



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

April 10, 2002

**MEMORANDUM**

TO: THE COMMISSIONERS

THROUGH: JAMES A. PEHRKON  
STAFF DIRECTOR *JAP*

ROBERT J. COSTA  
DEPUTY STAFF DIRECTOR *AK*

FROM: JOSEPH F. STOLTZ *JFS*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

RUSS BRUNER *RB*  
AUDIT MANAGER

RHONDA SIMMONS *RS*  
LEAD AUDITOR

SUBJECT: REPORT OF THE AUDIT DIVISION ON BILL BRADLEY FOR  
PRESIDENT, INC.

**AGENDA ITEM**  
For Meeting of: 4-18-02  
**SUBMITTED LATE**

Attached for your approval is the Final Audit Report on Bill Bradley for President, Inc.

**Recommendation**

The Audit staff recommends that the report be approved.

Attached for your review and approval is the subject Audit Report along with a legal analysis provided by the Office of General Counsel and the Committee's response to the Preliminary Audit Report. There are no disagreements between the offices with respect to the issues in the report.

The Audit staff recommends that this report be placed on the agenda for the Open Meeting Session of April 18, 2002.

Should you have any questions, please contact Rhonda Simmons or Russ Bruner at 694-1200.

Attachments:

Report of the Audit Division on Bill Bradley for President, Inc.

Legal Analysis, dated April 5, 2002

Committee response to Preliminary Audit Report

Attachment as stated



FEDERAL ELECTION COMMISSION  
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***REPORT OF THE AUDIT DIVISION  
ON  
BILL BRADLEY FOR PRESIDENT, INC.***

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of Bill Bradley for President, Inc. (BBFP). The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states, "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." Also, Section 9039(b) of Title 26 of the United States Code and Section 9038.1(a)(2) of Title 11 of the Code of Federal Regulations state that the Commission may conduct other examinations and audits from time to time, as it deems necessary.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the campaign has materially complied with the limitations, prohibitions, and disclosure requirements of the Federal Election Campaign Act of 1971 (FECA), as amended.

**B. AUDIT COVERAGE**

The audit covered the period from BBFP's first bank transaction, December 4, 1998 through May 31, 2000. BBFP reported an opening cash balance of \$-0-, total receipts of \$50,442,496, total disbursements of \$49,104,335 and a closing cash balance of \$1,351,631.<sup>1</sup> In addition, a limited review of BBFP's financial activity and disclosure reports for the period from June 1, 2000 through January 31, 2002 was conducted to determine BBFP's matching fund entitlement based on its financial position.

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<sup>1</sup> The amounts do not foot as the result of amendments filed during 1999 which changed the ending cash for December 31, 1999. This difference (\$13,407) was not carried forward into 2000.

### **C. CAMPAIGN ORGANIZATION**

The Bill Bradley for President Exploratory Committee (the Exploratory Committee) registered with the Federal Election Commission on December 4, 1998 as the principal campaign committee for Bill Bradley (the Candidate), a candidate for the Democratic Party's nomination for the office of President of the United States. On February 5, 1999, the Exploratory Committee's name was changed to Bill Bradley for President, Inc.

BBFP currently maintains its headquarters in Princeton, New Jersey. The Treasurer for BBFP is Theodore V. Wells, Jr. On January 12, 1999, Peter D. Nichols became Assistant Treasurer and continues to serve in that capacity.

BBFP maintained depositories in Newark, Princeton and Roseland, New Jersey. To handle its financial activity, BBFP utilized 28 bank accounts. From these accounts the campaign made approximately 22,000 disbursements. In addition, BBFP received contributions totaling about \$29,654,000, from approximately 103,100 contributors. BBFP also received loans totaling \$6,880,235, \$1,564,840 in offsets to expenditures, and \$469,338 in interest and other receipts.

