



FEDERAL ELECTION COMMISSION

1105 K STREET NW
WASHINGTON, DC 20463

August 23, 1979

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: JUDY HAWKINS

FROM: ROBERT J. COSTA *RC*

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT -
NEBRASKA DEMOCRATIC STATE
CENTRAL COMMITTEE

Attached please find a copy of the final audit report of the Nebraska Democratic State Central Committee which was approved by the Commission on August 10, 1979.

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

Attachment as stated

cc: FEC Library
RAD
Public Record



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FEDERAL ELECTION COMMISSION

1275 STREET NW
WASHINGTON, DC 20463

REPORT OF THE AUDIT DIVISION ON NEBRASKA DEMOCRATIC STATE CENTRAL COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Nebraska Democratic State Central 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 United States House of Representatives on April 17, 1972 as the State Committee of the Democratic Party of Nebraska. The Committee maintains its headquarters in Lincoln, Nebraska.

The audit covered the period from January 1, 1976 through March 31, 1978, the final coverage date of the most recent report filed by the Committee at the time of the audit. The Committee reported a beginning cash balance on January 1, 1976 of \$2,010.03, total receipts for the period of \$319,044.32, total expenditures for the period of \$307,795.02 and a closing cash balance on March 31, 1978 of \$18,259.34.

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 during the period audited were Mr. Richard White, Chairman, Mr. Loren B. Belker, Treasurer through March 22, 1978, and Mr. Donald Cois, Treasurer from March 22, 1978 through the close of the period covered by the audit.

C. Scope

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. 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 deficiencies noted below, the reports and statements of the Nebraska Democratic State Central Committee fairly present the financial activities of the Committee for the period covered by the audit. Further, except as noted below, no material problems in complying with the Federal Election Campaign Act were discovered during the course of the audit.

A. Receipt of Corporate and Labor Contributions

Section 441b of Title 2 of the United States Code states, in part, that it is unlawful for any corporation or labor organization to make a contribution or expenditure in connection with any Federal election to political office and unlawful for any candidate, political committee or other person to knowingly accept or receive any such contributions.

Our review of the Committee's records and verification with the Nebraska Secretary of State's office disclosed contributions totaling \$1,890.00 received from 12 corporations. In addition, two (2) contributions totaling \$285.00 were received from two (2) labor organizations. The contributions were received during the period November 17, 1975

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through May 10, 1976 and deposited into the Committee's general account which at that time was maintained for both Federal and State election purposes. It was further determined that the Committee received 85 transfers totaling \$20,471.49 from 35 County Committees. Each County Committee, according to the treasurer, maintained only one (1) bank account into which contributions for both Federal and State elections were deposited. Periodically, transfers were made from the County Committee accounts to the Nebraska Democratic State Central Committee where they were deposited into the above-mentioned general account. State of Nebraska law permits corporate and labor contributions for non-Federal elections.

Recommendation

These matters were referred to the Commission's Office of General Counsel on June 13, 1978, where Matter Under Review 655 was initiated. On August 30, 1978, the Commission found reason to believe the Nebraska Democratic State Central Committee violated Section 441b of Title 2 of the United States Code by accepting corporate contributions as well as transfers from county and local committees suspected of having accepted corporate or labor organization contributions.

Regarding the contributions totaling \$2,175.00 received by the Committee directly from corporations and labor organizations, the Committee officials explained that for many years it was a party rule that a single account be maintained. A separate account for State elections was established in March 1977, but until that time corporate and labor organization contributions were deposited into the Committee's single account. The Committee treasurer, aware of the Section 441b prohibition, kept separate bookkeeping records for the corporate and labor organization contributions.

The Committee contacted the 35 County Committees and received responses from all but one (1). The responses indicated that only two (2) counties accepted corporate contributions totaling \$57.50. Counsel for the Committee stated that this amount was transferred into the Committee's separate general account for State elections when it was discovered the transfers contained corporate money.

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On June 6, 1979, the Office of General Counsel recommended that the Commission take no further action in this instance for the following reasons:

(a) The Committee did not support any Federal candidates from its general account during the time that the corporate and labor organization contributions were on deposit, that is, November 1975 to June 20, 1976; and

(b) The Committee transferred an amount equal to the sum of these prohibited contributions to a Nebraska gubernatorial candidate on June 30, 1976.

On June 11, 1979, the Commission adopted the General Counsel's recommendation that no further action be taken with respect to the Committee's violation of Section 441b and closed the file on the matter.

B. Contributions In Excess of Limitation

Section 441a(a)(2)(A) of Title 2 of the United States Code states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000.

Section 110.3(b)(2) of Title 11, of the Code of Federal Regulations requires that all contributions made by the political committees controlled by a State party committee and by subordinate State party committees shall be presumed to be made by one political committee unless the committees are able to demonstrate independence under the criteria of this Section.

During the audit it was determined that transfers in an aggregate amount of \$5,624.00 were made to a United States Senatorial Candidate by the Committee and a subordinate County Committee during the 1976 General Election period.

Recommendation

The matter was referred to the Office of General Counsel on June 13, 1978, along with the matter addressed in paragraph A above, and made a part of Matter Under Review 655.

