



FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

December 18, 1980

MEMORANDUM

TO: FRED EILAND  
PRESS OFFICE

THROUGH: BOB COSTA *RAC*

FROM: RICK HALTER

SUBJECT: PUBLIC ISSUANCE OF FINAL (POST-PRIMARY)  
AUDIT REPORT OF THE ANDERSON FOR PRESIDENT  
COMMITTEE

Attached please find a copy of the final (post-primary) audit report of The Anderson for President Committee which was approved by the Commission on November 18, 1980.

Informational copies of the report have been received by all parties involved and this report may be released to the public as of today, December 18, 1980.

Attachment as stated

cc: FEC library  
RAD  
Public Records

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

REPORT OF THE AUDIT DIVISION  
ON  
THE ANDERSON FOR PRESIDENT COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Anderson 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 9038(a) of Title 26 of the United States Code which states that "after each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037."

In addition, Section 9039(b) of Title 26 of the United States Code and Section 9038.1(b) of Title 11 of the Code of Federal Regulations state, in relevant part, that the Commission may conduct other examinations and audits from time to time as it deems necessary.

The Committee registered with the Federal Election Commission on January 29, 1979, as the Anderson For President Exploratory Committee. On May 7, 1979, the candidate authorized the Committee to act on his behalf and changed the Committee's name to the Anderson for President Committee. The Committee maintains its headquarters in Rockford, Illinois.

The audit covered the period from the date of inception of the Exploratory Committee through April 30, 1980. The Committee reported an opening cash balance of \$-0-, total receipts of \$6,878,253.50, total expenditures of \$5,952,531.72, and a closing cash balance of \$925,721.78 during this period.

This 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 Committee during the period audited were: Mr. Frank P. Maggio, Chairman and Mr. Hugh D. Hammerslag, Treasurer.

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; review of contribution and expenditure limitations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. Findings Relating To Title 2 of the United States Code

1. Apparent Corporate Contribution

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any national bank to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election.

Section 100.7(a)(1) & (b)(11) of Title 11 of the Code of Federal Regulations states, in part, the term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. An overdraft made on a checking or savings account shall be considered a contribution by the bank or institution unless: the overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule.

During the reconciliation of the Committee's bank accounts to its disclosure reports, the Audit staff noted that the Committee's direct mail account for their Washington, D.C. office was overdrawn in the amount of \$2,776.19 on April 28, 1980 and \$12,802.23 on April 30, 1980. In addition, there was a check outstanding as of April 30 in the amount of \$235.46 which was paid by the bank on May 1, 1980, increasing the overdraft to \$13,037.69. Further analysis revealed that the account maintained the overdraft position through May 30, 1980.

Committee officials stated that the overdraft was the result of bookkeeping errors at the Washington, D.C. office and the lengthy duration outstanding was caused by coordination problems between the Illinois and D.C. offices.

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By letter dated July 11, 1980, and copy of a cancelled check, the Committee has provided evidence that the overdraft was paid in full, however, payment of interest was not indicated at that time.

Recommendation

As a result of audit work performed at the end of the 30 day response period to the interim audit report, the Audit staff verified that the Committee had paid to the bank on September 22, 1980, what appeared to be a usual and customary charge for the use of the overdrawn funds. The Audit staff therefore recommends no further action on this matter.

2. Disclosure of Depositories

Section 433(c) of Title 2 of the United States Code states, that any change in information previously submitted in a statement of organization shall be reported in accordance with Section 432(g) no later than 10 days after the date of change.

Our review of bank records presented for inspection revealed 22 depositories which were not disclosed by the Committee. The Audit staff advised the Committee of the requirement to disclose all depositories.

Recommendation

The Committee filed an amendment to its statement of organization on October 20, 1980, adequately disclosing the depositories noted above. The Audit staff therefore recommends no further action on this matter.

3. Matter Referred to the Office of General Counsel

A certain matter noted during the audit was referred to the Commission's Office of General Counsel for consideration on July 25, 1980.

