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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 7, 2002

MEMORANDUM

TO: Ron M. Harris
Press Officer
Press Office

FROM: Joseph F. Stoltz *JFS*
Assistant Staff Director
Audit Division

SUBJECT: Public Issuance of the Report of the Audit Division on Hagelin 2000

Attached please find a copy of the report and related documents on Hagelin 2000 that was approved by the Commission on September 20, 2002.

All parties involved have received informational copies of the report and the report may be released to the public.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library

REPORT OF THE AUDIT DIVISION
ON
HAGELIN 2000

Approved September 20, 2002



FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION
ON
HAGELIN 2000**

EXECUTIVE SUMMARY

Hagelin 2000 registered with the Federal Election Commission on May 10, 1999. Hagelin 2000 is the principle campaign committee of John S. Hagelin, candidate for the Natural Law Party's nomination for the office of President of the United States.

The audit is mandated by Section 9038(a) of Title 26 of the United States Code, requiring the Commission to audit committees authorized by candidates who receive Federal Funds. Hagelin 2000 received \$700,286 in matching funds from the United States Treasury.

The findings of the audit were presented to Hagelin 2000 representatives at an exit conference held on November 19, 2001 and in the Preliminary Audit Report. Hagelin 2000's responses to those findings are contained in the audit report.

The following is an overview of the findings contained in the audit report.

APPARENT PROHIBITED CONTRIBUTIONS – USE OF CORPORATE AIRCRAFT – 2
U.S.C. §431(8)(A)(i); 11CFR §114.1(a), §114.2(a), (d) and (e), and 114.9(e). The Candidate and/or his representatives traveled on an aircraft owned by the National Pacific Fund, Inc. (NPF). NPF billed Hagelin 2000 \$18,242, the first class rate. Hagelin 2000 paid NPF between 10 to 31 days after the flights occurred. Representatives for Hagelin 2000 stated the failure to pay for the corporate aircraft in advance of the flight "was inadvertent and due to the inexperience on the part of the Committee's staff."

APPARENT IMPERMISSABLE CONTRIBUTIONS – 2 U.S.C. §431(8)(A)(i) and §441a(a)(2)(A). The Natural Law Party (NLP) paid all payroll and overhead expenses for Hagelin 2000. Hagelin 2000 reimbursed the NLP. However, not all reimbursements were made in a timely manner. Due to these untimely reimbursements, the Audit staff determined Hagelin 2000 received two contributions from the NLP of \$49,404 and \$22,539. Hagelin 2000 representatives agreed the reimbursements were late.

DETERMINATION OF NET OUTSTANDING CAMPAIGN OBLIGATIONS – 11CFR §§9034.5(a) and 9034.1(b). Hagelin 2000 did not receive matching funds in excess of its entitlement.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

***REPORT OF THE AUDIT DIVISION
ON
HAGELIN 2000***

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Hagelin 2000. The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states that "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's 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 Hagelin 2000's inception, May 10, 1999 through December 31, 2000. Hagelin 2000 reported an opening cash balance of \$-0-; total receipts of \$2,151,898; total disbursements of \$2,151,727; and a closing cash balance of \$171. In addition, a limited review of disclosure reports filed through December 31, 2001 was conducted for purposes of determining Hagelin 2000's matching fund entitlement based on its financial position.

C. CAMPAIGN ORGANIZATION

Hagelin 2000 maintains its headquarters in Fairfield, Iowa. The treasurer from inception until present is Blanche Woodward. Hagelin 2000 registered with the Federal Election Commission (the Commission) on May 10, 1999 as the principal campaign committee for John S. Hagelin, candidate for the Natural Law Party's nomination for the office of President of the United States. During the audit period, Hagelin 2000 utilized one bank account in Fairfield, Iowa. From this account it made

approximately 1200 disbursements. In addition, Hagelin 2000 received approximately 13,800 contributions from approximately 9,500 contributors. These contributions totaled approximately \$1,037,000.

