



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON
THE CARTER-MONDALE REELECTION COMMITTEE, INC.

I. Background

A. Overview

This report is based on an audit of the Carter-Mondale Re-election Committee, Inc. ("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 9007(a) of Title 26 of the United States Code, which states that "after each presidential election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President."

In addition, Section 9009(b) of Title 26 of the United States Code states, in part, 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 June 5, 1980, as the principal campaign committee of President James E. Carter. The Committee maintained its headquarters in Washington, D.C. The Committee consists of two (2) reporting entities, the "General fund" operating with funds received under Section 9006(b) of Title 26 of the United States Code, and the "Compliance fund" established under Section 9003.3 of Title 11 of the Code of Federal Regulations. Separate reports were filed for each fund as required by Section 9006.1 of Title 11 of the Code of Federal Regulations.

The audit covered the period from June 5, 1980 through December 31, 1980, 1/ the final coverage date of the latest reports filed at the time of the audit.

1/ In accordance with standard Audit Division practice, a detailed review of expenditures after December 4, 1980 was made to determine the accuracy of the Committee's reported Net Outstanding Qualified Campaign Expenditures as of December 4, 1980. Testing of expenditures was conducted through March 2, 1981 for the General fund and March 15 for the Compliance fund. Compliance fund receipts were tested through January 1981.

During the period, the Committee reported an opening cash balance of \$-0-, total receipts of \$29,773,960.28, total expenditures of \$29,208,250.96 and a closing cash balance of \$565,709.32 for the General fund. For the Compliance fund, the Committee reported an opening cash balance of \$-0-, total receipts of \$1,457,741.64, total expenditures of \$939,701.60 and a closing cash balance of \$518,040.04. 2/

This report is based on documents and working papers supporting each of the factual statements contained herein. They form part of the record upon which the Commission based its decisions on the matters addressed in the report and were available to the Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee during the period audited were Robert S. Strauss, Chairman, from June 5, 1980 to present, and S. Lee Kling, Treasurer, from June 5, 1980 to 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 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 Relating to Title 2 of the United States Code

A. Missing Records and Documentation - Compliance Fund Receipts

Section 432(c)(1) - (4) of Title 2 of the United States Code states, in part, that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee, including the name and address

2/ These figures are those stated in the committee's amended reports, filed February 26, 1981, and subject to the current audit. Originally reported figures for the Compliance fund had overstated receipts by \$11,756.13 and understated expenditures by \$76,294.85 for an overstatement in ending cash of \$88,050.98. For the General fund, originally reported figures understated receipts by \$188,792.23, disbursements by \$551,747.04 and overstated ending cash by \$362,954.81. In the course of the audit, the Audit staff determined that the differences between the amended figures and those originally filed resulted from certain data entry duplications and omission of payroll tax deposits.

of any person who makes a contribution in excess of \$50, together with the date and amount of such contribution, and the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution.

In reviewing Compliance fund operating account deposits, the Audit staff identified six (6) deposits totaling \$204,203.90 representing individual contributions for which the Committee was unable to provide a detailed accounting, or evidence that the amounts deposited represented collections from individuals of less than \$50 per person and therefore did not require a detailed accounting.

The deposits in question were from promoters of fundraising concerts who were engaged by Committee fundraising personnel to sell tickets to the events and collect and forward the funds. The Audit staff had requested from the Committee, fundraising materials such as tickets or advertisements stating the ticket price, and a contract or a written statement establishing that the promoters sold the tickets to individuals in amounts aggregating to less than \$50 per individual contributor.

At the close of audit fieldwork, the Committee had contacted the principal fundraising organizer, requesting that he obtain the required documentation from the concert promoters. At the last date of fieldwork, the information had not been received.

In order for a determination to be made as to whether or not the Committee fundraising events involved contributions from individuals in excess of \$50 for which detailed accounting would be required pursuant to 2 U.S.C. Section 432(c)(1), the Audit staff recommended that within 30 days of receipt of the interim audit report the Committee provide for Audit staff review contracts with the promoters of the fundraising concerts, solicitation materials, samples of tickets in all price ranges, and contributor lists related to the listed events. In addition, it was recommended that the Committee document all efforts to obtain such records, and submit this information along with those records obtained.

On June 29, 1981, the Committee provided the Audit staff with additional documentation for the six (6) deposits. For three (3) of the deposits totaling \$95,775.15, the documentation consisted of letters from concert promoters stating that ticket sales had been restricted to amounts of less than \$50 per person. For one deposit totaling \$8,383.55, the Committee provided two (2) letters to the concert promoter, requesting documentation on ticket sales. The promoter subsequently responded with a copy of a letter from the Committee, dated September 25, 1980, in which the Committee instructed the promoter to limit ticket sales to \$49.99 per person and to refer purchasers of larger blocks of tickets to the theatre box office.

In addition, the Committee provided documentation for one (1) deposit totaling \$97,598.45, consisting of a letter to a promotor with a reference to a previous telephone request for additional information. For the remaining deposit of \$2,446.75, the Committee provided evidence that payment on the check was stopped by the issuer.

Recommendation

On the basis of our review of the additional documentation submitted by the Committee, it is the opinion of the Audit staff that no further action be taken on this matter.

B. Documentation For Expenditures - General Fund

Section 432(c)(5) of Title 2 of the United States Code requires that the treasurer of a political committee shall keep an account of each disbursement made by the committee, and for each disbursement in excess of \$200, the account shall include a receipt, invoice, or cancelled check.

According to Committee officials, to ensure the availability of rental cars during the campaign, the Committee established a bank account and deposited \$100,000 from which a national car rental company was authorized to withdraw funds for the non-payment of car rental invoices. The company made two (2) withdrawals from the account for \$95,070.80 and \$4,929.20, but documentation was available for only \$50,067.46. The agreement between the Committee and the company was not available for review.

The Committee agreed to obtain the documentation for the remaining \$49,932.54 in undocumented withdrawals, but at the completion of audit fieldwork had not received the documentation from the bank.

The Audit staff recommended that within 30 days of receipt of the interim report, the Committee obtain from the rental company, and then provide for the Audit staff to review, documentation including the agreement between the Committee and the car rental company to support the \$49,932.54 in payments noted above. In addition, it was recommended that the Committee document all attempts to obtain the expenditure documentation, and provide this information along with the documentation received.

On June 29, 1981, the Committee provided for the Audit staff's review a copy of the agreement with the car rental company, and a log listing each rental agreement number, the check-in date, location, renter's name and invoice amount.

Recommendation

On the basis of our review of the additional documentation submitted by the Committee, the Audit staff recommends no further action on this matter.

C. Failure to Itemize Debts and Obligations

Section 434(b)(2)(H); (3)(E) and (5)(D) of Title 2 of the United States Code state in part, that each report shall disclose all loans, and the identification of each person who makes a loan to the reporting committee, and the name and address of each person who receives a loan repayment during the reporting period, together with the date and amount of such loan repayment.

Section 104.11 of Title 11 of the Code of Federal Regulations further requires that any debt, obligation or other promise to make an expenditure of \$500 or less shall be reported if outstanding for 60 days. Any debt, loan or obligation of more than \$500 shall be reported when incurred. Such debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported, until extinguished, on a separate schedule with a statement explaining the circumstances under which each debt or obligation was extinguished and the amount paid.