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On November 15, 1978, the Commission found reason to believe that the Committee and the subordinate County Committee violated Section 441a(a)(2)(A) by contributing together in excess of \$5,000 to a Federal candidate. The Office of General Counsel determined that the Committee and the Democratic County committees in Nebraska have not overcome the presumption of affiliation. Therefore, the contributions to a Federal candidate are subject to the \$5,000 limitation per election set out in Section 441a(a)(2)(A). However, on June 6, 1979, the General Counsel recommended that the Commission take no further action with respect to the excessive contribution (\$624.00) since only one county committee was involved.

It was further recommended that the Candidate's Committee not be included as a respondent in the MUR and that the Candidate not be required to refund the excessive portion of the contribution. It was also noted that the excessive contribution occurred prior to the promulgation of the regulations which established the affiliation presumption.

On June 11, 1979, the Commission adopted the General Counsel's recommendation that no further action be taken with regard to the Committee's and the subordinate county committee's violation of Section 441a(a)(2)(A) and closed the file on the matter.

C. Disclosure of Total Receipts and Expenditures

Section 434(b)(8) and (11) of Title 2 of the United States Code requires a political committee to disclose the total sum of all receipts by or for such committee, and the total sum of all expenditures made during the calendar year.

Our review disclosed that the Committee reported the receipt of two (2) transfers totaling \$5,000.00 from Dollars for Democrats, a regional telephone bank set up throughout the United States to raise money on behalf of participating State party committees. The Committee filed an amended report on January 28, 1978 deleting the two (2) transfers and disclosing receipts totaling \$20,521.00 and expenditures totaling \$15,083.51 which represented the receipts and expenditures on behalf of the Committee by Dollars for Democrats.

In response to a recommendation by the Commission's Reports Analysis Division, Dollars for Democrats filed a report also disclosing certain receipts and expenditures in conjunction with the telephone bank.

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This situation resulted in an overstatement of receipts and expenditures by the Nebraska Democratic State Central Committee because, in actuality, the contributions were received and the expenditures made by Dollars for Democrats. In addition, transfers received by the Nebraska Democratic State Central Committee were understated because the amended report deleted the transfers.

Recommendation

Based upon the Audit staff's recommendation, the treasurer filed an amended report on December 7, 1978 deleting the receipts totaling \$20,521.00, expenditures totaling \$15,083.51 and disclosing the two (2) transfers-in totaling \$5,000.00. Therefore, no further action is recommended on the matter.

D. Disclosure of Transfers

Section 434(b)(4) of Title 2 of the United States Code states, in part, that each report shall contain the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, together with the amounts and dates of all transfers.

Based on our review of the contribution records we determined that the Committee did not itemize four (4) transfers totaling \$1,553.30 that were received from other political committees. These transfers represent approximately 4% of the total number and 5% of the total dollar amount of all transfers received. Further, we determined that the Committee did not itemize 57 transfers totaling \$1,126.99 that were made to other political committees. These transfers represent approximately 54% of the total number and 5% of the total dollar amount of all transfers made. The Committee did, however, report the above transfers as unitemized activity.

The Committee officials stated that this resulted from an oversight, combined with misinterpretation of the appropriate provisions of the Act.

Recommendation

Based upon the Audit staff's recommendation, the treasurer filed amended reports on November 27, 1978 and December 7, 1978 disclosing the transfers in the required manner. Therefore, no further action is recommended on the matter.

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E. Disclosure of Debts and Obligations

Section 434(b)(12) of Title 2 of the United States Code requires a political committee to disclose its debts and obligations in a continuous manner until the balances are extinguished.

Section 100.4(a)(3) of Title 11, of the Code of Federal Regulations, requires a committee to disclose written agreements, such as signed pledge cards to make contributions, as debts owed to the committee until such agreements are honored.

We determined through a review of the Committee's debt and contract records that 90 written contribution pledges totaling \$5,198.00 owed to the Committee and two (2) loans totaling \$19,500.00 owed by the Committee had not been disclosed continuously as debts and obligations until the balances had been extinguished.

According to Committee officials, this was the result of an apparent oversight.

Recommendation

Based upon the Audit staff's recommendation, the Committee filed amended reports on November 27, 1978 and December 7, 1978 disclosing the debts and obligations in the required manner. Therefore, no further action is recommended on the matter.

F. Disclosure of Occupation and Principal Place of Business

Section 434(b)(2) of Title 2 of the United States Code requires a committee to disclose the occupation and the principal place of business, if any, of each person who has made one or more contributions to such committee within the calendar year in an aggregate amount or value in excess of \$100.00.

It was determined that in 279 instances, the Committee did not disclose the contributors' occupation and/or principal place of business in the required manner. This represents approximately 17% of the number of individual contributions listed by the Committee.

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According to Committee officials, attempts were made to obtain the information, but the attempts were not documented.

Recommendation

Based upon the Audit staff's recommendation, the Committee disclosed the contributor information in 254 instances and furnished evidence of its efforts to obtain the information in the remaining 25 instances. Therefore, the Audit staff recommends that the Commission determine that the Committee has demonstrated its best efforts to comply with Section 434(b)(2) of Title 2 of the United States Code and that no further action be taken on the matter.

G. Other Matters

Presented below is a matter noted during the audit for which the Audit staff feels no action is warranted. The Committee officials have been advised of this discrepancy and informed of the pertinent requirements of the Act.

The Committee did not maintain receipted bills, invoices, or other contemporaneous memoranda for four (4) expenditures which exceeded \$100.00 and totaled \$1,000.00. However, canceled checks were maintained in each instance.

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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 # 655.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.

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