Mr. Hagelin was determined eligible to receive matching funds on March 31, 2000. Hagelin 2000 made 10 requests for matching funds totaling \$802,818 and received \$700,286 from the United States Treasury. This amount represents 4.15% of the \$16,890,000 maximum entitlement that any candidate could receive. For matching fund purposes, the Commission determined that Mr. Hagelin's candidacy ended on August 31, 2000, the date he received the nomination of the Natural Law Party. On March 1, 2001, Hagelin 2000 received its final matching fund payment to defray qualified campaign expenses and to help defray the cost of winding down the campaign.

D. AUDIT SCOPE AND PROCEDURES

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

1. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.A.);
2. the receipt of contributions or loans in excess of the statutory limitations (see Finding II.B.);
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;
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 to disclose its financial condition and to establish continuing matching fund entitlement (see Finding III.A.);
9. compliance with spending limitations; and,
10. other audit procedures that were deemed necessary in the situation.

II. AUDIT FINDINGS AND RECOMMENDATIONS – NON-REPAYMENT MATTERS

A. APPARENT PROHIBITED CONTRIBUTIONS – USE OF CORPORATE AIRCRAFT

Section 431(8)(A)(i) of Title 2 of the United States Code states, in part, that a contribution includes any gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing any election for Federal office.

Section 114.1(a) of Title 11 of the Code of Federal Regulations states, in relevant part, the term contribution shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value, unless an activity is specifically permitted by part 114.

Sections 114.2(a), (d) and (e) of Title 11 of the Code of Federal Regulations state, in part, that corporations are prohibited from making a contribution in connection with any Federal election. Further, a candidate, political committee or other person is prohibited from knowingly accepting or receiving any contribution prohibited by this section. Lastly, no officer or director of any corporation shall consent to any contribution or expenditure by the corporation prohibited by this section.

Section 114.9(e) of Title 11 of the Code of Federal Regulations states, in part, that a candidate, candidate's agent, or person traveling on behalf of a candidate who uses an airplane which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election must, in advance, reimburse the corporation or labor organization. In the case of travel to a city served by regularly scheduled commercial service, the first class airfare; in the case of travel to a city not served by a regularly scheduled commercial service, the usual charter rate.

The National Pacific Fund, Inc. (NPF) billed Hagelin 2000 \$25,179, incurred in connection with the Reform Party Convention whose nomination Mr. Hagelin was seeking. According to the invoice, expenses for food, lodging and airfare were incurred between August 7 and August 29, 2000. On September 7, 2000 Hagelin 2000 paid NPF \$25,000.¹ Of the amount billed, \$18,242 pertained to the Candidate and/or his representatives' travel on an aircraft owned by NPF. The flights were billed at the first class rate. Payment for use of this aircraft should have been made in advance of each flight in accordance with 11 CFR §114.9(e). However, the payment ranged from 10 to 31 days after the flights occurred.

1. The payment for that portion of the invoice representing the cost of food and lodging was made in a commercially reasonable time frame.

According to a Dun and Bradstreet, Inc. report, NPF provides investment services and was incorporated on June 15, 1988 in the state of California. This report also identified Nathaniel Goldhaber as its President.²

The Audit staff discussed this matter with Hagelin 2000 representatives during fieldwork and at the exit conference. The representatives confirmed Nathaniel Goldhaber was the President of NPF as well as the Natural Law Party's (NLP's) Vice-Presidential candidate. The treasurer further explained that neither she nor anyone on the administrative staff had knowledge of use of this aircraft at the time of the travel, and that payment was made as soon as the invoice was received.

Subsequent to the exit conference, a Hagelin 2000 representative provided a signed statement from Mr. Goldhaber. It stated NPF is a Subchapter S Corporation; that Mr. Goldhaber and his wife are the sole shareholders; and, "[u]nder federal and state law, all of the income and expenses of the National Pacific Fund are passed through to my wife and me for tax purposes. Thus, financially, we are treated as if we operated the plane in a partnership."