1) General Fund

The Audit staff, in reviewing all General fund operating account expenditures made subsequent to the 1980 year end report, identified 19 vendors to which, on December 31, 1980, the Committee owed individually amounts greater than \$500, totaling \$55,648.19. The Committee did not, however, disclose the debts on a schedule CP with the December 31, 1980 report.

2) Compliance Fund

The Audit staff, in reviewing all Compliance fund operating account expenditures made subsequent to the 1980 year-end report, identified 10 vendors to which, on December 31, 1980, the Committee owed individually amounts greater than \$500, totaling \$36,596.32. The Committee did not, however, disclose the debts on a schedule CP with the December 31, 1980 report.

Recommendation

The Audit staff recommends that since the Committee has made final payments on the noted debts, and since the payments have been disclosed in the first quarter 1981 reports, no further action be taken.

D. Review of Compliance Fund Solicitations

Section 44ld(a)(1) of Title 2 of the United States Code states, in part, that whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee, or its agents, shall clearly state that the communication has been paid for by such authorized political committee.

Section 9003.3(a)(1)(i)(A) of Title 11 of the Code of Federal Regulations further states, in part, that Candidates accepting contributions to a legal and accounting Compliance fund shall clearly state on all solicitations to this fund that such contributions are being solicited for this fund.

In examining Compliance fund contributions, the Audit staff determined that the Committee had conducted fundraising events and deposited the proceeds into the Compliance fund operating account. To establish whether the Committee had conducted solicitation to these events in accordance with the regulations, the Audit staff requested that the Committee provide copies of all solicitation materials.

The Committee has stated that they could not provide such materials because they considered it unnecessary to keep them and disposed of all superfluous campaign materials after the election. The Committee noted that there was a possibility that some fundraising material may have been retained by former fundraising field personnel.

The Audit staff recommended that within 30 days of receipt of the interim report the Committee obtain and provide for Audit staff review all communications and solicitation material for Committee fundraising events. If the records could not be obtained, the Committee was requested to document their attempts to obtain the fundraising material, and submit this information for Audit staff review.

On June 29, 1981, the Committee submitted to the Audit staff a memorandum dated June 26, 1981, stating that their Director of Finance had contacted two (2) former Committee fundraising persons by telephone, and had not received any of the requested fundraising materials.

Recommendation

Since the Committee has attempted to obtain the solicitation material, and absent any indication that irregularities involving solicitation material have occurred, the Audit staff recommends no further action.

E. Apparent Corporate Contributions - Compliance Fund

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or for any political committee to accept or receive any contribution prohibited by this section.

In the course of examining all contributions received through the Committee's authorized joint fundraising committee, the Tennessee '80 Campaign, the Audit staff identified two (2) contributions totaling \$770.00 made with checks that appeared to be drawn on corporate accounts. 3/ The Audit staff verified that the business entities named on the instruments were in fact incorporated. The Committee provided records showing they had contacted the contributors and sent a letter requesting written verification that the accounts were personal accounts. When the Audit staff indicated that additional verification other than the letter would be needed to establish that the instruments were not drawn on corporate accounts, the Committee decided to forego any further documentation efforts, and refunded the contributions.

Recommendation

Since the contributions have been refunded, the Audit staff recommends that no further action be taken on this matter.

F. Reporting Errors and Omissions - General Fund

Section 434(b)(4) and (5) of Title 2 of the United States Code, states, in part, that a committee shall disclose disbursements made to meet candidate or committee operating expenses, including the name and address of each person to whom expenditures have been

3/ The Carter/Mondale Re-election Committee, Inc. authorized two fundraising committees jointly with the Tennessee State Democratic Party: The Carter/Mondale Tennessee Victory Fund, registered October 20, 1980, and the Tennessee '80 Campaign registered November 10, 1980. The receipts collected by these committees under the auspices of the Carter/Mondale Re-election Committee Compliance fund were included in the scope of this audit. Both fundraising committees were audited in July, 1981.

made by such committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date, amount and purpose of such expenditure.

The Audit staff's review of the Committee's General fund operating account expenditures, consisting of a 100% examination of certain disbursements and a random sample of the remaining items, revealed the following reporting errors and omissions:

1) In reviewing sample items, the Audit staff identified manually prepared payroll checks that were not entered into the computerized reporting system, and were therefore omitted from the reports. A subsequent 100% review of manual payroll checks revealed that there were 39 unreported items, each with an aggregate amount in excess of \$200, totaling \$24,975.41. The Audit staff determined that these omissions were the result of a failure in the data entry system for checks issued between scheduled payroll processing dates. The Committee has agreed to make the necessary data entries, and file amended reports.

2) The Audit staff's examination of selected expenditures on a 100% basis identified 15 expenditures totaling \$1,496,425.00 that were reported with an inadequately stated purpose. These disbursements, made to two (2) vendors, were reported with only "contracted services" as the stated purpose.

3) A random sample of expenditures indicated that 58 expenditures in the sample were reported with disclosure errors. With few exceptions, these errors consist of salary payments for the Presidential travel and Non-presidential travel cost centers that were reported by data entry error as "travel reimbursements." The Audit staff concluded that once the payroll disbursements for these cost centers were amended, expenditure disclosure would be materially correct.

In the interim audit report, the Audit staff recommended that the Committee file a comprehensive amendment disclosing all unreported expenditures noted in 1 above and properly classify those items noted in 2 and 3 above on Committee disclosure reports.

On June 29, 1981, the Committee filed amended reports correcting the noted disclosure errors.

Recommendation

On the basis of amended reports submitted by the Committee, the Audit staff recommends that no further action be taken.

III. Findings and Recommendations Related to Title 26 of the United States Code

A. Repayment of Primary Committee Loan

Section 9003.4(4)(i) of Title 11 of the Code of Federal Regulations states, in part, that a general election candidate who has received federal funding under 11 CFR Part 9031, et seq., may borrow from his or her primary election campaign an amount not to exceed the residual balance projected to remain in the candidate's primary account(s), for purposes of funding qualified campaign expenses prior to the receipt of Federal funds under 11 CFR 9005, provided reimbursement is made to the primary campaign within 15 days of receipt of such funds.

In the post-primary audit report of the Carter/Mondale Presidential Committee, Inc. (primary committee), the Audit staff identified 48 expenditures totaling \$27,131.55 which were general election related, and paid for by the primary committee. 4/ Since the primary committee was, at that time, in a deficit position, it appears that the general election committee could not have reasonably expected a surplus from which to borrow.

The Audit staff recommended that absent a showing to the contrary, within 30 days of receipt of the interim report, the general election campaign restore to the primary campaign the amount of \$27,131.55.

On June 29, 1981, the Committee submitted to the Audit staff a copy of check #4078 dated June 17, 1981 from the General fund to the primary campaign.

Recommendation

The Audit staff recommends that no further action be taken.

B. Matters Referred to the Office of General Counsel

Certain other matters noted during the audit were referred to the Commission's Office of General Counsel for consideration on July 7, 1981.

