



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

REPORT OF THE AUDIT DIVISION
ON THE
NATIONAL UNITY CAMPAIGN FOR JOHN ANDERSON

I. Background

A. Overview

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This report is based on an audit of the National Unity Campaign For John Anderson Committee ("the Committee"), to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26, 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 9007.1 of Title 11, Code of Federal Regulations states that "after each Presidential election, the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate, his or her authorized committee(s), and agents of such candidates or committees. Such examination and audit shall include, but shall not be limited to, expenses incurred pursuant to 11 C.F.R. 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 C.F.R. 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

The Committee registered with the Federal Election Commission as the principal campaign committee for the Honorable John B. Anderson on April 24, 1980. The Committee maintains its headquarters in Washington, D.C.

The audit covered the period from the date of inception through December 31, 1980. 1/ The Committee reported an opening cash balance of \$-0-, total receipts of \$17,055,962.69, total expenditures of \$14,979,141.44, and a closing cash balance of \$2,076,821.25 during this period. 2/

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

B. Key Personnel

The principal officers (treasurers) of the Committee during the period audited were: Mr. Francis E. Sheehan, Jr., (4/24/80-8/28/80) and Mr. Michael F. MacLeod (8/29/80 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 Committee debts and obligations; review of contribution and expenditure limitations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

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

1. Omissions or Misstatements of Financial Activity

A review of the Committee's bank records and tests of the receipts and expenditure records revealed that the Committee's reported financial activity was materially misstated as described below:

1/ In addition, certain financial activity was reviewed through June 30, 1981.

2/ See Finding II.A.1, "Omissions or Misstatement of Financial Activity", for a discussion of the inaccuracies regarding these figures.

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The unreported contributions in the state bank accounts appeared to result from the lack of timely and/or complete information from the Committee's state offices. Beginning on October 13, 1980, the Committee directed its state office operations to deposit contributions directly into their state bank accounts in an effort to provide an accelerated method of funding state office operations during the final weeks before the election. Prior to October 13, 1980, state offices were required to forward all contributions received to Committee headquarters in Washington for deposit. Monies would then be disbursed from headquarters' accounts to fund the various state operations.

In response to the interim audit report, on July 9, 1981 the Committee filed a comprehensive amendment which covered the period April 24, 1980 through December 31, 1980 and included substantially all of the unreported receipts noted above as adjusted by additional information provided to the Audit staff during audit work performed at the end of the 30 day response period to the interim audit report. Also within the amendment, contributions deposited in the state bank accounts and not previously disclosed were reflected as contributions on line 17 and as advances on line 24. The liquidation of these advances/contributions was reported on the respective Schedule G-P for each affected state account.

Recommendation

Based on the comprehensive amendment filed by the Committee on July 9, 1981, the Audit staff recommends no further action on this matter.

b. Unreported Expenditures

Section 434(b)(4) of Title 2, United States Code requires that each political committee file reports disclosing the total amount of all disbursements made by the committee during the reporting period and the calendar year to date.

Section 434(b)(5)(A) of Title 2, United States Code states, in part, that each report shall disclose 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.

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Our reconciliation of the Committee's bank accounts to the disclosure reports and our review of expenditure records revealed that the Committee's reported expenditures were apparently understated by \$606,047.32 (not including unreported in-kind expenditures, see Finding A.1.c) as follows:

(1) Unreported expenditures to vendors	\$194,122.04
(2) Unreported wire transfers to state accounts and former Committee Treasurer	4,600.00
(3) Unreported expenditures from state bank accounts	406,005.94
(4) Unreported cash expenditures (no checks issued) from state operations	<u>1,319.34</u>
Total Unreported Expenditures	<u>\$606,047.32</u>

The unreported expenditures to vendors consisted of \$126,522.87 for telephone services, \$38,100.00 for mailing services, and \$29,499.17 for payroll related expenses.