The FECA does not distinguish a Subchapter S Corporation from any other corporation. The fact that profit/losses of Subchapter S Corporations are reflected on an individual tax return (Form 1040) does not alter the corporate status of NPF nor mitigate the corporate nature of this transaction.³

In the preliminary audit report, the Audit staff recommended that Hagelin 2000 demonstrate that it did not receive a prohibited contribution in the amount of \$18,242. Further, Hagelin 2000 was to provide any other relevant information regarding the use of the aircraft.

In response to the preliminary audit report, Hagelin 2000 representatives stated that the failure to pay for the corporate aircraft in advance of the flight "was inadvertent and due to the inexperience on the part of the Committee's staff."

It is the Audit staff's opinion that since payment was not made in advance of each flight, the NPF made and Hagelin 2000 received a prohibited in-kind contribution for the period of time the amounts remained outstanding.

B. APPARENT IMPERMISSABLE CONTRIBUTIONS

Section 431(8)(A)(i) of Title 2 of the United States Code states in part, that a contribution includes a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing a Federal election.

2. The corporate status of the company was verified with the California Secretary of State.
3. If an individual or partnership owned this aircraft, Hagelin 2000 would have been required to pay a much higher rate.

Section 441a(a)(2)(A) of Title 2 of the United States Code states, in part, no multicandidate political committee shall make contributions to any candidate and his authorized committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000.

The Natural Law Party (NLP) paid all payroll and overhead expenses for Hagelin 2000. Hagelin 2000 reimbursed the NLP for its share based upon the amount of time spent by each individual on campaign related matters. The overall monthly payroll percentage was then applied to overhead expenses for the month. During the period April 1999 through January 2001, Hagelin 2000 reimbursed NLP \$330,872. As of December 2001, Hagelin 2000 owed the NLP \$4,307. All reimbursements were timely except for those instances noted below:

Period Incurred	Hagelin 2000 Share of Payroll and Overhead Expenses	Number of Days Outstanding Prior to Reimbursement
April 1999 – June 1999	\$10,000	154 to 185 days
June 1999 – September 1999	\$32,000	61 to 153 days
October 1999	\$12,404	67 days
January 2000 – February 2000	<u>\$27,539</u>	63 to 91 days
Total reimbursed untimely:	\$81,943	

This matter was discussed with Hagelin 2000 representatives at the exit conference. The treasurer agreed that the above expenses were not paid in a timely manner and attributed the delays to inexperience and administrative understaffing.

Since Hagelin 2000 reimbursements were not timely, the NLP made contributions for the period of time the above payroll and overhead expenses were not reimbursed. Since the first payment did not occur until November 1999, NLP made a contribution of \$49,404 (\$10,000 + \$32,000 + \$12,404 - \$5,000 limit). Subsequently, the NLP made a second contribution of \$22,539 (\$27,539 - \$5,000 limit)⁴.

In the preliminary audit report, the Audit staff recommended that Hagelin 2000 demonstrate that it did not receive excessive contributions from the NLP as a result of the above transactions. Further, Hagelin 2000 was to provide documentation that demonstrated that the balance owed to NLP of \$4,307 was paid.

In response to the preliminary audit report, Hagelin 2000 representatives stated that they agreed reimbursements to the NLP for shared payroll and overhead expenses were late. Further, the balance due to the NLP (\$4,307) was converted to an in-kind contribution that was reflected on an amended disclosure report filed by Hagelin 2000.

4. The NLP's \$5,000 contribution limit was restored once the expenses incurred April through October 1999 had been reimbursed by Hagelin 2000.

III. AUDIT FINDING AND RECOMMENDATION – AMOUNTS DUE TO THE UNITED STATES 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 as of the candidate's date of ineligibility, 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.

