



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

October 2, 1980

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

THROUGH: BOB COSTA *RJC*

FROM: JUDY HAWKINS

SUBJECT: PUBLIC ISSUANCE OF THRESHOLD AUDIT REPORT -
KENNEDY FOR PRESIDENT COMMITTEE

Attached please find a copy of the threshold audit report of the Kennedy For President Committee which was approved by the Commission on September 23, 1980.

Informational copies of this report have been received by all parties involved and this report may be released to the public as of today, October 2, 1980.

Attached as stated

cc: FEC Library
RAD
Public Record



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THRESHOLD REPORT OF THE AUDIT DIVISION
ON THE
KENNEDY FOR PRESIDENT COMMITTEE

I. Background

A. Overview

This report covers an audit of the Kennedy For President Committee ("the Committee"), 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 9039(b) of Title 26 of the United States Code which states, in part, that the Commission is authorized to prescribe rules and regulations in accordance with the provisions of subsection (c), to conduct examinations and audits (in addition to examinations and audits required by Section 9038(a)), to conduct investigations and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under the chapter.

In addition, Section 9038.1(b) of Title 11 of the Code of Federal Regulations states, that the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

The Committee registered with the Federal Election Commission on October 29, 1979 as the principal campaign committee of the Honorable Edward M. Kennedy, a Democratic candidate for the nomination to the Office of the President of the United States and maintains its headquarters in Washington, D.C.

The audit covered the period from inception through December 31, 1979. The Committee reported an opening cash balance of \$-0-, total receipts of \$3,893,272.57, total expenditures of \$3,474,439.66, and a closing cash balance of \$418,832.91 during the period.

This 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.

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B. Key Personnel

The principal officers of the Committee during the period audited were Mr. Stephen E. Smith, Chairman, and Ms. Carolyn A. Reed, Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts and expenditures ^{1/} and individual transactions; review of required supporting documentation for receipts; review of contribution limitations; and such other audit procedures as deemed necessary under the circumstances. The audit did not include any tests of the Committee's expenditure processing system, compliance with expenditure limitations, or compliance with the Act's expenditure reporting and recordkeeping requirements. This was due to the Committee's refusal to provide direct access to Committee expenditure files, which prevented the Auditors from conducting independent tests of the Committee's expenditure processes, and which would have resulted in the use of a different expenditure review procedure than was uniformly applied to all other audits of Presidential committees.

II. Audit Findings and Recommendations

A. Introduction to Findings

The objective of the threshold audit is to review the Committee's accounting policies and procedures in order to determine not only their current but also their potential ability to comply with Title 2 and Title 26 of the United States Code, and to verify the accuracy of reports and statements filed during the audit period.

B. Audit Findings and Recommendations

Included below are the findings and recommendations as presented to the Committee on August 8, 1980. These recommendations consist of procedural changes to the Committee's system. The Committee was allowed 30 days in which to comment on any matters noted in the report. As of September 8, 1980, no response has been received from the Committee.

1. Timely Processing of Questionable 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.

^{1/} The Audit staff was unable to verify reported receipts totaling \$181,663.48 and expenditures totaling \$137,580.07 representing the Committee's state account activity since the bank records and statements the auditors were not available for review.

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During the period of the audit, Section 103.3(b) of Title 11 of the Code of Federal Regulations stated, in part, that contributions which appear to be illegal shall be, within 10 days;

(1) returned to the contributor; or

(2) deposited into a campaign depository, and reported in which case the treasurer shall make and retain a written record noting the basis for the appearance of illegality. If the contribution cannot be determined to be legal within a reasonable time the contribution shall be refunded.

a. Escrow Account

The Committee maintains a separate checking account, known as the escrow account, for depositing contributions which need further documentation to confirm their legality. According to the Committee's written procedures for the escrow account, the contributions which fall within this category are:

- (a) Checks signed by an individual whose name is not printed on the face of the instrument;
- (b) Business checks (without any indication of corporate status) with no signed statement from the contributor that the funds are personal funds and not drawn on a corporate account;
- (c) Contributions from partnerships without the necessary documentation for attribution;
- (d) Contributions from political committees when there is a question of affiliation or multi-candidate status;
- (e) Contributions from unregistered political committees when there is a question as to whether the organization has corporate or union funds in its treasury;
- (f) Contributions from individuals living outside the United States while citizenship is being ascertained.

