



FEDERAL ELECTION COMMISSION

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

June 8, 1979

MEMORANDUM

TO : FRED EILAND
PRESS OFFICE

THROUGH : *[Signature]* BOB COSTA

FROM : *[Signature]* JUDY HAWKINS

SUBJECT : PUBLIC RELEASE OF FINAL AUDIT REPORT
ON AFL-CIO COPE PCC

Attached is the final audit report of the AFL-CIO COPE PCC which was approved by the Commission in public session on June 7, 1979.

Since all parties concerned have been notified, the report can be issued publicly.

Attachment as stated

cc: FEC Library
RAD
Public Record ✓





FEDERAL ELECTION COMMISSION

1175 K STREET, N.W.
WASHINGTON, D.C. 20463

June 8, 1979

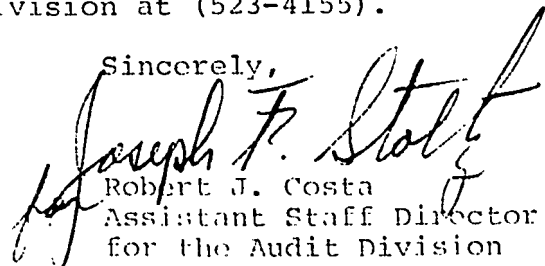
Mr. George Meany, Chairman
AFL-CIO COPE PCC
815 Sixteenth Street, N.W.
Washington, D.C. 20006

Dear Mr. Meany:

Attached for your information is a copy of the final audit report of AFL-CIO COPE PCC which was approved by the Commission in public session on June 7, 1979.

If you have any questions concerning the report, please contact Fred Filand of the Press Office (523-4065) or Joann McSorley of the Audit Division at (523-4155).

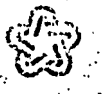
Sincerely,


Robert J. Costa
Assistant Staff Director
for the Audit Division

Attachment as stated

cc: Mr. Lane Kirkland, Treasurer

CERTIFIED MAIL
RETURN RECEIPT REQUESTED





FEDERAL ELECTION COMMISSION

1325 K STREET, N.W.
WASHINGTON, D.C. 20543

REPORT OF THE AUDIT DIVISION ON THE AFL-CIO COPE PCC

I. Background

A. Overview

This report is based on an audit of the American Federation of Labor and Congress of Industrial Organizations Committee on Political Education Political Contribution Committee (AFL-CIO COPE PCC) ("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 United States House of Representatives on April 7, 1972. The primary function of the Committee on Political Education's Political Contribution Committee is that of contributing funds to candidates seeking federal office.

The audit covered the period January 1, 1975 through June 30, 1977, the final coverage date of the latest report filed by the Committee at the time of the audit. The Committee reported opening cash at January 1, 1975 of \$12,822.75, total receipts for the period of \$2,086,944.61; total expenditures for the period of \$2,068,974.83; and a closing cash balance on June 30, 1977 of \$30,792.53.

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.



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B. Key Personnel

The principal officers of the Committee for the period of the audit were George Meany, Chairman and Lane Kirkland, Secretary-Treasurer.

C. Scope

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

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 records presented, that the AFL-CIO COPE PCC has not conducted its activities in compliance with the Federal Election Campaign Act and that the reports and statements filed by the Committee did not fairly present the financial activities of the Committee for the period covered by the audit.

A. Committee Receipts

During the course of the audit, we determined that the AFL-CIO COPE PCC employs four (4) methods for the solicitation, transmittal and receipt of voluntary contributions.

1) AFL-CIO headquarters staff personnel who are members have authorized payroll deductions of voluntary contributions. The PCC reports these receipts as either itemized or unitemized as necessary.

2) The Committee advises unions of the availability of PCC membership ticket booklets and buttons for the coming year's PCC fundraising drive. Unions respond and request to be provided a given number of booklets. Solicitations and collections are made specifically for the AFL-CIO COPE PCC and the contributor is provided with the ticket as a receipt. The contributions raised in this manner are accompanied by receipt booklet stubs as supporting documentation, forwarded to the PCC, and then reported by the PCC as unitemized receipts.

The member union may permissibly solicit contributions in this manner and the individual soliciting is considered an agent of the AFL-CIO COPE PCC. However, in some cases (see Finding B), the voluntary contributions received for the benefit of the PCC were being deposited together with prohibited union treasury funds in labor organization accounts, and being held up to one year prior to their transfer to the PCC. As noted in Finding B, this practice is not acceptable.

The Commission determined on August 3, 1978 that the following procedures be employed when voluntary contributions are collected by members of the AFL-CIO and are transmitted to the AFL-CIO.

When a member or official of a reporting international, national or local union which in turn is a member of the AFL-CIO solicits contributions solely on behalf of the AFL-CIO by use of receipt booklets furnished by the AFL-CIO, the solicitor must either 1) forward the funds immediately to the AFL-CIO COPE PCC; or 2) within 10 days deposit the funds in a transmittal account (either procedure must be in accordance with the procedures outlined in Finding B.). In either event, the PCC is required to include and report these receipts on its next disclosure report.