4/ This matter was addressed in the final audit report on the Carter/Mondale Presidential Committee, Inc. In that report, the Commission required the primary committee to repay the \$5,947.82 in expenditures made prior to the candidates date of ineligibility to the U.S. Treasury. The remaining expenditures made after the candidate's date of ineligibility totaling \$21,183.73, were deducted from the candidate's matching fund entitlement.

IV. Determination of Qualified Campaign Expenses in Excess of Entitlement and Repayments to the United States Treasury

Section 9007.2(a) of Title 11 of the Code of Federal Regulations provides that the Commission shall notify the candidate that an equal repayment of money to the Fund will be required for:

(1) any payments made to the candidate from the fund which are in excess of entitlement; or

(2) any expenses incurred which are in excess of the aggregate payments to which a candidate is entitled; or

(3) any contributions accepted to defray qualified campaign expenses, other than contributions accepted to make up deficiencies in payments from the Fund, to defray qualified campaign expenses incurred for legal and accounting services, or to defray those excessive qualified campaign expenses for which repayment is already required; or

(4) any amount of any payment which was used for any purpose other than to defray qualified campaign expenses, to repay loans used to defray qualified campaign expenses, or to restore funds which were used to defray qualified campaign expenses; or

(5) any amounts expended from monies received from the fund or from private contributions received under 9003.3(b) which are not documented; or

(6) any income received as a result of investment or other use of public funds, less any Federal, State, or local taxes paid on such income.

Section 9007.2(b) of Title 11 of the Code of Federal Regulations provides that the Commission shall notify the candidate of its repayment determination, set forth within the notice the legal and factual reasons upon which the determination is based, and advise the candidate of the evidence upon which the determination is based. Within 30 days after receiving the notice, the candidate shall repay to the Secretary an amount equal to the amount determined. The candidate may request, in writing, a 90 day extension of the repayment period.

Section 9007.2(c) of Title 11 of the Code of Federal Regulations provides that if the candidate disputes the Commission's determination that a repayment is required, the candidate in writing, may submit within 30 days of the Commission notice, legal or factual materials to demonstrate that a repayment is not required. Upon application, the Commission may grant a 30 day extension for submission of these materials by the candidate.

A. Determination of Qualified Campaign Expenses
In Excess of Entitlement

Section 9007(b)(2) of Title 26 of the United States Code states, that if the Commission determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under Section 9004, it shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

The expenditure report period for the 1980 presidential elections ended on December 4, 1980. A determination of the Committee's financial position as of this date indicated total assets of \$1,410,454.62, liabilities of \$1,386,925.25, and estimated winding down costs of \$23,529.37 (See Attachment 1). Therefore, the Committee has no federal fund surplus, and no repayment is required.

In addition, the Audit staff identified contingent liabilities consisting of a disputed invoice from a polling firm, a group of debts referred to the Democratic National Committee, and possible payments for unemployment compensation, all totaling \$1,210,000.00. (See Attachment I). When weighed against the Committee's remaining allowable allocation of \$329,440.42 in overhead expenses to the Compliance fund, the Committee could possibly exceed the expenditure limitation by \$880,559.58. However, at this point, the committee has not incurred qualified campaign expenses in excess of their entitlement and no repayment is required. 5/

To summarize the above in terms of expenditures subject to the limitation at December 31, 1980, the Committee expended as follows:

5/ Additional fieldwork will be conducted to update the Committee's compliance with the expenditure limitations when the July 15, 1981 Quarterly report has been filed. At that time, an addendum to the audit report will be prepared if necessary.

Federal Fund Entitlement		\$29,440,000.00
Reported Expenditures Subject to Limitation	\$29,068,125.46	
Miscellaneous Adjustments Resulting from Reconciliation of Bank Records to Reports	21,437.71	
Payroll Allocation - Compliance to General (III.A.4.)	61,568.05	
Computer Allocation - Compliance to General (III.A.4.)	23,264.43	
Compliance Fund Exp. Subject to Limitation	25,484.90	
Capital Assets at Market Value	(64,145.21)	
Repayment to Primary Committee	27,131.55	
Payables 1/1 - 3/3/81	358,836.87	
Receivables 1/1 - 2/23/81	(68,153.53)	
Overhead Allocation	(32,711.95)	
Estimated Winding Down	19,161.72	
Total Expenditures		<u>\$29,440,000.00</u>
Surplus/Deficit		<u><u>-0-</u></u>

B. Repayments to the United States Treasury

1. Repayment of Interest Received on Federal Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states that investment of public funds or any other use of public funds to generate income is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

Upon receipt of payment from the fund, the Committee opened an investment account, and transferred a substantial portion of the payment into that account. Through 2/26/81, the Committee earned interest income on the account totaling \$175,809.21.

In addition, the Committee purchased four (4) certificates of deposit, on which interest income was earned totaling \$14,975.78.

On this income, the Committee paid \$85,542.22 in taxes through 12/31/80, and will pay an estimated \$2,072.87 in taxes for the period 1/1/81 to 2/28/81. Therefore, the net interest income of \$103,169.90 is repayable to the U.S. Treasury.

In the interim audit report, the Audit staff recommended that absent a showing to the contrary, the Commission determine that \$103,169.90 in income, net of taxes, derived through the investment of Federal funds, be repayable in full to the United States Treasury.

In its response of June 29, 1981, the Committee did not provide any adjustments to the calculation of income, or any additional information on the estimated taxes.

Recommendation

The Audit staff recommends that the Commission determine the \$103,169.90 in estimated net interest income to be repayable in full within 30 days of receipt of this report, to the United States Treasury. During the 30 days, the Committee may submit legal and factual materials to demonstrate that repayment is not required.

2. Repayment of Contributions to the General Fund

Section 9007(b)(3) of Title 26 of the United States Code states, in part, that if the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses, it shall notify such candidates of the amount and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

Though testing of campaign contributions disclosed no material problems, in the course of examining documentation, the Audit staff identified two contributions to the General fund totaling \$923.60. One contribution was made in-kind when a vendor reduced a labor bill by the amount of \$800, noted on the face of the invoice as an intended contribution by the vendor. The other contribution consists of a personal check from an individual described in a memo from the contributor as a reimbursement paid from the individual's personal funds, to provide funds for the Committee payment of a bill from his business.

In the interim audit report the Audit staff recommended that absent a showing to the contrary, the Commission determine that these two (2) contributions totaling \$923.60 be determined as non-qualified campaign contributions, and be repaid in full to the United States Treasury.

In its June 29, 1981 response, the Committee did not provide any information to show that the contributions are qualified campaign contributions.

Recommendation

The Audit staff recommends that the Commission determine these two (2) contributions totaling \$923.60 to be non-qualified campaign contributions and repayable in full within 30 days of receipt of this report, to the United States Treasury. During the 30 days, the Committee may submit legal and factual materials to demonstrate that repayment is not required.