The unreported wire transfers to the state accounts resulted when, due to a bank error in transferring funds, certain state accounts received funds in error. The Committee permitted the state accounts to keep the funds but failed to report the wire transfers as expenditures. The unreported wire transfers to the former Treasurer were replacements for previous wires.

It should be noted that the unreported expenditures from the state bank accounts are directly related to the unreported contributions deposited/received by the state accounts (see Finding A.1.a).

As stated in Finding II.A.1.a., the Committee filed a comprehensive amendment on July 9, 1981. Included within that amendment were all of the unreported expenditures noted above as adjusted by additional information provided to the Audit staff during audit work performed at the end of the 30 day response period to the interim audit report. Also included in the amendment were Schedules G-P for expenditures made from the state bank accounts and not previously reported.

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Recommendation

Based on the comprehensive amendment filed by the Committee on July 9, 1981, the Audit staff recommends no further action on this matter.

c. Disclosure of Receipt and Consumption of In-kind Contributions

Section 104.13(a) of Title 11, Code of Federal Regulations requires the amount of an in-kind contribution, equal to the usual and normal value on the date received, be reported as a contribution in accordance with 11 C.F.R. 104.3(a). Further, each in-kind contribution shall also be reported as an expenditure at the same usual and normal value on the appropriate expenditure schedule, in accordance with 11 C.F.R. 104.3(b).

Our review of Committee records revealed that approximately 1,128 in-kind contributions, totaling \$65,484.18, were received by the Committee which, as of March 31, 1981, had not been reported as required. According to the Committee Controller, workload conditions and late arrival of records from state offices contributed to this reporting irregularity.

Recommendation

Since the Committee included the appropriate in-kind receipt and expenditure schedules in the July 9th comprehensive amendment, the Audit staff recommends no further action.

2. Itemization of Expenditures

Section 434(b)(5)(A) of Title 2, United States Code states that each report shall disclose 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.

A review of the Committee's expenditure records revealed that the following itemization errors or omissions occurred in the Committee's disclosure reports filed for calendar year 1980.

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-	expenditures to vendors or employees not itemized	\$ 495,124.08
-	expenditures incorrectly itemized	(14,188.77)
-	expenditures from state accounts not itemized	<u>660,275.43</u>
	Total (net) itemization errors	<u>\$1,141,210.74</u>

With respect to the expenditures to vendors or employees, it was determined that \$323,591.93 was for payroll and payroll related expenses and the remaining \$171,532.15 consisted of vendor payments made in May, 1980. The total value of these expenditures was apparently reported as unitemized expenditures in the respective disclosure reports.

The state account expenditures not itemized, which totaled \$660,275.43, represented 49.16% of the total dollar value of itemizable expenditures made from the state bank accounts.

On April 1, 1981, the Committee filed amendments to the disclosure reports itemizing the payroll, and vendor payments made in May, 1980 (i.e., \$323,591.93 and \$171,532.15 respectively). On July 9, 1981, the Committee filed a comprehensive amendment itemizing the expenditures incorrectly itemized and expenditures from state accounts which were not previously itemized.

Recommendation

Based on the comprehensive amendment filed by the Committee on July 9, 1981, the Audit staff recommends no further action on this matter.

3. Receipt of Anonymous Cash Contributions

Section 110.4(c)(3) of Title 11 of the Code of Federal Regulations states that a candidate or committee receiving an anonymous cash contribution in excess of \$50 shall promptly dispose of the amount over \$50. The amount over \$50 may be used for any lawful purpose unrelated to any Federal election, campaign, or candidate.

