencement of audit fieldwork, a Committee Representative informed the Audit staff that they were aware of itemization and disclosure problems and that they were the result of the lack of an efficient aggregation system. In order to alleviate this problem, the Committee prepared a computerized contributor list from copies of contributor checks. The list was organized first by deposit batches and dates and then was sorted alphabetically to enable the Committee to determine which contributors required itemization. In addition, the list enabled the Committee to easily determine correct aggregate year-to-date totals.

During the course of the audit, the Committee filed amended reports to correct the itemization and disclosure errors. These reports materially corrected the itemization and disclosure problems noted above.

D. Contributions From Political Committees - Disclosure

Sections 434(b)(2)(D) and (3)(B) of Title 2 of the United States Code state that each report under this section shall disclose for the reporting period and calendar year the total amount of all contributions from other political committees and the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

The Audit staff reviewed contributions from Political Action Committees on a 100% basis. Since the Committee had filed amendments as of the date the review was performed, the Audit staff reviewed both sets of reports, amended and non-amended, for disclosure errors. The review revealed that the Committee still

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had a material problem that stemmed for the most part from the disclosure of no aggregate year-to-date or incorrect aggregate year-to-date totals.

At the Exit conference, the Audit staff provided the Committee with a list of all remaining disclosure problems noted during the review.

Subsequent to the completion of fieldwork, the Committee filed a second set of amended reports which materially corrected these problems.

E. Disbursements - Disclosure

Section 434(b)(5)(A) of Title 2 of the United States Code states that each report under this section shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount and purpose of such operating expenditure.

A sample review of the Committee's disbursements identified a material number of disbursements which were not disclosed properly. The errors generally were the lack of or incomplete addresses.

Prior to the completion of the audit fieldwork the Committee filed amended reports which materially corrected the disclosure errors.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

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March 29, 1994

Mr. Anthony J. Maltese, Treasurer
Committee to Re-Elect Susan Molinari
1911 Richmond Ave., Suite 200
Staten Island, NY 10314

Dear Mr. Maltese:

Attached please find the Final Audit Report on the Committee to Re-Elect Susan Molinari. The Commission approved the report on March 16, 1994.

The Commission approved Final Audit Report will be placed on the public record on April 4, 1994. 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 Rhonda Simmons or Ray Lisi of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

cc: Julie Wadler

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Chronology

Committee to Re-Elect Susan Molinari

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|--|-------------------|
| Audit Fieldwork | 5/25/93 - 6/15/93 |
| Interim Audit Report to Committee | 9/24/93 |
| Request for Extension of Time for Response to Interim Audit Report | 10/12/93 |
| Approval of Request for Extension of Time to Respond to Interim Report | 10/18/93 |
| Response Received to Interim Audit Report | 11/29/93 |
| Final Audit Report Approved | 3/16/94 |

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