3) The PCC conducts what appear to be joint fundraising efforts with member unions. Our review of Committee records indicated at least one (1) instance where the joint fundraising efforts on the part of the PCC and a national union consisted solely of literature supplied by the national union to its members indicating that a percentage of the monies collected for the union's political action committee would ultimately be forwarded to the PCC. In this instance, the union had not requested nor received PCC membership ticket booklets for distribution to its members. These funds were reported as unitemized contributions by the PCC, with no indication on the PCC disclosure reports that joint fundraising efforts were conducted. However, since the transmittal of the joint fundraising proceeds represent transfers of funds from the political Committees of the labor organization to the PCC, such transfers, regardless of amount, should be itemized by the PCC as required by Section 434(b)(4) of Title 2, United States Code.

Accordingly, on August 3, 1978 the Commission determined that the following procedures be used when the AFL-CIO engages in joint fundraising activities with a member union.

In order for the solicitation to constitute a "joint fundraising effort" on the part of the PCC and the member union political committee the person soliciting the contribution must, among other requirements under Section 114.5 of the Commission's Regulations (11 CFR 114.5), inform the member at the time of the solicitation of the purpose of the fund (i.e., that a portion of the funds will be sent to the AFL-CIO COPE PCC). Funds solicited in this manner which are transferred from the member union political committee to the PCC are not subject to the contribution limitations (see 2 U.S.C. 441a(a)(5)(A)). Funds which are not raised under the conditions set forth above are not joint fundraising efforts and are subject to the contribution limitations when transfers are made. When using this manner of solicitation and collection, 1) the political committee of the member union would report these funds as itemized or unitemized contributions when received; 2) the transfer out of funds from the member union political committee to the PCC would be labeled as a joint fundraising effort and reported as a transfer by the political committee of the member union on the next report; and 3) the PCC would then report these funds as transfers-in from the member union political committee on the next report and label each of these transfers "joint fundraising efforts."

4) The final method of solicitation and collection of voluntary contributions involves the transmittal of funds to the PCC with accompanying correspondence from the member union indicating that the funds represent voluntary contributions. No other supporting documentation was provided nor was there any indication that the PCC and member union had engaged in joint fundraising efforts. Therefore, the transfers from the political committee of the member union to the PCC would be limited to \$5,000 in any calendar year under the provisions of Section 441a(a)(2)(C) of Title 2, United States Code.

However, our review of Committee records indicated that at least one (1) transmittal of \$10,000 from a political fund without supporting documentation or indication of the source of the funds had been received by the PCC and reported as unitemized receipts. As noted in (3) above, the receipt of funds by the PCC from the political committees of the labor unions should be itemized as transfers regardless of amount.

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On August 3, 1978, the Commission determined that the following procedures should be used when the member union collects on behalf of its political committee and forwards the funds to the AFL-CIO COPE PCC.

Each transmittal must be reported as a transfer out by the local, national or international union and a transfer in by the PCC. Since "all of the political committees set up by the AFL-CIO and all its State and local central bodies are treated as a single political committee" (House Report 94-1057, 94th Congress 2nd Session, page 58), the state and local AFL-CIO central bodies may collect monies and transfer unlimited amounts to the PCC. However, since the House Report also states that "all of the political committees set up by a single international union and its local unions are treated as a single political committee" there is no per se affiliation between the PCC and the separate segregated funds of the international unions which are members of the AFL-CIO. Therefore, if the international union solicits money for its own political fund and does not inform the union member at the time of solicitation that a portion of the contribution is for the PCC, the transmittal from the international political committee to the PCC will not be viewed as the product of joint fundraising or direct solicitation, but rather it will be deemed a transfer from one (1) multicandidate political committee to another and must be within the \$5,000 annual limitation established by 2 U.S.C. 441a(a)(2)(C).

The Commission further requested that the Committee implement the procedures outlined in (2), (3) and (4) above and amend its reports filed from January 1, 1975 through the present to itemize all transfers including those which are the result of joint fundraising efforts.

Recommendation

On October 10, 1978, the Committee submitted to the Audit staff written procedures to be implemented by the Committee in order to comply with the above requirements. Also, the Committee has filed the requested amended reports on October 10, 1978 and revised amendments on January 16 and 18, 1979 itemizing all transfers including those that resulted from joint fundraisers. Since the Committee has fully complied with the recommendations of the Commission, we recommend that no further action is necessary.

B. Receipt of Funds on Union Accounts

Section 441b of Title 2 of the United States Code provides for the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a labor organization. Section 437b(a)(2) requires, in part, that the treasurer of each political committee designate one or more national or State banks as campaign depositories of such committee, while Section 433(b)(9) of Title 2 of the United States Code requires that a listing of all banks and repositories used by the Committee must be disclosed.