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During the review of the Committee's contribution records, the Audit staff noted seven (7) instances where the \$50 limitation on anonymous cash contributions was apparently exceeded. Six (6) instances were revealed as a result of a review of a sample of the Committee's daily receipts reconciliation forms. On six (6) days, the total manual unidentified (apparent cash) contributions when divided by the number of apparent contributors indicated that the average dollar value per contributor exceeded the \$50 limitation for anonymous contributions as follows:

<u>Receipt Date</u>	<u>Total Value Received</u>	<u>Number of Apparent Contributors</u>	<u>Average Value</u>	<u>Excess Over Limit</u>
7/24/80	\$ 671.95	1	\$671.95	\$ 621.95
8/21/80	933.92	14	66.71	233.92
9/10/80	6,091.74	69	88.29	2,641.74
10/7/80	3,946.03	54	73.07	1,246.03
10/17/80	2,376.39	39	60.93	426.39
10/18/80				
11/21/80	<u>899.88</u>	12	74.99	<u>299.88</u>
Total	<u>\$14,919.91</u>			<u>\$5,469.91</u>

The last instance of anonymous cash received apparently in excess of the \$50 limitation was noted during a review of the Committee's "Summary of (disclosure) Report" worksheet for the month of September, 1980. This worksheet indicated that a manual receipt (i.e., receipts not entered into computerized data base for contributions) entitled "NJ Rally" in the amount of \$5,937.80 was included in the unitemized receipts total for the September disclosure report. Committee officials stated that these funds were raised by a "pass-the-hat" method at a rally in New Jersey; however, no records were available to support the receipts or number of people involved.

During audit work performed at the end of the 30 day response period, the Committee provided additional documentation which indicated that the anonymous contributions noted above were made by a larger number of contributors thereby lowering the average contribution to below the \$50 anonymous cash limitation in all material aspects.

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The Committee also provided additional records which indicated that a sufficient number of people attended the "NJ Rally" to also bring this deposit below the limitation amount.

Recommendation

The Audit staff recommends no further action on this matter.

4. Itemization of Loan Activity

Section 434(b)(3)(E) of Title 2, United States Code states that each report shall disclose the identification of each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount of value of such loan.

Section 434(b)(8) of Title 2, United States Code states, in part, that each report required to be filed shall disclose the amount and nature of outstanding debts and obligations owed, and where such debts are settled for less than their reported value, a statement as to the circumstances and conditions under which they were extinguished and the consideration therefor.

Section 104.17(a) of Title 11 of the Code of Federal Regulations states that for all elections occurring prior to January 1, 1981, authorized committees of candidates for President and Vice President may comply with the requirements of 11 C.F.R. 104.17 in lieu of 11 C.F.R. 104.3(a) and (b).

Section 104.17(b)(5)(ii) of Title 11 of the Code of Federal Regulations states that each loan over \$100 in value and made during the reporting period, or less than \$100 in value and the total of the loans from one person is over \$100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan. The Committee had the option to itemize all loans received from individuals regardless of amount in lieu of the \$100 threshold noted above.

Our review of loan activity indicated that, during the period August through November 1980, the Committee solicited and received 18,759 loans from individuals totaling \$1,826,174.79. Two categories of disclosure errors or omissions were noted with respect to these loans received from individuals.

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(a) Itemization of Loans Received

The Audit staff conducted a test to determine proper itemization of loans received on Schedule A-F of the Committee's disclosure reports filed. We noted that the Committee itemized only those loans in excess of \$200 per transaction. The Committee did not take into consideration other contributions made by the individual which should have been aggregated with the value of any loans received and outstanding from the same individual. The Committee also used a \$200 itemization threshold rather than the \$100 threshold contained at 11 C.F.R. 104.17(b)(5)(ii). This use of the incorrect itemization threshold was apparently due to an oversight by the Committee.

(b) Itemization of Debts (Loans)
Owed by the Committee

Our review also noted that the Committee did not file the appropriate schedules of outstanding debts (loans) at the close of the respective reporting periods. The Committee has obtained a comprehensive schedule of loans received which contains the name and address of the lender, amount, date received, disposition and outstanding balance as of 12/31/80 with respect to the 18,759 loans received. On April 1, 1981, the Committee filed an amendment which included the comprehensive schedule of loans noted above.

Recommendation (item 4(a) and (b))

The Audit staff recommends that no further action is necessary with regard to the disclosure of the loan activity occurring in calendar year 1980 since the amendment filed contained the required disclosure information with respect to both the receipt of loans and disposition thereof.

