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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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December 22, 1999

MEMORANDUM

AGENDA ITEM
For Meeting of: 1-13-00

TO: THE COMMISSIONERS

THROUGH: JAMES A. PEHRKON
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: FINAL AUDIT REPORT ON DEAR FOR CONGRESS, INC.

Attached for your approval is the final report of the Audit Division on Dear for Congress, Inc.

Recommendation

The Audit Division recommends that the report be approved. This report is being circulated on a tally vote basis. If you have any questions, please contact Lorenzo David or Thomas Nurthen at 694-1200.

Attachment as stated



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A 99-01

**REPORT OF THE AUDIT DIVISION
ON
DEAR FOR CONGRESS, INC.**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Dear for Congress, Inc. (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

B. AUDIT COVERAGE

The audit covered the period July 1, 1997 through December 31, 1998. Between July 1, 1997 and September 30, 1998, the Committee reported a beginning cash balance of \$0; total receipts for the period of \$1,729,019; total disbursements for the period of \$1,485,164; and an ending cash balance of \$243,646.¹ As of the close of audit fieldwork, the Committee had not filed a disclosure report covering the period from October 1, 1998 to December 31, 1998 (see Finding II.A.).

C. COMMITTEE ORGANIZATION

The Committee registered with the Federal Election Commission on July 29, 1997, as the principal campaign committee for Noach Dear, Democratic Candidate for the U.S. House of Representatives from the state of New York, 9th District.

¹ Totals do not foot due to minor mathematical errors in the Committee's supporting schedules. Figures in this report are rounded to the nearest dollar.

To manage its financial activity, the Committee maintained 4 accounts. The accounts were identified as Primary Not For Profit NOW, Primary Insured Money Market, General Not For Profit NOW and General Insured Money Market.²

The audit indicated the Committee was financed primarily through contributions from individuals (\$1,694,932), and contributions from political party committees (\$27,250).

The Treasurer of the Committee during the period covered by the audit was Abraham Roth, who remains its Treasurer. The Committee maintains its headquarters in Brooklyn, NY.

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of the following general categories. It should be noted that the scope of testing receipts from individuals with respect to limitations and itemization of contributions was limited due to a lack of any formal aggregation system and failure to maintain and/or provide a receipts database:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.B.);
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 (see Finding II.C.);
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.D.);
5. Proper disclosure of committee debts and obligations;
6. The accuracy of total reported receipts, disbursements and cash balances as compared to committee bank records (see Finding II.F.);
7. Adequate recordkeeping of committee transactions (see Findings II.C. and D.); and,

² The Candidate lost in the Primary Election and therefore was not a candidate in the General Election. However, the General Not For Profit NOW and General Insured Money Market accounts were active during the primary period and used to fund primary expenses.

8. Other audit procedures that were deemed necessary in the situation (see Findings II.A., E. and G.).

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

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. 1998 YEAR-END REPORT

Section 104.5 (a) of Title 11 of the Code of Federal Regulations states, in part, that each treasurer of a principal campaign committee supporting a candidate for the House of Representatives shall file reports on the dates specified. Further, this section states, in part, that quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

As of August 31, 1999, the Committee had not filed a disclosure report for period October 1, 1998 through December 31, 1998. During this period Committee receipts totaled approximately \$640 and disbursements totaled approximately \$49,000. The Committee Treasurer explained he did not file a report during this period because the previous disclosure reports filed were not correct and he was attempting to resolve such discrepancies. The Treasurer related he considered it a better practice to file no report rather than an incorrect report.

In the interim audit report, the Audit staff recommended that the Committee file a disclosure report for receipt and disbursement activity transacted between October 1, 1998 and December 31, 1998.

In response to the interim audit report, the Committee filed a disclosure report covering the above period. The report materially disclosed the receipt and disbursement activity noted above.

B. APPARENT EXCESSIVE CONTRIBUTIONS

Section 441a(a)(1)(A) of Title 2 of the United States Codes states that no person shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. The term "anything of value" includes all in-kind contributions.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitations may be deposited into a

campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b) or 110.1(k). If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, in relevant part, that any contribution which appears to be illegal under 11 CFR 103.3(b)(3), and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

Section 110.1(b)(3)(i) of Title 11 of the Code of Federal Regulations states, in part, that if a candidate is not a candidate in the general election, all contributions made for the general election shall be either returned or refunded to the contributors or redesignated in accordance with 11 CFR 110.1(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3) as appropriate.

