



FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

February 11, 1980

MEMORANDUM

TO: FRED EILAND  
PRESS OFFICE

THROUGH: BOB COSTA *FOR R.I.U.*

FROM: JUDY HAWKINS *JH*

SUBJECT: PUBLIC ISSUANCE OF AUDIT REPORT -  
ACTIVE BALLOT CLUB, A DEPARTMENT  
OF RETAIL CLERKS INTERNATIONAL UNION

Attached please find a copy of the final audit report of the Active Ballot Club, A Department of Retail Clerks International Union which was approved by the Commission on February 1, 1980.

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

Attachment as stated

cc: FEC Library  
RAD  
Public Records

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION  
ON THE  
ACTIVE BALLOT CLUB, A DEPARTMENT OF THE  
RETAIL CLERKS INTERNATIONAL UNION

I. Background

A. Overview

This report is based upon an audit of the Active Ballot Club, A Department of the Retail Clerks International Union ("Active Ballot Club") undertaken by the Audit Division 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 Active Ballot Club ("ABC") registered with the Clerk of the United States House of Representatives on April 17, 1972, and maintains its headquarters in Washington, D.C. The primary function of the ABC is contributing funds to candidates seeking Federal office.

The audit covered the period from January 1, 1977 through January 31, 1979, the final coverage date of the most recent report filed by the ABC at the time of the audit. The ABC reported an opening cash balance on January 1, 1977 of \$87,936.27, total receipts for the period of \$469,827.57, total expenditures for the period of \$369,335.18, and a closing cash balance on January 31, 1979 of \$188,428.66.

This audit report is based upon 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 ABC during the period audited were Mr. James T. Housewright, Chairman from January 1, 1977 to September 27, 1977; Mr. William H. Wynn, Chairman from September 27, 1977 to the present; Mr. William H. Wynn, Treasurer from January 1, 1977 to September 27, 1977; and Mr. Thomas G. Whaley, Treasurer from September 27, 1977 to the present.

C. Scope

The audit included such tests as verification of total reported receipts, 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. Audit Findings and Recommendations

A. Contribution Solicitation In Non-Compliance with Appropriate Requirements

Section 114.5(a)(2) of Title 11 of the Code of Federal Regulations states, in part, that a guideline for contributions may be suggested by a labor organization, or its separate segregated fund, provided that the person soliciting or the solicitation informs the persons being solicited -

suggestions; and

(ii) that an individual is free to contribute more or less than the guidelines suggest and the labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute.

In addition, Section 114.5(a)(3) requires that any person soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member of the political purposes of the fund at the time of the solicitation. Further, Section 114.5(a)(4) requires that any persons soliciting an employee or member for a contribution to a separate segregated fund must inform the employee or member at the time of such solicitation of his or her right to refuse to so contribute without any reprisal. Section 114.5(a)(5) further states that any written solicitation for contributions to a separate segregated fund which is addressed to an employee or member must contain statements which comply with the requirements of paragraphs (a)(3) and (4) of this section, and if a guideline is suggested, statements which comply with the requirements of paragraph (a)(2) of this section.

Our review of the solicitation materials, such as letters addressed to employees and members soliciting contributions in conjunction with Century Club membership renewals and silver card sales, disclosed that the materials were apparently not in compliance with the requirements outlined above. This is based upon the fact that: a) the solicitees were not informed, as required by Section 114.5(a)(2), that the dollar amounts specified in the solicitation materials were merely a suggestion, and that more or less than the stated amount may be given. In addition, the solicitees were not informed that the labor organization will not favor or disadvantage anyone by reason of the amount of their contribution or their decision not to contribute at all; b) the solicitation materials did not contain statements informing the solicitees of the political purposes of the fund, as required by Section 114.5(a)(3); and (c) the solicitation materials did not contain statements informing the solicitees of the right to refuse to so contribute without any reprisal, as required by Section 114.5(a)(4).

With respect to the dollar amounts specified in the solicitation materials, we were informed by Active Ballot Club officials that under the present system, solicitees cannot contribute less than the stated amount, but if they did not wish to contribute at all, they were under no compulsion to do so.

Recommendation

Based upon the Audit staff's recommendation, the Active Ballot Club presented a copy of its newly adopted solicitation procedures on October 31, 1979 which appear to be in compliance with the requirements outlined above. Additionally, the ABC agreed to furnish copies of materials containing the required information prior to making any further written solicitations. Further, the Active Ballot Club advised its personnel and the local unions of these requirements. Therefore, the Audit staff recommends no further action on the matter.

B. Required Notice not Included  
On Solicitation Materials

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

"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."

During our review of the solicitation materials outlined in paragraph (A) above we determined that the required notice was not included thereon.

#### Recommendation

Based upon the Audit staff's recommendation, the ABC included the notice in the revised solicitation procedures outlined in paragraph (A) above. Therefore, no further action is recommended on the matter.