5. Matters Referred to the Office of General Counsel

Certain matters noted during the audit were referred to the Commission's Office of General Counsel for consideration on April 20, and July 17, 1981.

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

1. Undocumented Disbursements

Section 9003.5(a) of Title 11 of the Code of Federal Regulations sets forth the documentation necessary to determine a qualified campaign expense for each disbursement exceeding \$200 as a receipted bill from the payee which describes the purpose of the disbursement; or if such a receipted bill is not available, a cancelled check negotiated by the payee plus either a bill, invoice, voucher, or contemporaneous memorandum from the payee.

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Where the documents mentioned above are not available, a voucher or contemporaneous memorandum from the Committee shall be provided.

If the above specified documentation is not available, the candidate or committee may present a cancelled check and collateral evidence to document the purpose of each qualified campaign expense.

Section 9007.2(a)(4) of Title 11 of the Code of Federal Regulations states, in part, that a repayment of money will be required in an amount equal to any amount of any payment made to the eligible candidates of a political party, which amount was used for any purpose other than to defray qualified campaign expenses.

During our review of the Committee's headquarters and state office disbursement records, the Audit staff determined that 193 disbursements (or groups of disbursements) totaling \$179,658.27 which were made by Committee check, wire transfer, or cashier's check were not adequately documented as to the purpose of the disbursement or verifiable as qualified campaign expenses.

In addition, during a review of the Committee's 163 state bank accounts, the Audit staff determined that there were no bank records for eight (8) of the state bank accounts and only partial records available for 29 other bank accounts.

The Audit staff also identified Committee payments totaling \$183.00 for parking fines assessed during the campaign. The Audit staff views these payments as non-qualified campaign expenses, the amount of which is subject to repayment to the U.S. Treasury.

On June 9, 1981, the Commission made a preliminary determination that, absent a showing to the contrary within 30 days of the Committee's receipt of the interim report, the undocumented expenditures and parking fines would be viewed as non-qualified campaign expenses and the value repayable to the U.S. Treasury.

Recommendation

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

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The Audit staff recommends that the Commission determine the \$183.00 in parking fines to be repayable in full, within 30 days of receipt of this report, to the U.S. Treasury. During the 30 days, the Committee may submit legal and factual materials to demonstrate that repayment is not required.

2. Interest Earned on Investment of 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.

During a review of Committee bank records, the Audit staff determined that the Committee earned \$108,553.80 from investment of Federal funds. The repayment attributed to that amount was calculated as follows:

Total Interest Earned	\$108,553.80
Less: Applicable Taxes	<u>49,888.75</u>
Total Repayment Amount	<u>\$ 58,665.05</u>

During audit work performed at the end of the 30 day response period to the interim audit report, the Audit staff updated the interest earned on investment of Federal funds to the amounts noted above (i.e., projected through September 30, 1981). On June 9, 1981, the Commission preliminarily determined that a repayment of \$28,531.95 was due to the U.S. Treasury based on interest earned on investments outstanding as of February 28, 1981.

In its response to the interim audit report, the Committee stated that it reserves the right to keep the matter of repayment of interest open pending resolution of the question concerning loans from individuals (see Finding II.B.3.). It is the Committee's position that not all of the money invested was Federal funds.

Recommendation

The Audit staff recommends that the Commission determine the \$58,665.05 in estimated net interest income to be repayable in full, within 30 days of receipt of this report, to the U.S. Treasury. An adjustment to this figure may be necessary depending upon the date on which the Committee makes the requested payment. During the 30 days, the Committee may submit legal and factual materials to demonstrate that repayment is not required.

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3. Determination of Net Outstanding Qualified Campaign Expenses and Repayment to the U.S. Treasury

Section 9007(b)(1) states that if the Commission determines that any portion of the payments made to the eligible candidates of a political party under Section 9006 was in excess of the aggregate payments to which candidates were entitled under Section 9004, it shall so notify such candidates, and such candidates shall pay to the Secretary of the Treasury an amount equal to such portion.