In addition to the above, the Candidate was determined eligible to receive matching funds on March 25, 1999. BBFP made 9 matching fund requests totaling \$12,597,738 and received \$12,462,047 from the United States Treasury. This amount represents 73.78% of the \$16,890,000 maximum entitlement that any candidate could receive. For matching fund purposes, the Commission determined that Bill Bradley's candidacy ended on March 9, 2000, the date on which he ceased to be an active candidate for the nomination. On June 15, 2000, BBFP received its final matching fund payment to defray expenses and to help defray the cost of winding down the campaign.

### **D. AUDIT SCOPE AND PROCEDURES**

A matter noted during the audit is pending before the Commission in another context. When the Commission concludes its consideration of this matter, information will be made public in accordance with Commission procedures.

In addition to a review of expenditures made by BBFP to determine if they were qualified or non-qualified campaign expenses, the audit of BBFP covered the following general categories:

1. the receipt of contributions or loans in excess of the statutory limitations;
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;

3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as the completeness and accuracy of the information disclosed;
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.);
5. proper disclosure of campaign debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records;
7. adequate recordkeeping for campaign transactions;
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by the Committee, to disclose its financial condition and to establish continuing matching fund entitlement (see Findings III.A. and III.B.);
9. BBFP's compliance with spending limitations; and,
10. other audit procedures that were deemed necessary in the situation (see Findings II. and III.C.).

As part of the Commission's standard audit process, an inventory of campaign records is normally conducted prior to the audit fieldwork. This inventory is conducted to determine if the committee's records are materially complete and in an auditable state. The records were found to be materially complete and the audit fieldwork commenced.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in the audit report in an enforcement action.

## **II. FINDING AND RECOMMENDATION - NON-REPAYMENT MATTER**

### **ITEMIZATION OF RECEIPTS AND DISBURSEMENTS**

Sections 434(b)(3)(F) and (G) of Title 2 of the United States Code state, in part, that each report under this section shall disclose the identification of each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt; and the identification of each person who provides any dividend, interest, or other receipt to the reporting committee in an

aggregate value or amount in excess of \$200 within the calendar year<sup>2</sup>, together with the date and amount of such receipt.

Furthermore, Section 434(b)(4)(D) and (E) of Title 2 of the United States Code state, in part, that each report under this section shall disclose for an authorized committee, repayment of loans made by or guaranteed by the candidate; and repayment of all other loans.

1. Interest Received:

A review of interest received by BBFP identified \$25,712 of interest earned on its investment accounts that was neither reported nor itemized in its disclosure reports.

BBFP representatives reviewed the items and recognized that the amounts were not reported and itemized. They explained that, "[t]he omission of earned interest from the Committee's reports for the third and fourth quarters of 1999 was the result of an administrative oversight. Factors that contributed to the committee's error include changes in the format of bank statements, and efforts by the committee to report interest on an accrued basis as opposed to a cash basis. (Note: Both missed interest receipts represent interest earned in one FEC reporting period, but received in another. In preparing the reports, it was thought that the missed interest had been picked-up in the preceding report). The Committee acknowledges receipt of the interest." The representatives agreed to file amended reports.

2. Offsets to Operating Expenditures:

During the review of bank activity and Press Plane use, it was discovered that several deposits comprised of reimbursements from members of the press had not been reported nor itemized. Deposits totaling \$130,594 during March of 2000 had not been entered into BBFP's database and thus were not reported. BBFP's treasurer told the Audit staff that "the error occurred at a time when a large volume of press reimbursement transactions was being processed and a large batch of press receipts was not entered into the committee's FEC reporting system. Because of this, the receipts were not reported. The committee acknowledges an under-reporting of press reimbursement receipts." BBFP representatives agreed to file amended reports to reflect the omitted transactions.