B. Findings Relating To Title 26 of The United States Code

1. Undocumented Expenditures

Section 9038.2(a)(2) & (3) of Title 11 of the Code of Federal Regulations require the candidate to repay any amounts determined to have been used for payments of other than qualified campaign expenses.

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11 C.F.R. Section 9033.1(a)(1) sets forth the documentation necessary to determine a qualified campaign expense as a receipted bill which is from the payee and states the particulars of the expenditure; or in the absence of such receipted bill a cancelled check negotiated by the payee plus one of the following documents generated by the payee which states the particulars of the expenditure; a bill, invoice, voucher or contemporaneous memorandum. Where these documents are not available, then the Commission will accept a voucher or contemporaneous memorandum from the candidate or committee. The Commission will accept a cancelled check stating the particulars of the expenditure, or the Commission may accept a cancelled check and collateral evidence to document the qualified campaign expenses.

In reviewing state level expenditure activity, the Audit staff noted expenditures totaling \$63,204.57 which were not adequately documented as to the particulars of the expenditure or verifiable as to representing qualified campaign expenses. Of this total, \$27,365.92 represented 71 identifiable disbursements which were not adequately supported, and the remaining \$35,838.65 consisted of activity for which no bank statements or cancelled checks were presented for our review. The Committee officials believed that they could obtain documentation for many of the expenditures noted.

On September 16, 1980, the Commission made a preliminary determination that, absent a showing to the contrary within 30 days of the Committee's receipt of the interim report, the undocumented expenditures would be viewed as non-qualified campaign expenses and the value repayable to the U.S. Treasury.

Recommendation

In response to the interim audit report, the Committee submitted adequate supporting documentation which satisfied the documentation requirements noted above in all material aspects. The Audit staff therefore recommends no further action on this matter.

2. Determination of Net Outstanding Campaign Obligations and Repayment to the U.S. Treasury
  - a. Determination of Net Outstanding Campaign Obligations

Section 9034.5(b) of Title 11, Code of Federal Regulations requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO) which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs within 15 days of the candidate's date of ineligibility.

On May 8, 1980, the Committee filed a Statement of Net Outstanding Campaign Obligations dated April 24, 1980, the candidate's date of ineligibility, and voluntarily submitted a check in the amount of \$323,573.00 representing the Committee's preliminary calculation of their required repayment to the U.S. Treasury pursuant to 26 U.S.C. 9038(b)(3).

During the course of the audit, the Audit staff verified the items contained on the April 24, 1980 NOCO statement and reviewed the related activity through May 31, 1980. Upon completion of our review, the Committee was in substantial agreement with the audited statement which indicated a net outstanding campaign obligation surplus of \$1,013,119.67. During audit fieldwork conducted in October, 1980, the Committee's activity from June 1 through September 30, 1980 was reviewed and the NOCO statement adjusted accordingly. The Committee was again in substantial agreement with the audited statement which appears on the following page.

b. Repayment of Matching Funds to the U.S. Treasury

Section 9038(b)(3) of Title 26 of the United States Code requires the candidate to repay that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts.

As stated above, the Audit staff has determined that on the date of the candidate's ineligibility, April 24, 1980, the Committee had an adjusted surplus cash position of \$988,125.94. Repayment under this section of the Act is based on the following formula:

$$\frac{\text{Total Matching Funds Received} \times \text{Surplus}}{\text{Total Deposits Through Ineligibility}} = \text{Repayment}$$

Based on this formula, the Committee's repayment of excess funds to the U. S. Treasury is as follows:

$$\frac{\$2,678,428.43}{\$6,587,245.13} \times \frac{1}{1} \times \$988,125.94 \frac{1}{1} = \$401,779.91$$

1/ Amount adjusted downward by non-sufficient funds checks matched.