3. Apparent Non-Qualified Campaign Expenditures

Section 9007(b)(4) of Title 26 of the United States Code states, in part, that if the Commission determines that any amount of any payment made to the eligible candidates of a political party under Section 9006 was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, or to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used to defray such qualified campaign expenses, it shall notify such candidate of the amount so used, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

Section 9002.11 of Title 11 of the Code of Federal Regulations outlines the conditions for an expenditure to be a qualified campaign expense, which include the following:

1) It must be incurred to further a candidate's campaign for the election to the office of President or Vice President of the United States, and incurred by or on behalf of such candidate or his authorized committee, or any other agent or person authorized or requested to make an expenditure by the candidate or his agents.

2) It must be incurred within the expenditure report period as defined by 11 C.F.R. 9002.12 or incurred before the beginning of such period in accordance with 11 C.F.R. 9003.4 to the extent such expense is for property, services or facilities to be used during such period.

Though a sample review of the Committee's General fund operating account expenditures disclosed no material problems concerning qualified campaign expenditures the Audit staff noted two (2) disbursements for goods and services totaling \$2,074.70 which were incurred by and benefitted the Carter/Mondale Presidential Committee for the primary campaign.

a) One disbursement in the amount of \$457.20 on September 11, 1980, was for computer reprogramming services performed, according to the dates on the invoice, on April 7-8-9. (No year is given). The date of the invoice and the nature of the service indicate that the expenditure was related to the aggregation of contributions, and therefore attributable to the primary campaign.

In their response of June 29, 1981, the Committee did not provide any additional information to show that this disbursement was not attributable to the primary campaign.

b) On September 15, 1980, a disbursement of \$1,897.50 was made from the General fund for printing and reproduction costs related to the purchase of business cards and labels. All but \$280.00 was billed to the primary committee by the vendor. Therefore, it appeared that \$1,617.50 in primary related bills was paid by the General election committee.

In the June 29, 1981 response the Committee provided information demonstrating that of the \$1,617.50 in apparent primary expenditures paid by the General fund, \$804.00 was for Re-election Committee mailing labels and business cards. The adjusted amount attributable to the primary campaign is therefore \$813.50.

After reviewing additional documentation submitted by the Committee on June 29, 1981, the Audit staff adjusted the total amount of primary campaign expenditures paid by the General fund to \$1,270.70.

Recommendation

The Audit staff recommends that the Commission determine these two (2) expenditures totaling \$1,270.70 to be non-qualified campaign expenditures and repayable in full to the United States Treasury. The Committee will have 30 days after receipt of this report to submit legal and factual materials to demonstrate that repayment is not required.

4. Matters Referred to the Office of General Counsel

A certain other matter noted during the audit was referred to the Commission's Office of General Counsel for consideration on May 20, 1981.

Summary of Repayments to the U.S. Treasury

Interest received on Federal Funds (net of taxes)		\$103,169.90
Contributions to the General Fund		<u>923.60</u>
Apparent Non-Qualified Campaign Expenditures		
Reprogramming Costs	\$ 457.20	
Printing Costs	<u>813.50</u>	<u>1,270.70</u>
Total Repayment <u>6/</u>		<u>\$105,364.20</u>

6/ As previously noted, a certain other matter has been referred to the Office of General Counsel. Upon resolution of this matter, a further repayment may be required.

Statement of Net Outstanding Qualified
Campaign Expenses at 12/4/80

Attachment I

Cash:

General Fund Accounts	\$ 634,925.60	
D.C. Court Attachment	46,480.23 <u>1/</u>	
Total Adjusted Cash:		681,405.83

Capital Assets at Fair Market Value		64,145.21
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Receivables:

Payroll Due From Compliance Fund	2,431.64 <u>2/</u>	
Refunds Due to Committee	623,914.75	
Interest Receivable	4,723.64 <u>3/</u>	
Receivable From Primary Committee	<u>1,121.60</u> <u>4/</u>	
Total Receivables		632,191.63

Overhead to be Allocated		<u>32,711.95</u> <u>5/</u>
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Total Assets		1,410,454.62
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Liabilities:

Debts Owed by the Committee	1,052,459.21	
Tax on Interest Income	87,615.09	
Repayment of Interest to U.S. Treasury	103,169.90 <u>6/</u>	
Due to Compliance Fund	116,549.50 <u>7/</u>	
Refund to Primary Committee for General Election Payments	<u>27,132.55</u> <u>8/</u>	
Total Outstanding Debt		1,386,925.25

Estimation of Winding Down Costs:

Rent - 4/1/80 - 4/1/82	523.20	
Payroll - 12/4/80 - 8/1/81	21,917.77	
Storage Cost - 1 year	499.80	
Supplies - 1 year	235.44	
Telephone - 1 year	<u>353.16</u>	

Total Winding Down Costs		23,529.37
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Total Liabilities		(1,410,454.62)
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Net Surplus/Deficit:		<u><u>-0-</u></u>
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Contingent Liabilities:

Unemployment Compensation	80,000.00 <u>9/</u>	
Disputed Invoice For		
Cambridge Survey Research	400,000.00 <u>10/</u>	
Debts Referred to DNC	<u>730,000.00</u>	

Total Contingencies:	1,210,000.00	
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Estimation of Maximum Excess Due to Realization of Contingencies

Remaining Overhead Allowable	329,440.42	
Total Contingencies*	<u>1,210,000.00</u>	
Possible Excess	(880,559.58)	

See footnotes on the next page

Footnotes

- 1/ Attachment of funds concerning K Street lease, funds withdrawn from general election account, but dispute was with Carter/Mondale Presidential Committee, Inc.
- 2/ These checks were paid from general fund cash, but were compliance fund payroll expenses.
- 3/ Interest earned after 12/31/80 on investment of federal funds.
- 4/ See Finding III.A.5.
- 5/ The Audit staff calculated an allowable overhead adjustment amount of \$362,152.37. The Committee will allocate whatever portion of this amount is necessary to bring them to the limit and prevent a surplus or deficit repayment.
- 6/ Repayment of interest earned on federal funds as required by 11 C.F.R. 9004.5. See Finding IV.B.1.
- 7/ See Finding III.A. - Includes reimbursements required in III.A.2. (6,232.12), III.A.3. (25,484.80), and a portion of III.A.4. (23,264.43 + 61,568.05). Part of III.A.4. payroll amount is also included in estimated winding down payroll (16,247.77).
- 8/ General election related payments noted and reported in the post primary Carter/Mondale Presidential Committee, Inc. audit report as paid by the primary committee.
- 9/ The Committee did not pay state unemployment compensation, and will pay as necessary.
- 10/ Invoice received by the Committee is in excess of service level authorized by the Committee.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1981

MEMORANDUM

TO: Robert J. Costa

THROUGH: B. Allen Clutter
Staff Director

FROM: Charles N. Steele *CS*
General Counsel

SUBJECT: Final Audit Report - Carter/Mondale
Re-election Committee, Inc. - A-946

The Office of General Counsel has reviewed the final audit report regarding the Carter/Mondale Re-Election Committee, Inc. ("the Committee"). Based on the information in this report, we make the following comments. As to findings not mentioned herein, we agree with the auditors' conclusions.

Finding II. D. Compliance Fund Solicitation Notices.