#### C. Itemization of Individual Contributions

Section 434(b)(2) of Title 2 of the United States Code requires that each report of receipts and expenditures shall disclose the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions.

Our review of the receipts records disclosed 45 contributions, each in an aggregate amount or value in excess of \$100, totaling \$6,912.00 not itemized by the Active Ballot Club. The majority of these contributions, according to the Active Ballot Club officials, resulted from two (2) Century Club collections made by a local during the same year representing \$100.00 membership amounts for 1978 and an early collection toward the 1979 membership. In addition, we determined, based upon conversations with Active Ballot Club officials, that it is customary for individuals who contribute \$100.00 each year in conjunction with the Century Club to also contribute \$2.00 during the same year for the purchase of Silver Cards. As a result, it is reasonable to conclude that individuals within this category made contributions, each totaling \$102.00 in the aggregate amount or value, during a calendar year, thus requiring itemization. However, no system was maintained in order to perform a cross-aggregation check between the records of Century Club members and Silver Card sales, and vice versa, to determine whether any of the contributions did, in fact, exceed \$100.00 during the year.

The Active Ballot Club officials stated that since the locals do not always provide Silver Card ticket stubs when sending the proceeds of the sales to headquarters, combined with the costs involved, it is virtually impossible to maintain an aggregation system of this nature.

Recommendation

Based upon the Audit staff's recommendation, the ABC filed an amended report on October 31, 1979 itemizing the 45 contributions totaling \$6,912.00. Therefore, no further action is recommended on this portion of the matter. However, in response to our recommendation that the ABC develop a system to perform a cross-aggregation check of the contributions received through its two (2) receipts methods, the ABC proposed a system which the Audit staff felt would not adequately fulfill the aggregation function. Therefore, the Audit staff presented a counter proposal to the ABC which recommended that since the problem is concentrated in the Century Club which contains fewer members than there are Silver Card purchasers, a procedure be instituted requiring each Century Club member to report to the Active Ballot Club the quantity and dollar amount of Silver Cards purchased by the member during the periods coinciding with ABC disclosure reporting periods. On January 10, 1980, the Active Ballot Club concurred with the counter proposal and provided a draft letter which it intends to send to each of the Century Club contributors informing them of the requirement. Therefore, the Audit staff recommends no further action on the matter.

D. Failure to Maintain Adequate Contributor Records

Section 432(c)(2) of Title 2 of the United States Code states, in part, that it shall be the duty of the treasurer of a political committee to keep a detailed and exact account of 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 the occupation and principal place of business (if any).

According to Section 100.10, 100.11, and 100.12 of Title 11 of the Code of Federal Regulations, "identification" means, in the case of an individual, his or her full name, including the first name, middle name or initial, if available, last name, and full address of his or her principal place of residence. "Occupation" means principal job title and whether or not self-employed. "Principal place of business" means the full name under which the business is conducted and the city and state in which the person is employed or conducts business.

During the audit, we determined that the contribution records did not contain the addresses of individuals who contributed amounts in excess of \$50, and addresses and occupations of individuals who contributed aggregate amounts in excess of \$100. We noted that it was the usual practice for written communications to be addressed to individuals in care of their assigned union locals.

Recommendation

Based upon the Audit staff's recommendation, the Active Ballot Club agreed to obtain the contribution information and incorporate it into their records. Additionally, procedures have been developed to ensure that contribution records are maintained in consonance with the requirements set forth above. The Active Ballot Club has informed the local unions of the requirements. Therefore, the Audit staff recommends no further action on the matter.

E. Inadequate Disclosure of Reimbursements

Section 434(b)(7) of Title 2 of the United States Code requires the disclosure of each contribution, rebate, or other receipt in excess of \$100 not otherwise listed on the reports of receipts and expenditures.

Our review of the receipts activity on the 1978 year end report revealed that six (6) reimbursements totaling \$4,100.00 received from four (4) committees were disclosed as transfers. A total of \$2,800 of the amount was received from two (2) unregistered committees (\$1,300 from one and \$1,500 from the other). Had the above items been bonafide transfers in excess of \$1,000 made by each of the two (2) unregistered committees, the situation would have ordinarily required them to register and file reports of receipts and expenditures with the Commission. However, our further review revealed that expenditures had been made which benefited the four (4) committees and they reimbursed the Active Ballot Club in an amount equivalent to the expenditures.

Recommendation

Based upon the Audit staff's recommendation, the Active Ballot Club filed an amended report on October 31, 1979 reclassifying the receipts from transfers to reimbursements. Therefore, no further action is recommended on the matter.

F. Matters Referred to the Office  
General Counsel

Presented below are matters noted during the audit which were referred to the Commission's Office of General Counsel on July 30, 1979 for consideration.

- (1) Transmittal of funds on a timely basis;
- (2) Solicitation procedures; and,
- (3) Transfer of funds from non-Federal to Federal accounts.

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