Section 110.1(b)(5) of Title 11 of the Code of Federal Regulations states, in relevant part, that the treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if the contribution exceeds the limitation on contributions set forth in 11 CFR 110.1(b)(1). A contribution shall be considered to be redesignated for another election if the treasurer of the recipient authorized committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request a refund of the contribution and within 60 days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a signed redesignation of the contribution for another election.

Section 110.1(k) of Title 11 of the Code of Federal Regulations states, in part, that any contribution made by more than one person, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A contribution made by more than one person that does indicate the amount to be attributed to each contributor shall be attributed equally to each contributor. If a contribution to a candidate on its face or when aggregated with other contributions from the same contributor exceeds the limitations on contributions, the treasurer may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person and informs the contributor that he or she may request a return of the excessive portion of the contribution if it is not intended to be a joint contribution; and within 60 days from the date of the treasurer's receipt of the contribution, the contributors provide a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

Section 110.1(k)(3)(ii)(B)(5) of Title 11 of the Code of Federal Regulations states, in part, that if a political committee does not retain the written records concerning redesignations or reattributions, the redesignation or reattribution shall not be effective and the original designation or attribution shall control.

The Audit staff's review of contributions, although limited by the lack of any formal aggregation system or receipts database, identified 511 apparent excessive contributions from 325 individuals and 2 political committees, totaling \$563,913. The Audit staff identified certain patterns which accounted for the majority of the excessive contributions:

Sole Account Holders

In many instances contributions in the amount of \$2,000 were made by check drawn on an account solely held by an individual. The Committee disclosed these contributions as being designated \$1,000 to the primary election and \$1,000 to the general election. In other instances (other than a \$2,000 check), contributions aggregating greater than \$1,000 were disclosed as being designated to both the primary and general election. However, there was no documentation made available for review in support of such designations.

Joint Account Holders

In many instances contributions in the amount of \$2,000 or greater were made by check drawn on a joint account. Only one of the account holder's signatures appeared on the check. In the case of a \$2,000 check, the Committee disclosed this contribution as being attributed \$1,000 to each account holder for the primary election. In the case of a \$4,000 check the Committee disclosed these contributions as being attributed \$1,000 to each account holder and designated for the primary election, and attributed \$1,000 to each account holder and designated for the general election. In other instances (other than a \$4,000 check), contributions aggregating greater than \$2,000 from either joint or solely owned accounts were attributed to individuals with the same surname and designated to both the primary and/or general elections. Again, there was no documentation made available for review in support of any reattribution or redesignation.

The Audit staff did note that in a few instances contributors designated their contribution to the general election. The memo line of the check was annotated (by the contributor) "general election." It should be noted that the Candidate failed to obtain his party's nomination in the primary election. Therefore, the Candidate was not a candidate in the general election. The amount of any contributions designated for the general election should have been refunded to the contributors.

Further, the Audit staff reviewed approximately 20 solicitation devices used by the Committee. One of the solicitations contained language that "a couple may contribute \$2,000." However, the solicitation did not explain that both contributors must either sign the check or provide a signed and dated statement concerning the portion being contributed by each individual

Finally, the Committee did not deposit excessive contributions into a separate account, nor maintain sufficient funds to refund these contributions. The Audit staff determined that the Committee's cash balance as of September 30, 1998 was \$132,627 and was not sufficient to refund all outstanding excessive contributions.

On July 15, 1999, the Audit staff discussed this matter with the Committee Treasurer at the exit conference and presented a detailed schedule of the excessive contributions. Although it is apparent that the Committee did not maintain any signed reattribution letters, the Treasurer stated that Committee fundraisers were aware of the contribution limitation and immediately obtained reattribution letters from each contributor(s) at the time the contributions were made and that those letters were either lost or destroyed after the Candidate's primary election effort failed. With respect to contributions being designated to the general election, the Treasurer stated that the Committee to the best of his knowledge did not solicit contributions for the general election. He further stated that he believed that upon receipt of a contribution greater than \$1,000 from an single account holder (greater than \$2,000 from a joint account) data entry personnel immediately split the contribution between the primary and general elections. Finally, the Treasurer stated he was in the process of refunding all contributions greater than \$2,000.³