The auditors were unable to review copies of fundraising materials which were used to solicit contributions to the Committee's legal and accounting compliance fund. The Committee has apparently disposed of the excess literature and has attempted to obtain examples. As the Committee cannot produce evidence that its solicitations contained notices in accordance with the statutory and regulatory requirements found at 2 U.S.C. § 441d(a)(1) and 11 C.F.R. § 9003.3(a)(1)(i)(A), the auditors have referred this matter as a MUR. It is the opinion of this Office, however, that without evidence to support a positive assertion that a violation occurred in this matter, such finding should not be pursued further in the compliance track. We would recommend no further action in this matter.

Finding III-A. Use of Compliance Funds

The Regulations at 11 C.F.R. § 9003.3(a)(2)(i)(E) allow the Committee to use private contributions in the Committee's legal and accounting compliance fund to make loans to its general election fund. Such loans may only be used to defray qualified campaign expenses incurred prior to the expenditure report period or prior to the receipt of federal funds. Such loans from the Compliance Fund are allowed provided that the funds are repaid to the Compliance Fund within 15 days after receipt of federal funds. (See 11 C.F.R. § 9003.4(b)(2).) The Regulations narrowly restrict the use of these private funds in order to maintain the integrity of the separate accounts.

The audit report gives details of several instances in which the Committee used its Compliance Fund to defray expenses incurred by the General Fund long after the receipt of federal funds. On November 13, 1980, the Compliance Fund paid a General Fund telephone bill of \$227,030.99. The Committee explained to the auditors that its General Fund monies were available but were in a savings account and less accessible. The Committee obtained the funds from savings to repay the Compliance Fund a month later.

The auditors also found that other General Fund expenses totaling \$57,824.19 for telephone bills and travel were paid by the Compliance Fund. The bulk of these payments were offset by General Fund payments for compliance activity. The balance of \$6,233.12 was repaid to the Compliance Fund in response to the Interim Audit Report recommendations.

In addition to the above expenditures, the auditors found that through apparent accounting errors, the Compliance Fund paid four General Fund expenditures totaling \$25,484.90 for the First Lady's travel, a dinner, a telephone deposit, and a reimbursement for "tactical press relations." Finally, the Compliance Fund assumed payment of all payroll and computer costs. Through the Committee's failure to allocate these costs, the Audit Division has found that the Compliance Fund paid \$77,815.82 of the General Fund's finance, budget and legal payroll and \$23,264.43 in computer rental costs which are allocable to the General Fund. None of these payments falls within the categories of allowable uses for Compliance Fund contributions as set forth in the regulations at 11 C.F.R. § 9003.3(a)(2)(i).

In none of these instances has the Committee presented proof that the expenditures made from the Compliance Fund were in fact compliance-related. Use of the Compliance Fund for general election payments during the expenditure report period

for the Committee's convenience disregards the regulation which strictly limits loans from the Compliance Fund and undermines the intent of public financing. As it appears that the Committee may have utilized Compliance Fund contributions in violation of the Act and Regulations, we do not believe that the Commission should take no further action as the auditors' recommend. Thus, we recommend that this matter be made part of the Matter Under Review.

Finding III. B. Reimbursement for Use of Government Conveyance

11 C.F.R. § 9004.7(b)(5) states that for an individual using government conveyance for campaign travel, "the candidate's authorized committee shall pay the appropriate government entity an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers... ." 11 C.F.R. § 9004.7(b)(5)(i) specifies the method of calculating payment based on operating costs divided by the number of passengers using the conveyance.

According to the auditors, the Committee calculated the cost of five tours made by the First Lady on government air transportation by means of a method not allowed by these general election regulations. Auditors estimate that the Committee's calculations based on first class commercial air fare plus a dollar could result in underpayments or overpayments to the government of more than \$5000 per tour. The Committee apparently does not dispute the requirement to reimburse the government for any underpayment resulting from the miscalculations. However, the Committee has been unable to obtain from the candidate's transition team the necessary records for these tours. Based on the amount of discrepancy apparently involved in this matter, we would concur that it be made part of the MUR.

Finding III. C. Documentation for Expenditure - General Fund

In its interim audit report, the Audit Division requested specific documentation from the Committee, beyond the canceled check, debit memos and contract already provided, which would support in detail expenditures by its media consultant, Rafshoon Communications, Inc. The Committee had contracted with Rafshoon "for the placement of all media advertising for the general election as well as for printing and production of collateral materials." In the contract, the Rafshoon agency further agreed to maintain and provide supporting documents from the media and vendor invoices for production and back-up for out-of-pocket expenses. The contract specified that such information would be available for auditing 60 days after the election.

Because the Rafshoon agency expenses total \$19,501,500, a sum which represents at least 67 percent of the campaign's total expenditures for the general election, this office, in our earlier analysis, argued in support of the recommendation that additional documents be required from the Committee to establish that expenditures made by the media consultant are indeed qualified campaign expenses.

The Committee contends that the requirements of the regulations are satisfied by a showing that the Committee actually made the disbursement followed by a brief statement of the purpose of the expenditure, such as the word "media". The regulation at 11 C.F.R. § 104.3(b)(4)(i)(A) does include the term "media" as an acceptable description of purpose and this term is mentioned in the Committee's contract with Rafshoon. However, despite the Committee's technical observance of the regulation, it is our concern that more than half of the Committee's expenses are supported by a few debit memos, a single canceled check and a contract.

11 C.F.R. § 9007.1 requires that "the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate, his or her authorized committee and agents of such candidates or committees." [Emphasis added.] 11 C.F.R. § 9003.5(a) requires candidates and their authorized committees to furnish the Commission with any evidence requested regarding qualified campaign expenses "made by a candidate, all authorized committees and all agents thereof." Rafshoon Communications, authorized to act on behalf of the Committee, can be considered an agent of the Committee and its activity for the candidate is thus subject to audit review.

The same regulation (§ 9003.5(a)) states that "the candidate shall include, as part of this evidence" [emphasis added] several forms of acceptable documentation specified therein. The regulation clearly authorizes the Commission to use its discretion in requesting additional documentation to demonstrate that particular disbursements constituted qualified campaign expenses. In this case, it is reasonable to require additional documents to support such a substantial percentage of the campaign's general election expenditures. Obtaining the documents would not prove burdensome as the Committee has only to enforce its contract with the Rafshoon agency which agreed to maintain the records and provide them for audit. The Committee's affidavit from its finance director concerning his opinion of the Rafshoon documents cannot be viewed as independent evaluation and thus does not constitute conclusive proof of the qualified nature of the campaign expenses at issue. Therefore, based on the foregoing analysis, we agree that this matter should become the subject of a MUR.

**III. Findings and Recommendations Related to Title 26
of the United States Code**

A. Apparent Prohibited Use of Compliance Funds

Section 9003.3(a)(2)(i)(A-E) of Title 11 of the Code of Federal Regulations establishes the permissible uses of contributions to the Compliance fund. They are as follows:

- 1) to defray the cost of legal and accounting services provided solely to ensure compliance;
- 2) to defray any civil or criminal penalties imposed pursuant to 2 U.S.C. 437g or 26 U.S.C. 9012;
- 3) to make repayments under 11 C.F.R. 9007.2;
- 4) to defray the cost of soliciting contributions to the Compliance fund; and
- 5) to be used as a loan to an account established pursuant to 11 C.F.R. 9003.4 to defray qualified campaign expenses prior to the receipt of federal funds.