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Anderson For President Committee  
Statement of Net Outstanding Campaign Obligations  
April 24, 1980

Assets

Cash on hand and in banks	\$1,221,517.25	
Accounts receivable	324,958.20	
Capital assets	6,000.00	
Total assets	<u>\$1,552,475.45</u>	<u>\$1,552,475.45</u>

Obligations

Accounts payable	( \$ 479,112.66)	2/
Estimated winding down costs 4/24/80 to 2/28/81 (projected termination date) 3/		
Salaries	\$28,650.00	
Telephone	2,500.00	
Travel	3,000.00	
Supplies	400.00	
Computer services	2,500.00	
Equipment rental	500.00	
Office rent	2,000.00	
Storage of records	2,100.00	
Taxes-wages	8,800.00	
Consulting	5,000.00	
Insurance	2,300.00	
Income Tax	7,000.00	
Reserve for qualified campaign expenses 4/	18,568.00	
Total Winding Down Costs	( \$ 83,318.00)	
Total Obligations	( 562,430.66)	(\$ 562,430.66)
Subtotal		\$ 990,044.79
Less: Portion of NSF Contributions Matched		( 1,918.85)
Net Outstanding Campaign Obligations-Surplus		<u>\$ 988,125.94</u> 5/

2/ Excluded from this amount are 13 payroll tax penalties totaling \$2,174.52 which were incurred prior to the date of ineligibility and paid subsequent to that date (April 24, 1980).

3/ Winding down costs are reasonable estimates of future activity projected through February 28, 1981, which are subject to revision based upon actual costs incurred.

4/ This reserve is to cover late billings paid October 1 or after. The reserve should be liquidated by February 28, 1981.

5/ The net outstanding campaign obligations surplus was calculated to be \$1,013,119.67 after review of the Committee's activity through May 31, 1980. The decrease of \$24,993.73 in the NOCO surplus amount as calculated through September 30, 1980 is due primarily to the late receipt of various state level telephone charges which were unknown to the Committee as of May 31, 1980.

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Additional components of the repayment calculation are as follows:

1. Non-Sufficient Funds Checks Matched

Section 9034.2(a)(3) of Title 11, Code of Federal Regulations states that a matchable campaign contribution is one in which the amount of the contribution which is submitted for matching shall be actually received by the candidate or any of the candidate's authorized committees and deposited in a designated campaign depository maintained by the principal campaign committee.

During the reconciliation of the bank accounts, the Audit staff noted 34 contributions totaling \$2,038.00 which had been submitted for matching funds and also charged from the Committee's accounts due to non-sufficient funds (NSF). Matching funds actually paid out which were for NSF items after application of the appropriate submission error rates totaled \$1,918.85.

2. Payments Made To The U.S. Treasury

Section 9038.3(c)(1) of Title 11, Code of Federal Regulations states, in relevant part, that if on the last day of candidate eligibility (April 24, 1980), the Candidate's net outstanding campaign obligations, as defined in 11 C.F.R. 9034.5, reflect a surplus, the candidate shall within 30 days of the ineligibility date repay to the Secretary of the Treasury an amount which represents the amount of matching funds contained in the candidate's surplus.

On May 8, 1980, the Committee submitted a check in the amount of \$323,573.00 payable to the U.S. Treasury representing their initial calculation of the matching funds contained in the Committee's surplus as of April 24, 1980.

As a result of the interim audit report, the Committee submitted a check on September 25, 1980, in the amount of \$88,369.85 payable to the U.S. Treasury representing their repayment of matching funds based on the preliminary calculation.