Although requested, the Treasurer did not provide copies of the refund checks issued in calendar year 1999, during the response period available to the Committee subsequent to the exit conference. However, the Treasurer did file the July 31, 1999 mid-year report. That report discloses cash on hand at January 1, 1999 of \$78,451, total receipts for the period of \$101,596, total disbursements for the period of \$300,878 (all contribution refunds) and ending cash at June 30, 1999 of <\$120,831>. When questioned, the Treasurer stated that refund checks were written but not mailed until the Committee was able to secure additional contributions to cover the refund checks.⁴

In the interim audit report, the Audit staff recommended that the Committee provide evidence and/or documentation that demonstrated the contributions were not excessive. Absent such evidence, the Committee was to refund the excessive contributions and provide evidence of such refunds (copies of the front and back of the negotiated refund checks). If funds were not available to make the necessary refunds, the Audit staff

³ The Treasurer stated during the exit conference that he did not consider contributions in the amount of \$2,000 made by checks drawn on joint checking accounts to be excessive even though only one signature was present in the Committee's records.

⁴ Although calendar year 1999 was not within the scope of our audit, a cursory review of contributions disclosed revealed that certain contributors were already included on our schedule of excessive contributions. When questioned, the Treasurer stated he thought that since the contributions were made in calendar year 1999, contributors could give an additional \$1,000 [for the 1998 primary election].

recommended that the excessive contributions be disclosed as debts on Schedule D (Debts and Obligations) until such time that funds become available to make the refunds. Further, it was recommended that the Treasurer review all contributions received in 1999 to identify any additional excessive contributions and take appropriate action.

In response to the interim audit report, Counsel for the Committee (Counsel) restated text from the interim audit report in an effort to demonstrate that the Committee attempted to comply with the broad provisions of the Act, but failed to grasp fully its more detailed provisions. With respect to the contribution limitation, Counsel stated "While the Committee's staff and volunteers understood the practical rule that a couple together could contribute up to \$4,000 for a candidate's effort to seek federal office, they did not grasp the series of technical and procedural requirements to which a committee must adhere in order to raise such amounts".

Finally, Counsel stated the Committee has made refunds to 107 contributors, totaling \$275,120; has reviewed its records to identify other contributors to whom refunds are required; and, will disclose pending refunds as debts on Schedule D.

The Audit staff reviewed all refund checks made available by the Committee. Several refunds were made to individual/entities that were: 1) not identified by the Audit staff as making excessive contributions and 2) for amounts larger than the amount identified as excessive. As a result, the Audit staff applied refunds to 80 contributors totaling \$254,550. With respect to the remaining 247 contributors, whose excessive contributions totaled \$309,363, the Committee did not disclose as debts the amount of refunds due the contributors on amended Schedules D, as recommended.

C. MAINTENANCE AND DISCLOSURE OF CONTRIBUTOR INFORMATION

Sections 432(c) and (d) of Title 2 of the United States Code state, in relevant part, that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee; the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of such contribution by any person; and the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year. The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by the subchapter for 3 years after the report is filed.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. The term "anything of value" includes all in-kind contributions.

Section 434(b)(3)(A) and (G) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the identification of each person who makes a contribution or provides any dividend, interest, or other receipt to the reporting committee during the reporting period, in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines identification in the case of any individual, as the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Sections 104.7(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by the Act, any report of such committee shall be considered in compliance with the Act. The treasurer and the committee will only be deemed to have exercised best efforts if all written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of Federal law regarding the collection and reporting of individual contributor identifications; the treasurer makes at least one effort after the receipt of each contribution aggregating in excess of \$200 per calendar year, in either a written request or documented oral request, within 30 days of receipt of the contribution, to obtain the information; and, the treasurer reports all contributor information not provided by the contributor, but in the committee's possession, including information in contributor records, fundraising records and previously filed reports, in the same two year election cycle.

The Committee's receipt records made available consisted of copies of bank deposit tickets that reflected only the amount of each contribution deposited and copies of contributor checks that were attached to each deposit ticket. The Committee did not provide any type of contributor database, returned solicitation devices completed by the contributor, or any other records in support of the contributions received. Therefore, the only record containing contributor information was the check copy. As a result, the Audit staff identified a material number of receipt records that did not contain contributor mailing addresses.