The Committee has stated that early in their planning of the general election accounting system, two (2) general ledger inter-fund transaction accounts (a General fund and Compliance fund account) were established for the following reasons:

- 1) To reflect inter-fund loans permitted under 11 C.F.R. 9003.4(b)(2);
- 2) As a vehicle for disclosing anticipated accounting errors;
- 3) In the absence of final FEC regulations, the committee believed that loans from the Compliance fund to the General fund would be allowed, provided they were fully disclosed and reimbursed.

Throughout the campaign, a "Due-to-Compliance fund" ledger account was maintained to reflect disbursements which were paid from the Compliance fund, but were disclosed as General fund expenses. In addition, through expenditure testing, the Audit staff identified other General fund expenditures that were paid by the Compliance fund which were not reflected in the inter-fund account and appeared to be the result of accounting errors. Analysis of the general ledger account and a review of expenditure test items revealed the following:

1) On November 13, 1980, the Committee Compliance fund paid a telephone expenditure totaling \$227,030.99 for the General fund. This expenditure was recorded in the Due-to-Compliance fund account, reported in the appropriate General fund report, and the Compliance fund was reimbursed in approximately one (1) month.

2) The Compliance fund made nine (9) expenditures totaling \$57,824.19 for telephone and general travel expenses related to General fund activity, which were disclosed in General fund reports. These expenditures, recorded in the Due-to-Compliance fund account, were offset against the Due-to-General fund account which reflected a total of \$51,592.07 in General fund disbursements made for Compliance fund expenses. The net remaining portion due to the Compliance fund totals \$6,232.12.

3) The Committee made from the Compliance fund four (4) disbursements totaling \$25,484.90 for items which appear from review of expenditure documentation to be General fund expenses. The expenditures were for a campaign trip by the First Lady to Michigan, a December telephone deposit, a dinner at the Vice President's mansion, and a reimbursement of expenses described as for "tactical press relations." At the time of the interim audit report the expenditures had not been reimbursed.

4) During the review of Committee compliance payroll and computer costs, the Audit staff noted that 100% of the payroll for the finance, budget, and legal cost centers, and all computer costs were being paid by the Compliance fund. The Audit staff reviewed the duties and responsibilities of each individual in the finance, budget and legal departments, and through discussions with Committee officials, determined the percentage of time each individual worked on compliance related matters. When averaged and applied to the total payroll for the selected departments, the Audit staff determined that \$77,815.82 (\$61,568.05 pre December 4, 1980, and \$16,247.77 in wind down) in payroll should have been paid by the General fund.

The Audit staff also reviewed the uses of the computer system, and through discussions with committee personnel on the uses of reports produced by the system, and the frequency each was run, derived a percentage of compliance versus general operating use of the computer system. This percentage was then applied to the processing and development costs associated with the system. The Audit staff allocated the costs of processing computerized payroll by determining the portion of total payroll represented by compliance payroll, and then applying that percentage to the payroll processing costs. In this manner, the Audit staff determined that \$23,264.43 in computer rental and operation costs should have been paid by the general fund.

5) The Compliance fund made six (6) expenditures totaling \$1,121.60 related to payroll processing for the Carter-Mondale Presidential Committee, Inc. (primary campaign). These expenditures resulted when they were deducted by the vendor from an advance payment made by the Compliance fund for the general election campaign.

In the interim audit report, the Audit staff recommended that the Committee submit documentation to demonstrate that the expenditures were made solely for the purpose of ensuring compliance with the Act, or:

1) Reimburse the Compliance fund from the General fund for the unreimbursed portion of telephone and travel expenses totaling \$6,232.12.

2) Reimburse the Compliance fund from the General fund for the \$25,484.90 in General fund expenses paid by the Compliance fund because of accounting errors, and itemize the expenditures with an amendment to the 1980 General fund year-end report;

3) Reimburse the Compliance fund and itemize with an amendment to the year end General fund report an allocation of \$101,080.25 from the Compliance fund to the General fund for the General fund's share of computer costs and salaries for legal, finance and budget personnel; and

4) Seek reimbursement from the primary committee for Carter/Mondale Presidential Committee, Inc., expenditures totaling \$1,121.60 which were paid by the Compliance fund.

On June 29, 1981, the Committee submitted documentation showing that the following recommended actions had been taken:

1) The Compliance fund was reimbursed by the General fund for the unreimbursed portion of telephone and travel expenses totaling \$6,232.12.

2) The Compliance fund was reimbursed from the General fund for \$25,484.90 in General fund expenses, and the expenditures were itemized in an amendment to the April 10, 1981 Report.

3) The Compliance fund was reimbursed for the General fund's share of computer costs and salaries for legal, finance and budget personnel totaling \$101,080.25. The reimbursement was itemized with an amendment to the April 10, 1981 Report.

4) The Compliance fund was reimbursed by the primary committee for Carter/Mondale Presidential Committee, Inc. expenditures totaling \$1,121.60 which were paid by the Compliance fund.

Recommendation

The Audit staff recommends that no further action be taken.

B. Reimbursement For Use of Government Conveyance

Section 9004.7(b)(5) of Title 11 of the Code of Federal Regulations states, if any individual, including a candidate, uses government conveyance or accommodations paid for by a government entity for campaign related travel, the candidates' authorized committee shall pay the appropriate government entity an amount equal to that portion of the actual cost of the conveyance or accommodations which is allocable to all passengers, including the candidate, travelling for campaign purposes.

Section 9004.7(b)(5)(i) provides that the calculation of the reimbursement shall be determined by dividing the total operating cost for the conveyance by the number of passengers.

During the campaign, the First Lady frequently used government air transportation for campaign related activity. Though required to use the actual cost of the trip in the determination of the amount to be reimbursed to the government, the campaign was billed by the White House Military Office for transportation costs calculated using first class airfare plus one dollar (the president's travel was calculated correctly). The billings represent five (5) tours involving 43 stops. Though actual cost figures were not available to allow for a determination of the adequacy of the reimbursement for the First Lady's travel at the time of the audit fieldwork, the Audit staff is of the opinion that first class airfare plus one dollar does not approximate actual cost. 4/

4/ In billings prepared by the White House Military Office for tours undertaken by the President, both actual cost and first class airfare plus one dollar was provided. A comparison of these two methods for the president's travel indicates that the difference in method could result in committee overpayments, or underpayments of up to \$5,267.09 per tour.

The Audit staff recommended in the interim audit report that the Committee obtain from the White House Military Office an invoice for the five tours based on actual cost, and if necessary reimburse the government for any difference.

The committee agreed to request a reimbursement recalculation of the First Lady's tours by the White House Military Office, but at the time of the interim audit report had not received a new billing.

On June 29, 1981, the committee submitted to the Audit staff a memorandum dated May 7, 1981 stating that their inquiries to the White House had revealed that the required records were archived in Atlanta and could be retrieved through the Transition Office. The Committee has provided a copy of a letter dated June 28, 1981, to the Washington counsel for President Carter's Transition Office requesting the records of the First Lady's tours. The Transition Office had not replied at the time of the Committee's response.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel.