3. Interest Paid:

The Audit staff reviewed all loans obtained by BBFP and determined that three interest payments amounting to \$75,024 had not been itemized on Schedule B as required. BBFP's treasurer stated, "[t]he committee failed to correctly report interest paid on a loan taken against federal matching fund receivables. Based on the manner in which the bank released escrowed funds as receivables were paid by the

<sup>2</sup> Effective for reporting periods after December 31, 2000, this subsection is amended to require authorized committees to report on an election cycle basis rather than by calendar year.

federal government, the committee treated payable interest as a part of the total loan. This was an error. The committee acknowledges incurring additional loan expense." The Committee representatives agreed to amend the reports to reflect the transactions.

All of the above matters were discussed with BBFP representatives at the conference held at the end of fieldwork and again at the exit conference.

In the Preliminary Audit report (PAR) it was recommended that BBFP file amended disclosure reports to correct the errors noted. In response to this recommendation the requested amended reports were filed.

### **III. FINDINGS AND RECOMMENDATIONS – AMOUNTS DUE TO THE U.S. TREASURY**

#### **A. DETERMINATION OF NET OUTSTANDING CAMPAIGN OBLIGATIONS**

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 calendar days after the candidate's date of ineligibility, the candidate shall submit a statement of net outstanding campaign obligations which reflects the total of all outstanding obligations for qualified campaign expenses plus estimated necessary winding down costs.

In addition, Section 9034.1(b) of Title 11 of the Code of Federal Regulations states, in part, that if on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR 9034.5, that candidate may continue to receive matching payments provided that on the date of payment there are remaining net outstanding campaign obligations.

The Candidate's date of ineligibility (DOI) was March 9, 2000. The Audit staff reviewed BBFP's financial activity through January 31, 2002 (plus projections through December 31, 2002), analyzed winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations that appears below:

STATEMENT OF NET OUTSTANDING CAMPAIGN OBLIGATIONS  
As of March 9, 2000  
As Determined at 1/31/02

**ASSETS**

Cash In Bank	\$2,877,528	
Accounts Receivable:	1,632,515	
Capital Assets	7,200	
Other Assets	\$5,208	
Total Assets	<u>          </u>	<u>\$4,522,449</u>

**OBLIGATIONS**

Loan Payable	6,880,235	
Disbursements for Qualified Campaign Expenses and Winddown through January 31, 2002	5,521,768 (a)	
Remaining Accounts Payable as of 1/31/2002	27,961	
Winding Down Costs 2/01/02 and later: Estimated	135,191 (c)	
Amount Payable to U.S. Treasury:		
Stale-dated Checks	<u>28,085 (b)</u>	
Total Obligations	<u>          </u>	<u>\$12,593,241</u>

**NET OUTSTANDING CAMPAIGN OBLIGATIONS**

(\$8,070,792)

**FOOTNOTES TO NOCO**

- (a) The Accounts Payable figure has been adjusted for non-qualified campaign expenditures paid after the candidate's date of ineligibility. No mention of non-qualified expense is included in Preliminary Audit Report because the majority were paid after all Federal funds had been expended.
- (b) BBFP's Cash In Bank and Accounts Payable for Qualified Campaign expenses have been adjusted to reflect Pre and Post date of ineligibility stale-dated checks.
- (c) Some estimates were used in computing this amount; the Audit staff will review BBFP's disclosure reports and records to compare the actual figures with the estimated figures. Should actual disbursements depart significantly from estimated amounts, a greater or lesser repayment could result.



Section 9034.1(b) of Title 11 of the Code of Federal Regulations states that if on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments for matchable contributions received and deposited on or before December 31 of the Presidential election year provided that on the date of payment there are remaining net outstanding campaign obligations, i.e., the sum of contributions received on or after the date of ineligibility plus matching funds received on or after the date of ineligibility is less than the candidate's net outstanding campaign obligations. This entitlement will be equal to the lesser of: (1) the amount of contributions submitted for matching; or (2) the remaining net outstanding campaign obligations.

Section 9038.2(b)(1)(i) of Title 11 of the Code of Federal Regulations states, the Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such excessive payments include, but are not limited to, the following: payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding obligations as defined in 11 CFR §9034.5.