In addition, the Committee did not initially maintain records pertaining to the contributor's occupation and name of employer. Sample copies of solicitation devices did request this information. Further, the Committee contacted contributors by telephone in an attempt to obtain the missing contributor information and provided evidence of such attempts. However, those attempts were not timely as they were made more than 30 days after the contributions were deposited. Even though the Committee was successful in obtaining some additional information via its follow-up phone requests, the Committee did not disclose this new information on amended reports. As a result, the Committee did not satisfy the best efforts provisions at 11 CFR §104.7(a) and (b).

During the exit conference, the Committee Treasurer agreed that the maintenance of contributor records as they pertained to occupation and name of employer was deficient. The Treasurer related the contributor mailing address information was maintained by the Committee during the campaign, but those records could not be located.

In the interim audit report, the Audit staff recommended that the Committee provide any additional information/documentation that demonstrated its efforts to obtain the required contributor information. Further, it was recommended that the Committee file

amended reports disclosing the occupation/name of employer information obtained through follow-up phone contacts with contributors.

In response to the interim audit report, the Committee provided documentation demonstrating its attempts to contact each contributor by phone and where applicable send a follow-up letter. The Committee was successful in obtaining the contributor's occupation/name of employer for approximately one-third of the items tested and disclosed such information on amended reports. With respect to the remaining items, the Committee's amended reports were annotated "information requested." The Committee did not provide any additional documentation with respect to the mailing addresses.

D. RECORDKEEPING FOR AND DISCLOSURE OF DISBURSEMENTS

Sections 432(c)(5) and (d) of Title 2 of the United States Code state that the treasurer of a political committee shall keep and account of the name and address of every person to whom any disbursement is made, the date, amount and purpose of the disbursements, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice or canceled check for each disbursement in excess of \$200. The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Sections 434(b)(4)(A) and (5)(A) of Title 2 of the United States Code state that each report shall disclose expenditures made to meet candidate or committee operating expenses, and the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

1. Documentation for Disbursements

The Audit staff reviewed disbursements to determine if records were maintained as required and if the disbursements were adequately disclosed. This review identified 17 disbursements, totaling \$905,356, that were not documented. The majority of this amount (\$854,902) represented wire transfers to direct mail, phone bank and media vendors. No debit memoranda, vendor invoices, contracts or contemporaneous memoranda in support of the above were made available.

2. Disclosure Irregularities

With regards to those disbursements for which supporting documentation was made available for our review, the Audit staff identified disclosure irregularities, totaling \$380,469. Errors noted involved: (a) no purpose disclosed on Schedule B (\$204,421); (b) inadequate purpose disclosed or incorrect purpose disclosed (\$139,164); and, (c) vendor addresses omitted, memo entries omitted related to credit card payments and other miscellaneous errors (\$36,884).

At the exit conference, the Treasurer was provided with schedules detailing the above. Concerning the missing documentation, the Treasurer related he had all of the missing documentation and he would send it to the Audit staff within the response period following the exit conference⁵ As to the disclosure irregularities, he would attempt to obtain the information and file amended reports.

In the interim audit report, the Audit staff recommended that the Committee obtain and submit the missing disbursement documentation noted in 1. above (to include copies of debit memos and related invoices). The Audit staff further recommended that the Committee file amended Schedules B to correct the disclosure irregularities noted in 2. above.

In response to the interim audit report, the Committee provided copies of invoices which materially documented the disbursements in 1. above. Further, the Committee filed amended disclosure reports that materially corrected the disclosure irregularities noted in 2. above.

E. FILING OF 48 HOUR NOTICES

Section 434(a)(6) of Title 2 of the United States Code requires that each treasurer of the principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and the amount of the contribution. The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

The Audit staff reviewed all contributions greater than or equal to \$1,000 with check dates on or after August 27, 1998 and deposit tickets dated on or before September 12, 1998. The Audit staff identified 49 contributions received from individuals totaling \$77,500 that required 48 hour notices. The Committee did not file notices for 4 contributions, totaling \$7,000. For the remaining \$70,500, notices were filed, albeit untimely.

At the exit conference, the Committee was provided with a schedule of these items. The Treasurer stated he would review this matter.

In the interim audit report, the Audit staff recommended that the Committee submit evidence that the four required notices were filed or submit any written comments it considered relevant.

In response to the interim audit report, Counsel merely makes reference to this matter as evidence of the Committee's broad efforts toward compliance with the Act.