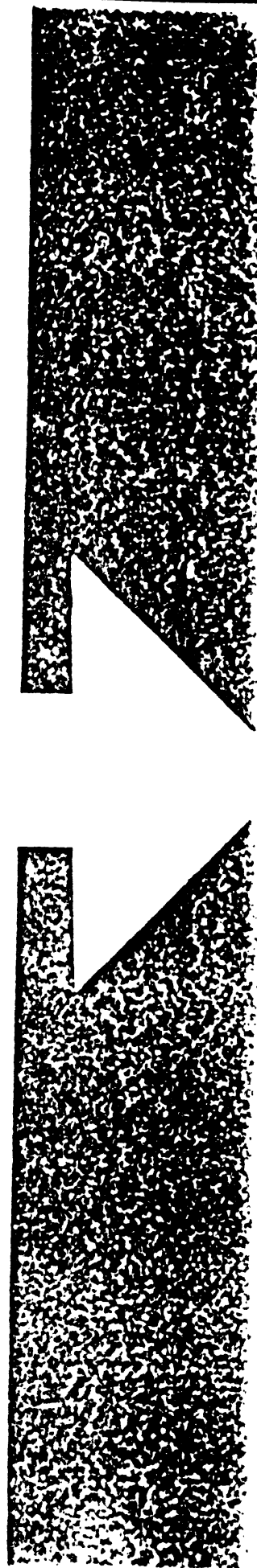
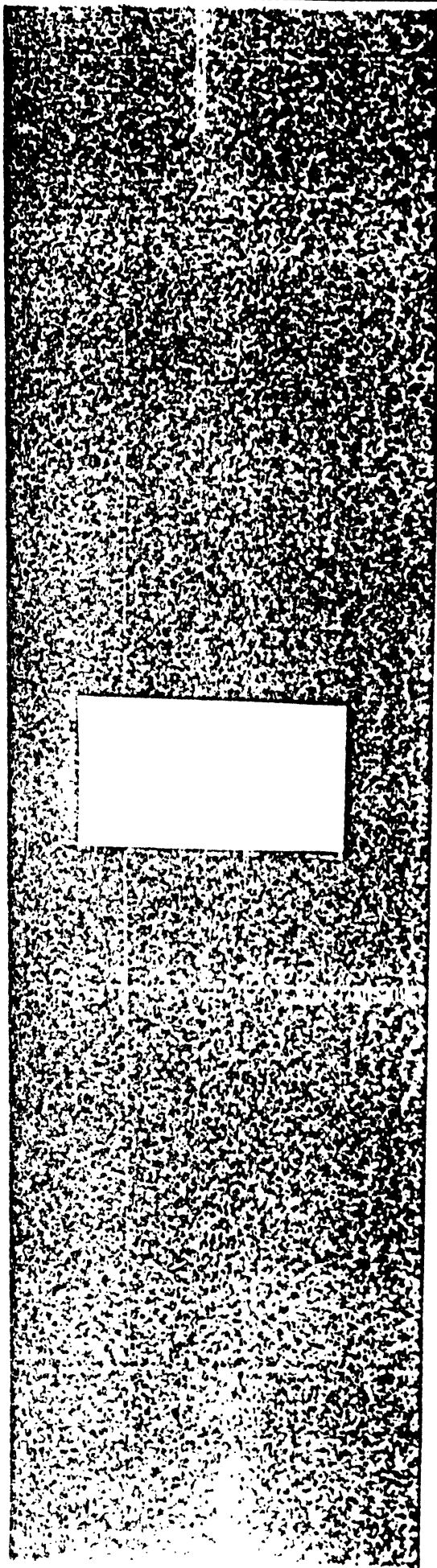
Recommendation

Based on the repayment calculation and items listed in 1 and 2, the Committee has made a net overpayment of matching funds in the amount of \$8,244.09, which sum shall be returned to the Committee forthwith. A recapitulation of the components of the repayment amount appear below:



Amount Per Formula	\$401,779.91
NSF Checks Matched	<u>1,918.85</u>
Subtotal	<u>\$403,698.76</u>
(Minus) Repayments 5/8/80	(323,573.00)
9/25/80	<u>( 88,369.85)</u>
Total Net Overpayment	<u>(\$ 8,244.09)</u>

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## FEDERAL ELECTION COMMISSION

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

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 # 1254.  
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF  
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



FEC  
DOCUMENT  
SEPARATOR