C. Documentation for Expenditures - General Fund

Section 9003.5 of Title 11 of the Code of Federal Regulations states in part that the candidate has the burden of proving that disbursements made by the candidate or any authorized committees are qualified campaign expenses, and that the candidate and his or her authorized committees shall obtain and furnish to the Commission at its request any evidence regarding qualified campaign expenses made by the candidate, all authorized committees and all agents thereof.

In the course of the audit, it was determined that the Committee made 11 disbursements totaling \$19,501,500.00 to a media vendor. The documentation for those disbursements consists of one (1) cancelled check for \$1,500.00, and ten (10) bank debit memo's representing \$19,500,000.00, in wire transfers to the vendor's bank account. Contemporaneous memoranda, consisting of 5 letters requesting wire transfers totaling \$14,600,000.00, were available but do not give a statement of purpose, nor do the debit memo's or the check. (Attachment I) The Committee has provided a statement of purpose in the form of a copy of the contract with the vendor, (Attachment II) in which the primary description of media services to be provided is a statement that the vendor "will contract for placement of all media advertising for the general election as well as for printing and production of collateral materials."

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel.

D. Repayment of Primary Committee Loan

Section 9003.4(4)(i) of Title 11 of the Code of Federal Regulations states, in part, that a general election candidate who has received federal funding under 11 CFR Part 9031, et seq., may borrow from his or her primary election campaign an amount not to exceed the residual balance projected to remain in the candidate's primary account(s), for purposes of funding qualified campaign expenses prior to the receipt of Federal funds under 11 CFR 9005, provided reimbursement is made to the primary campaign within 15 days of receipt of such funds.

In the post-primary audit report of the Carter/Mondale Presidential Committee, Inc. (primary committee), the Audit staff identified 48 expenditures totaling \$27,131.55 which were general election related, and paid for by the primary committee. 5/ Since the primary committee was, at that time, in a deficit position, it appears that the general election committee could not have reasonably expected a surplus from which to borrow.

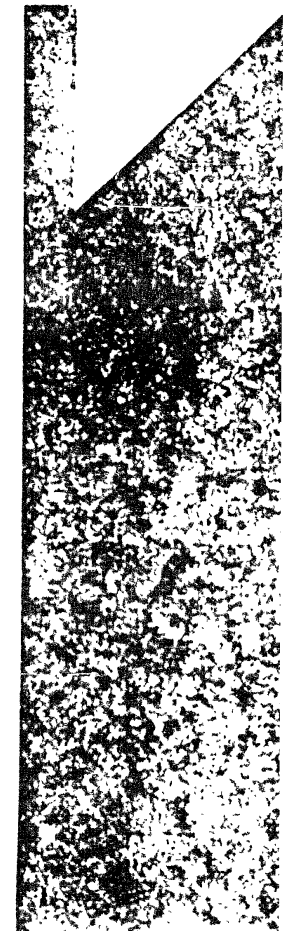
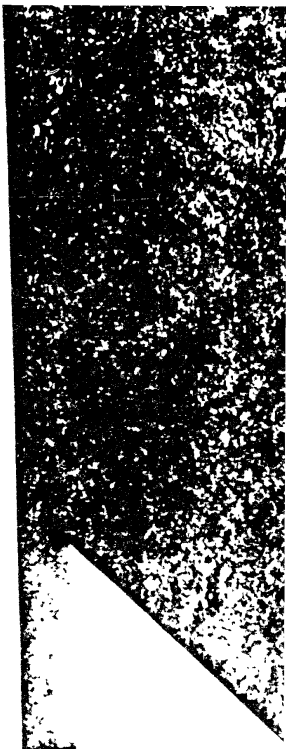
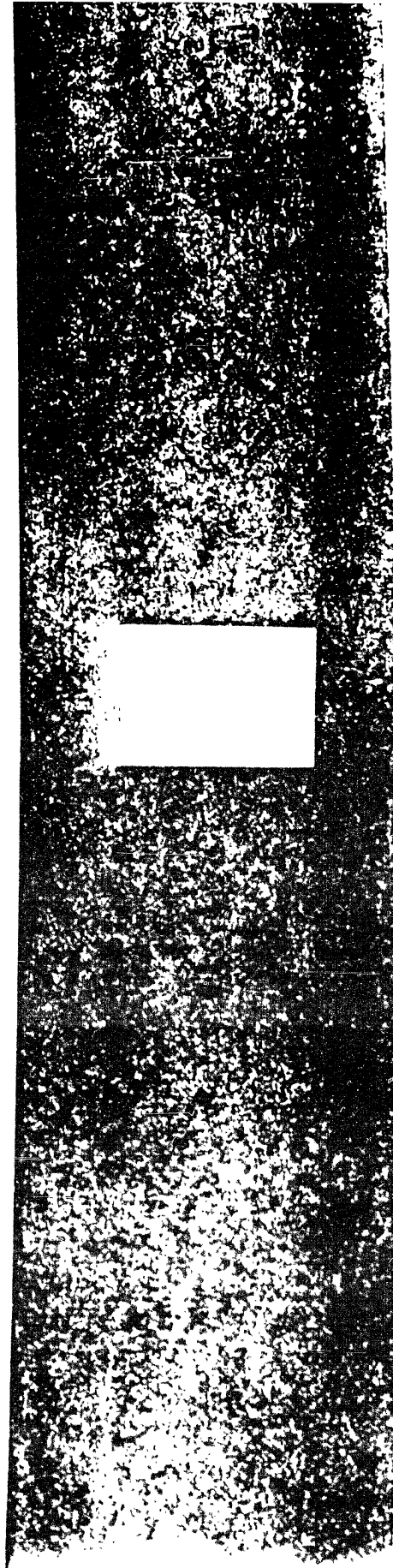
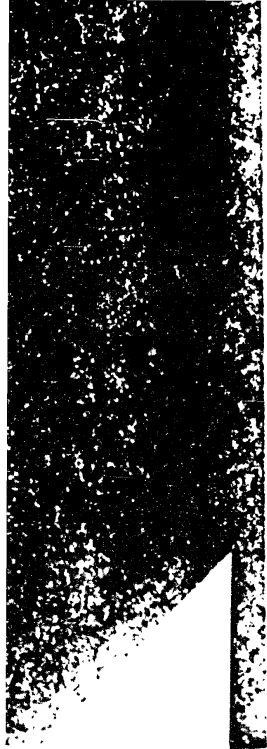
The Audit staff recommended that absent a showing to the contrary, within 30 days of receipt of the interim report, the general election campaign restore to the primary campaign the amount of \$27,131.55.

On June 29, 1981, the Committee submitted to the Audit staff a copy of check #4078 dated June 17, 1981 from the General fund to the primary campaign.

Recommendation

The Audit staff recommends that no further action be taken.

5/ This matter was addressed in the final audit report on the Carter/Mondale Presidential Committee, Inc. In that report, the Commission required the primary committee to repay the \$5,947.82 in expenditures made prior to the candidates date of ineligibility to the U.S. Treasury. The remaining expenditures made after the candidate's date of ineligibility totaling \$21,183.73, were deducted from the candidate's matching fund entitlement.