The Statement of Net Outstanding Campaign Obligations as of March 9, 2000, presented in Section III.A. above, shows BBFP to be in a deficit position in the amount of \$8,070,792. Presented below are adjustments for funds received after March 9, 2000, based on the most current financial information available as of January 31, 2002<sup>3</sup>:

<b>Net Outstanding Campaign Obligations (Deficit) as of 3/9/00</b>		<b>(\$ 8,070,792)</b>
<b>Private Contributions Received 3/10/00 to 6/15/00</b>	<b>5,754</b>	
<b>Matching Funds Received 3/10/00 to 5/15/00</b>	<b><u>7,872,931</u></b>	<b><u>7,878,685</u></b>
<b>Deficit as of 5/15/00</b>		<b>(\$192,107)</b>
<b>Matching Funds Received 6/15/00</b>		<b><u>206,162</u></b>
<b>Total Matching Funds in Excess of Entitlement</b>		<b><u>\$14,055</u></b>

BBFP has received matching fund payments in excess of its entitlement. This issue was discussed at the exit conference and copies of workpapers were provided. BBFP acknowledged that it appeared that some amount would be repayable, subject to their review of the workpapers.

In the PAR, BBFP was advised to provide evidence that it had not received matching fund payments in excess of entitlement. Absent such evidence, it was stated that the Audit staff would make a recommendation that the Commission determine that \$22,038 was repayable to the United States Treasury.

<sup>3</sup> Audit staff concluded fieldwork on March 30, 2001, but subsequent to that date received bank statements, disclosure reports, and documentation for BBFP activity covering April 1, 2001, through January 31, 2002.

Subsequent to the receipt of the PAR, BBFP sent additional documentation for receipt and disbursement activity covering the period July 1, 2001, through January 31, 2002. The Audit staff up-dated the NOCO and as shown in the calculation presented above, determined that a total of \$14,055 in matching funds in excess of entitlement has been received.

In response to the report, BBFP's Assistant Treasurer stated, "the committee believes that federal funds in excess of entitlement may have been received. The committee is prepared to make a repayment to the United States Treasury for such excess upon reconciliation of the committee's Net Outstanding Campaign Obligations (NOCO) and the determination of an actual excess amount."

### **Recommendation**

The Audit staff recommends that the commission determine that BBFP has received matching funds in excess of entitlement in the amount of \$14,055 and that an equal amount is repayable to the U.S. Treasury.

#### **C. STALE-DATED CHECKS**

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission. The committee shall inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff identified 127 stale-dated checks totaling \$12,469 issued by BBFP from its Operating Account, 48 stale-dated checks totaling \$15,056 from its Contribution Refund account and 9 stale-dated checks totaling \$5,408 issued from its Payroll Account. The checks were dated between June 30, 1999 and October 8, 2000 and had not cleared the bank as of June 30, 2001.

The matter was discussed at the conference held subsequent to the close of fieldwork and at the exit conference. BBFP was provided detailed schedules of the stale-dated checks. BBFP representatives agreed to pay these amounts to the U.S. Treasury.

In the PAR, the Audit staff recommended that BBFP provide evidence that the checks are not outstanding (i.e., copies of the front and back of the negotiated checks), or that the outstanding checks are voided and that no obligation exists. The PAR explained that absent the provision of such evidence, the Audit staff would recommend that BBFR was required to pay \$32,933 to the U.S. Treasury.

Subsequent to the receipt of the PAR, BBFP submitted additional information with respect to some of the outstanding checks. The Audit staff up-dated the list of outstanding checks and determined that a total of \$28,085 (126 - \$12,162 - Operating Account, 39 - \$10,746 - Contribution Refund account and 8 - \$5,177 - Payroll account) in stale-dated checks remains. In response to the recommendation in the PAR, BBFP submitted a check in the amount of \$28,085 payable to the U.S. Treasury.