Our review of Committee's records indicated that a substantial number of the voluntary contributions received by various labor organizations for the benefit of the PCC apparently were being deposited in union accounts and subsequently transferred to the PCC. It should be noted that due to the type of documentation maintained by the Committee for receipts, it was not always possible to determine the source of funds as either a political contribution fund or union treasury fund. However, at least 140 items of this nature ranging in dollar amount from \$2.00 to \$15,000.00 were noted during the period audited.

The Commission determined on August 3, 1978 that the Committee advise local labor organizations to 1) forward the funds immediately (by means other than through a personal, union or other prohibited account) to the AFL-CIO COPE PCC which must deposit the funds within 10 days or 2) within 10 days deposit voluntary contributions in "transmittal" accounts which shall be used solely for the purpose of transmitting voluntary contributions to the AFL-CIO COPE PCC. Accounts from which expenditures are made for any purpose other than the transfer of funds to the PCC cannot be transmittal accounts. Further, the PCC is required to include these receipts on its next disclosure report.

Recommendation

On October 10, 1978, the Committee submitted written procedures advising local labor organizations of this provision and guidelines for implementation. Therefore, it is the opinion of the Audit staff that no further action in this matter is necessary.

C. Transfer of Funds from AFL-CIO COPE Educational Account

Section 441b of Title 2 of the United States Code prohibits a union general treasury from making transfers to a separate segregated fund such as the AFL-CIO COPE Political Contributions Committee (PCC).

After examination of the Committee's records and reports, and conversations with the Committee's Counsel and Accountant, we verified that the AFL-CIO COPE PCC, a separate segregated fund, transferred monies to the AFL-CIO COPE Educational Fund, a general treasury fund, when the PCC had excess funds.

Also, there were occasions when the Educational Fund transferred funds to the PCC. We verified that during the period from January 1, 1975, through June 30, 1977, the PCC transferred \$322,000 to the Educational Fund, while \$185,000 from the Educational Fund was transferred to the PCC account. Committee officials advised that the Educational Fund contains union treasury funds as well as voluntary contributions. (However, this statement was not verified since the audit of the Educational Fund was not within the scope of our audit as directed by the Commission).

Although the transfers of funds from the PCC to the Educational Account were not in violation of the Act, the transfers from the Educational Account to the PCC did constitute a violation. Since the Educational Fund is comprised of various sources of monies, a transfer from this account would be comprised in whole or in part of other than voluntary contributions, because monies are fungible once they are deposited in the same account.

As a result of the audit, on October 20, 1977, the Commission found reasonable cause to believe that the Committee had violated Section 441b. Subsequently, the Commission unsuccessfully attempted to enter into a conciliation agreement and, as a result, filed suit against the AFL-CIO COPE on December 16, 1977.

On June 12, 1978, the U.S. District Court for the District of Columbia issued a judgment in favor of the Commission as follows:

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1) The transfers of money from AFL-CIO COPE Educational Fund to the AFL-CIO COPE PCC, a separate segregated fund, violated 2 U.S.C. 441b;

2) The AFL-CIO was enjoined at any time in the future from transferring any money from general treasury funds or from the AFL-CIO COPE Educational Fund to the separate segregated fund of the PCC, except as set forth in the single transfer order below;

3) The defendant was ordered to pay a civil penalty in the amount of \$10,000 pursuant to 2 U.S.C. 437g(a)(1)(7) and it was further ordered that the AFL-CIO COPE Educational Fund should transfer \$312,000 to the AFL-CIO COPE PCC forthwith.

On August 15, 1978, the AFL-CIO filed notice of appeal from the portion of the order which directed the defendant to pay a civil penalty in the amount of \$10,000. This action is currently pending in the United States Court of Appeals for the District of Columbia Circuit.

D. Transfer of Funds

As stated in C above, Section 441b of Title 2 of the United States Code prohibits a union general treasury from making transfers to a separate segregated fund.

In addition to the funds discussed in C above, a nominal amount of funds (\$8,031) that represents voluntary contributions previously deposited in the Educational Fund has been transferred from the Educational Fund to the PCC. This situation is a result of the PCC receiving contributions from local labor organizations but having no indication of the source of the funds. Since the PCC was not certain that the funds represented voluntary contributions, the funds were deposited in the Educational Fund account until information was received showing that they represented voluntary contributions to the PCC which for convenience were transferred through the local labor organization accounts. Upon making that determination, the exact amounts in question were transferred from the Educational Fund to the PCC.

On August 3, 1978, the Commission determined that in the future the Committee should deposit questionable contributions into the PCC account pursuant to Part 103.3(b)(2) of the Commission's Regulations which allows the Committee a reasonable period of time to determine the legality of the contributions.

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Recommendation

The Committee submitted to the Audit staff on October 10, 1978, a written directive to Committee personnel advising of this procedure. Therefore, it is the opinion of the Audit staff that no further action in this matter is necessary.

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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 # 622.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.





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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 # 354.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