Mr. Hagelin's date of ineligibility was August 31, 2000. The Audit staff reviewed Hagelin 2000's financial activity and disclosure reports through December 31, 2001, analyzed winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations (NOCO) that appears below.

**HAGELIN 2000
STATEMENT OF NET OUTSTANDING CAMPAIGN OBLIGATIONS**

**As of August 31, 2000
As Determined through December 31, 2001**

Assets

Cash in Bank	\$ 9,759	
Total Assets		\$ 9,759

Obligations

Accounts Payable for Qualified Campaign Expenses	236,418	
Loans Payable	178,000	
Actual Wind Down Costs (August 31, 2000 – December 31, 2001)	42,724	
Estimated Wind Down Costs (January 1, 2002 – December 31, 2002)	22,080	
Total Obligations		<u>(479,222)</u>
Net Outstanding Campaign Obligations		<u>\$ (469,464)</u>

Shown below is the application of both private and public funds to the NOCO through March 1, 2001, the date of Hagelin 2000's last matching fund payment.

Net Outstanding Campaign Obligations (Deficit) as of 8/31/2000	\$ (469,464)
Net Private Contributions Received 8/31/2000 to 3/1/01	72,467
Other Receipts/Income Received 8/31/2000 to 3/1/2001	153
Matching Funds Received 8/31/2000 to 3/1/2001	<u>310,791</u>
Remaining Net Outstanding Campaign Obligations (Deficit) @ 3/2/01	\$ <u>(86,053)</u>

Hagelin 2000 did not receive matching fund payments in excess of its entitlement.




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

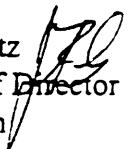
September 17, 2002


MEMORANDUM

TO: The Commissioners

THROUGH: James A. Pehrkon
Staff Director

Robert J. Costa 
Deputy Staff Director

FROM: Joseph F. Stoltz 
Assistant Staff Director
Audit Division

Thomas J. Nurthen 
Audit Manager

Mary F. Moss 
Lead Auditor

SUBJECT: Final Audit Report - Hagelin 2000

Attached for your approval is the subject final audit report. A copy of Hagelin 2000's response to the preliminary audit report is also attached. The final audit report was sent to the Office of General Counsel for review on September 6, 2002. On September 16, 2002, the Office of General Counsel informed the Audit Division, via electronic mail, that it had reviewed the proposed report and had no comments.

Recommendation

The Audit staff recommends that the report be approved.

This report is being circulated for a tally vote in lieu of placement on the agenda for September 26, 2002. Should you have any questions, please contact Mary Moss or Tom Nurthen at 694-1200.

Attachments:

Report of the Audit Division on Hagelin 2000
Committee response to Preliminary Audit Report



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 2002

Ms. Blanche Woodward, Treasurer
Hagelin 2000
PO Box 1900
Fairfield, LA 52556

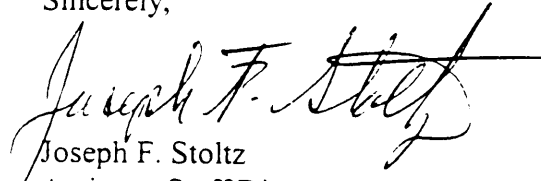
Dear Ms. Woodward:

Attached please find the Report of the Audit Division on Hagelin 2000. The Commission approved this report on September 20, 2002. The Commission may pursue any of the matters discussed in an enforcement action.

The Commission approved report will be placed on the public record on October 4, 2002. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 694-1220.

Any questions you may have related to matters covered during the audit or in the report should be addressed to Mary E. Moss or Thomas J. Nurthen of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,


Joseph F. Stoltz
Assistant Staff Director
Audit Division

Attachment as stated

CHRONOLOGY

HAGELIN 2000

Audit Fieldwork	11/01/01– 12/07/01
Exit Conference	11/19/01
Preliminary Audit Report to the Committee	05/08/02
Response to the Preliminary Audit Report	07/11/02
Final Audit Report Approved	09/20/02