**IV. SUMMARY OF AMOUNTS DUE TO THE U.S. TREASURY**

Finding III.B.	Federal Funds Received in Excess of Entitlement	\$ 14,055
Finding III.C.	Stale-Dated Checks	<u>28,085</u>
	Total	42,140
	Less Amount Paid In Response to the PAR	<u>(28,085)</u>
	Remaining Amount Due to U.S. Treasury	<u>\$14,055</u>



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

April 5, 2002

**MEMORANDUM**

TO: Robert J. Costa  
Deputy Staff Director

THROUGH: James A. Pehrkon  
Staff Director *[Signature]*

FROM: Lawrence H. Norton *LHN by GAF*  
General Counsel

Gregory R. Baker *GAB*  
Acting Associate General Counsel

Lorenzo Holloway *LH*  
Assistant General Counsel

Albert R. Veldhuyzen *AV*  
Attorney

SUBJECT: Final Audit Report on Bill Bradley for President, Inc. (LRA #535)

The Office of General Counsel has reviewed the proposed Final Audit Report ("Report") on Bill Bradley for President, Inc. submitted to this Office on March 25, 2002. This Office agrees with the findings in the proposed report and we have no further comments to add to the proposed Report.<sup>1</sup> If you have any questions, please contact Albert R. Veldhuyzen, the attorney assigned to this audit.

<sup>1</sup> This Office recommends that the Commission consider the proposed Final Audit Report in open session because this document does not include matters exempt from public disclosure. See 11 C.F.R. § 2.4.

# Bill Bradley

## For President

January 31, 2002

Robert J. Costa  
Deputy Staff Director  
Audit Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Dear Mr. Costa:

Please be advised that the Federal Election Commission's (FEC) Preliminary Audit Report (PAR) of Bill Bradley for President, Inc. has been reviewed. This letter represents an initial response to the PAR.

The committee's position with respect to each recommendation identified in the PAR is noted below.

*Recommendation 1(1) - Itemization of Receipts and Disbursements - Interest Received*

The committee acknowledges receipt of bank interest that was not reported. The committee is amending its reports to include omitted transactions.

*Recommendation 1(2) - Itemization of Receipts and Disbursements - Offsets to Operating Expenditures*

The committee acknowledges an under-reporting of press reimbursement receipts. The committee is amending its reports to include omitted transactions.

*Recommendation 1(3) - Itemization of Receipts and Disbursements - Interest Paid*

The committee acknowledges the incorrect reporting of three loan interest payments. The committee notes that the subject loan interest amounts were identified as part of loan repayment transactions via memo entries. The committee is amending its reports to correctly report the interest payment transactions.

*Recommendation 2 - Federal Funds Received in Excess of Entitlement*

The committee believes that federal funds in excess of entitlement may have been received. The committee is prepared to make a repayment to the United States Treasury for such excess upon reconciliation of the committee's Net Outstanding Campaign Obligations (NOCO) and the determination of an actual excess amount.

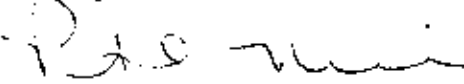
*Recommendation 3 - Stale-dated Checks*

The committee acknowledges that there are a number of valid vendor payments that have not been negotiated. The committee agrees with the PAR finding that the amount of stale-dated checks is \$28,085. In accordance with the PAR recommendation, the committee is remitting a check in the amount of \$28,085 to the United States Treasury for purpose of resolving this finding. (Check enclosed.)

Please be informed that report amendments will be electronically filed with the FEC prior to February 15, 2002. Also, please know that the committee will promptly act to resolve the excess of entitlement issue upon agreement on the amount of the excess.

Should you have any questions or concerns related to this matter, please contact me.

Sincerely,



Peter D. Nichols  
Assistant Treasurer

360 Nassau Street, Princeton, New Jersey 08540  
Phone: (609) 430-2922 Facsimile: (609) 430-2973

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