⁵ This documentation was not provided as of August 31, 1999.

F. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2), and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and the total amount of all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's reported activity to its bank activity revealed a material misstatement occurred with respect to reports filed covering the period from January 1, 1998 through September 30, 1998. Specifically, reported disbursements were understated by \$123,455. This understatement was primarily due to the Committee not disclosing disbursements made between August 31, 1998 and September 16, 1998. As a result, reported cash on hand at September 30, 1998 was overstated.

The Committee's Treasurer was provided schedules of the above at the exit conference. The Treasurer agreed to file amended reports.

In the interim audit report, the Audit staff recommended that the Committee file an amended October 15 1998 Quarterly Report to correct the misstatements identified above.

In response to the interim audit report, the Committee filed amended disclosure reports which materially disclosed the above disbursements and corrected cash on hand as of September 30, 1998.

G. MONEY ORDER PATTERNS

Section 110.4 (b)(1) and (2) of Title 11 of the Code of Federal Regulations states, in part, no person shall make a contribution in the name of another; knowingly permit his or her name to be used to effect that contribution; knowingly help or assist any person in making a contribution in the name of another; or knowingly accept a contribution made by one person in the name of another. Examples of *contributions in the name of another* include - giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made.

During receipt testing, the Audit staff noted 63 money orders totaling \$50,150. The money orders were issued by several entities, including the U.S. Postal Service, Travelers Express, Chase, Dime Savings Bank, Chase Personal, and Citibank. The money orders were within various size groups of consecutive numbers. For the most part, the named individuals do not appear to be related. For example, eight consecutively numbered money orders, all dated April 7, 1998, all in the amount of \$1,000, were received from individuals with different surnames.

With the exception of one series of money orders, the Committee, for the most part, did not disclose a contributor's occupation and name of employer. However, the

occupation and name of employer for three contributors, who each contributed \$1,000 via six consecutively numbered \$500 money orders, was listed as Executive/ Essex Gallery Ltd.

The only other point of interest with respect to information disclosed concerned the inconsistencies between the actual dates of the money orders and the receipt dates related thereto on Schedule A. Three consecutively numbered \$1,000 money orders, dated January 23, 1998, were disclosed as being received on December 31, 1997. Two consecutively numbered \$1,000 money orders, dated April 6, 1998, were disclosed on March 31, 1998. Six consecutively numbered \$500 money orders, dated April 7, 1998, were disclosed on March 31, 1998. Finally, eight consecutively numbered \$1,000 money orders, dated April 7, 1998, were disclosed on either January 19, 1998 or January 20, 1998. We were not able to ascertain the reason(s) for the discrepancies.

The Committee Treasurer was provided schedules of the money orders in question during the exit conference. The Treasurer related it is possible that the contributors worked at the same companies but did not have checking accounts.

In the interim audit report, the Audit staff recommended that the Committee obtain a signed and dated statement from each of the individuals, identifying the source of the funds used to purchase the money orders.

In response to the interim audit report, Counsel offers the following:

[T]he Audit Staff draws the inference that the funds contributed were other than the contributors' own. As a threshold matter, there is nothing inherently inappropriate or suspect about contributions made through money order. Commission regulations place money orders squarely alongside checks as varieties of "written instruments" through which donors may contribute.....

A review of the "Schedule of Money Orders" attached to the Interim Report demonstrates little cause for concern. Several of the money orders listed by the Audit Staff come only in pairs or even one at a time. (see Interim Audit Report, Attachment 2.) Even when some are shown to have given at the same time, there is no prima facie evidence of contributions in the name of another. Rather, the evidence suggests only concerted political action. Nevertheless, we are including signed statements from a large number of the individuals who contributed via money order attesting to the fact that their contributions came from personal funds.

The Audit staff does not suggest that contributions cannot be made with money orders. It appears Counsel has concluded that the money orders in question

demonstrated little cause for concern since several of the money orders listed come only in pairs or even one at a time. Such conclusion is misplaced. It should be noted that of the 63 money orders addressed only 13 were part of a pair or single issue. However, the serial numbers of these "single" money orders were close to other series of consecutively numbered money orders.

Further, the Committee provided signed statement from 32 contributors attesting that the contribution was made from their personal funds. No additional information was provided with respect to the remaining \$25,750 in contributions made in the form of money orders.