Public Record



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1982

MEMORANDUM

TO: FRED EILAND
PRESS OFFICER

FROM: BOB COSTA *RJC*

SUBJECT: PUBLIC ISSUANCE OF AN ADDENDUM TO
THE FINAL AUDIT REPORT OF THE
CARTER/MONDALE RE-ELECTION COMMITTEE, INC.
AND SUBSEQUENT REPAYMENT

Attached please find a copy of an addendum to the audit report of the Carter/Mondale Re-Election Committee, Inc. ("the Committee"), and a receipt for the additional repayment requested therein. The addendum was approved on January 19, 1982, and the check was received on February 9, 1982.

The Committee was informed by letter of the January 19, 1982 decision, and the addendum may be released to the public as of today, February 10, 1982.

Attachments as stated



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

January 5, 1982

MEMORANDUM

TO: COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: ADDENDUM TO THE FINAL AUDIT REPORT
OF THE CARTER/MONDALE RE-ELECTION
COMMITTEE, INC.

I. Summary of Issue and Recommendations

On September 25, 1981, the Audit staff received a check from the Carter/Mondale Re-election Committee, Inc. ("the Committee") for \$82,876.31. The check, representing the repayment of Federal funds pursuant to 2 U.S.C. 9007 is \$4,355.71 short of the amount calculated as repayable by the Audit staff. The Audit staff recommends that the attached letter be sent to the Committee requesting repayment of the remaining \$4,355.71. This matter is being circulated on a tally vote basis. Should an objection be received, it is recommended that this matter be placed on the next Executive Session Agenda.

II. Background

On August 14, 1981, the Committee received the final audit report requiring the repayment of \$105,364.20 within 30 days of receipt of the report. The repayment consisted of:

- 1) \$103,169.90 in interest (net of income taxes) received on the investment of federal funds (pursuant to 11 C.F.R. 9007.2(a)(6));
- 2) \$923.60 in contributions to the General Fund (pursuant to 11 C.F.R. 9007.2(a)(3)); and
- 3) \$1,270.70 in apparent non-qualified campaign expenses (pursuant to 11 C.F.R. 9007.2(a)(4)).

MEMORANDUM TO THE COMMISSIONERS

Page 2

The Committee's 30 day period in which to repay, request an extension, or submit legal and factual materials to dispute the repayment, ended on September 14, 1981. On September 18, 1981, the Audit staff received a check from the Committee, which was subsequently returned to the Committee at their request, due to errors in their tax calculation.

In September, the Audit staff conducted further fieldwork and revised the interest repayment calculation for the receipt of additional interest, and federal and state income taxes paid on the interest, thereby reducing the repayment to \$87,458.63.

On September 25, 1981, a check for \$82,876.31 (\$4,582.32 short of the required repayment) was received from the Committee. No additional documentation was submitted to explain the difference in payment, or dispute the original repayment amounts. The Audit staff contacted the Committee and through discussions with the Committee's former Director of Finance it was determined that the difference represents the value of certain interest and penalties assessed by the Internal Revenue Service for late payment of taxes, the value of which was deducted from the repayment. Since both payments were made to the General Fund of the U.S. Treasury, the Committee was of the opinion that the value of the interest and penalties should be deducted from the interest repayment calculated by the Audit staff to avoid a duplication of payment.

Support For The Recommendation

In its review of the situation, the Office of General Counsel has determined that the value of the interest paid on the tax can be deducted, thereby reducing the Audit staff's repayment calculation by \$226.61. However, penalties paid by the Committee should not be considered as Federal, State or local income taxes for purposes of 11 C.F.R. 9004.5 or 11 C.F.R. 9007.2(a)(6), and therefore should not be offset against the investment income in arriving at a repayment. Therefore, the repayment was reduced from \$87,458.63, to \$87,232.72.

In partial payment of that amount, on September 25, 1981, the Audit staff received a check from the Committee for \$82,876.31. The Audit staff recommends that the attached letter be sent to the Committee acknowledging receipt of the payment and requesting the balance (\$4,355.71) within 15 days.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 20, 1982

Mr. S. Lee Kling
Carter/Mondale Re-election Committee, Inc.
4710 Bethesda Avenue, Suite #302
Bethesda, Maryland 20814

Dear Mr. Kling:

On August 14, 1981, the Carter/Mondale Re-election Committee, Inc ("the Committee") received the final audit report which provided the Committee 30 days in which to respond to the repayment determination. During that 30 day period, additional fieldwork was conducted by the Audit staff, wherein additional federal and state income tax payments made by the Committee were reviewed. Since payment of income taxes are deductible from gross income (investment) for purposes of determining the amount repayable pursuant to 11 C.F.R. 9007.2(a)(6), the total repayment amount (as noted in the Final Audit Report) was reduced from \$105,364.20 to \$87,458.63.

On September 25, 1981, the Audit staff received a check, in the amount of \$82,876.31, which was drawn on a Committee depository and made payable to the U.S. Treasury. It is my understanding, based on discussions between Mr. Larry Hayes and Mr. Glen Buco of the Commission's Audit staff, that the \$4,582.32 difference represents certain penalties plus interest assessed by the Internal Revenue Service for late payment of taxes. Although the Commission's Regulations recognize the appropriateness of subtracting any income taxes paid in arriving at the amount repayable from the investment of public funds, there is no provision which permits the subtraction of any penalties assessed by the Internal Revenue Service for late payment of taxes.

Mr. S. Lee Kling
Carter/Mondale Re-Election Committee, Inc.

Page 2

Therefore, the Commission has determined that the penalties assessed for late payment of taxes are not appropriate offsets to interest income. However, the Commission will allow the Committee to deduct interest paid from the repayment to the U.S. Treasury. Accordingly, the repayment has been reduced to \$87,232.02, and you are advised to submit a check in the amount of \$4,355.71 made payable to the Bureau of Government Financial Operations to the Audit staff within 20 days of receipt of this notice in order to fully comply with the repayment determination of the final audit report, as adjusted.

Should you have any questions, please contact Glen Buco of my staff at 523-4155 or toll free at (800) 424-9530.

Sincerely,



Robert J. Costa
Assistant Staff Director
for the Audit Division

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



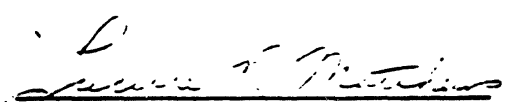
FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

February 10 , 1982

Received from the Federal Election Commission, a check #1820 dated February 5, 1982, drawn on the account of the Carter/Mondale Re-Election Committee Inc. Compliance Account in the amount of \$4,355.71 for deposit into the General Fund of the U.S. Treasury pursuant to 26 U.S.C. 9007(c). This amount represents a repayment made pursuant to 11 C.F.R. 9007.2(a) (4) and (6).



For Federal Election Commission



For U.S. Treasury, Bureau
of Government Financial
Operations



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 # 1389.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.

3 : 0 2 0 1 5 2 5





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 # 1284.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.

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