The procedures state that these contributions will be separated from all other contributions and deposited into the escrow account. Information on each contribution will be maintained in an escrow filing system and check log. Letters requesting additional documentation will be sent to the contributors. If information is obtained confirming the legality of the contributions, a committee check, in the amount of the original contribution is drawn on the escrow account and made payable to the operating account of the Committee. If no response is received from the contributor in two weeks, a reminder letter is sent. If, in two more weeks no response is received, a check

will be drawn on the escrow account for the full amount of the contribution and returned to the contributor. Every Friday, the escrow check log will be reviewed to determine which contributions need reminder letters and which contributions should be returned.

A review of the Committee's escrow account records disclosed that a total of \$126,090.00 in contributions were deposited into the escrow account and disclosed on the Committee's report during the audit period. Funds in the escrow account were not expended for campaign purposes until their legality was determined and they were transferred to the operating account. The escrow check log which is a record of the contribution deposit date and dates of follow-up action, 2/ indicates that Committee personnel were not following their written procedures, and as a result, anywhere from three (3) to 67 days elapsed between the deposit date and the date a letter requesting additional documentation was sent. If a response was received, it was noted on the log but the response date was not recorded.

Between eight (8) and 114 days elapsed between the date of the letter and the date of any follow-up action.

Although the escrow check log indicated that the Committee did not attempt to determine the legality of the contributions in a timely manner, all contributions deposited during the audit period were either determined to be acceptable and transferred to the operating account or refunded to the contributor.

In addition to the Committee's failure to seek clarification from the contributors in a reasonable period of time, the Committee failed to retain a written record of the reasons for which the contributions were deposited into the escrow account.

Recommendation

The Audit staff recommends that the Committee follow its current written procedures for processing contributions deposited into the escrow account and also revise those procedures to include a written record noting the basis for the appearance of illegality of the contributions.

b. Contribution Limitations

During the review of the Committee's contribution records and refund policies, the Audit staff determined that contributions aggregating in excess of the limitations were not being refunded in a reasonable time period.

2/ In most cases the follow-up action took place after the period covered by the audit.

In twenty-six (26) instances it appeared that contributors had exceeded their contribution limitation. The contributions were deposited between October 29, 1979 and December 26, 1979. The Committee did not attempt to contact contributors to determine if the contributions were excessive until February, 1980. Seven (7) contributions were verified by the contributors to be excessive. No refunds of the excessive portion of the contributions were made until February and March, 1980. The remaining possible excessive contributions were verified by the contributors to be either split contributions, as in the case of husband and wife, or computer errors.

Although not significant as of December 31, 1979, it is the opinion of the Audit staff that the absence of procedures for handling these contributions may result in a material problem as the campaign progresses.

Recommendation

The Audit staff recommends that the Committee develop procedures to identify and refund excessive contributions in a timely manner, within 30 days of the date of initial deposit.

2. Committee's Data Entry Procedures

During the review of the receipt records we found that the Committee had experienced problems with the accuracy of the data entry of contributor names and addresses. This resulted in a failure to aggregate contributions, which directly affects the itemization of contributions and the Committee's ability to comply with contribution limitations. In addition, the same data base is used to prepare the Committee's matching fund submissions.

The Committee explained that the errors occurred because the data entry personnel were originally instructed to generate the contributor information from the direct mail address label on the contributor card. Later, the procedure was changed and the contributor information was generated from the contributor check. In many cases the contributor information on the direct mail label differed in address or name spelling from the information displayed on the contributor check. In addition, the key punching of certain characteristics of names and addresses was not done consistently, i.e., P.O. Box/Post Office box. In either case, the inconsistent manner in which the data was entered will continually affect the aggregation process.

For the period of the audit there were no material problems resulting from these errors. However, it is the opinion of the Audit staff that the present procedures could result in material aggregation problems in the future.

Recommendation

The Audit staff recommends that the Committee develop procedures for use by its data entry personnel which provide for all information to be entered in a consistent manner. In addition we recommend that the Committee periodically review its data base to attempt to identify aggregation errors.

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