On November 13, 1980, the Commission determined that the Committee was entitled to a payment of \$4,164,906.24 in post-general election public funding. These funds were transferred to the Committee on November 13, 1980. On January 8, 1981, after consideration of the official vote results, the Commission determined that the Committee was entitled to an additional payment of \$77,397.76 making the total payments received by the Committee from the Presidential Election Campaign Fund of \$4,242,304.00.

On March 3, 1981, the Committee submitted a Statement of Net Outstanding Qualified Campaign Expenses (NOQCE) dated as of December 4, 1980 (see Attachment 1). The NOQCE is a statement used to determine the net obligations outstanding or net surplus of assets over obligations as of a certain date. Included on the NOQCE is detail information concerning assets such as cash-on-hand and in banks, accounts receivable, capital assets, etc., and obligations such as accounts payable and necessary winding down costs through the Committee's projected termination date.

During the course of audit fieldwork conducted in March 1981, the Audit staff verified the items contained on the December 4, 1980 NOQCE statement and reviewed the related activity through December 31, 1980, with estimates of accounts receivable, accounts payable, and winding down costs based on actual receipts and expenditures through February 28, 1981.

Based on our analysis, we computed the net outstanding qualified campaign expenses to be a surplus of \$587,046.98 versus the Committee's calculation of a surplus of \$131,622.00. The significant factors resulting in the difference are discussed below.

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(a) Cash-on-hand And In Banks/Fundraising Costs

The Audit staff performed a cash reconciliation as of December 4, 1980 for all Committee accounts where records were available. In addition, an audit adjustment of \$75,610.00 to reconciled cash was made to recognize an expenditure which was made on November 24, 1980 relating to a fundraising appeal to occur after December 4, 1980. The Audit staff did not include the proceeds from this solicitation (received post December 4, 1980) as an asset of the Committee in our calculation of the NOQCE position as of December 4, 1980.

In addition, the Committee included an estimate of \$100,000 for fundraising expenses to be incurred after 12/4/80. It is the Audit staff's opinion that, since the Committee was in a surplus position on 12/4/80, these fundraising costs may not be considered as valid winding down costs.

(b) Loans From Individuals

During the campaign, the Committee solicited and received loans from individuals which were subject to repayment with interest for the period outstanding. Two (2) months after the election, January, 1981, the Committee mailed repayment checks for the principal amount plus interest to the individual lenders and included a solicitation requesting the lenders to return all or a portion of their loan repayment check to the Committee to help pay the remaining debt of the campaign. The solicitation also included a more specific request from the candidate to "just endorse it on the back to the National Unity Campaign and return it to me." The loan repayment/solicitation involved approximately 18,340 loans with a total value (including interest payable) of approximately \$1,870,892.46. Per the Committee records through March 6, 1981, the results of the repayment/solicitation effort, and to a small extent events which occurred in December, 1980, appear below:

Repayment checks endorsed by lenders to the Committee and deposited by the Committee	\$225,861.18
Repayment checks negotiated (deposited or cashed) by the lender with the lender issuing his/her personal check to the Committee	179,990.56
Repayment checks returned by the lender to the Committee and not negotiated (deposited) by the Committee due to non-negotiability of the instrument i.e., checks voided, not properly endorsed, stop payment checks or checks otherwise rendered non-negotiable by lenders	20,194.16
Loans forgiven by lenders in December, 1980	<u>14,456.22</u>
Total loans forgiven through March 6, 1981	<u>\$440,502.12</u>

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Under 26 U.S.C. Section 9004(b)(1), an eligible candidate of a new party shall be entitled to payments which "shall not exceed an amount equal to the amount of qualified campaign expenses incurred by such candidate... reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidate..." (emphasis added). As described above, as of March 6, 1981, the candidate received \$440,502.12 in funds either as a forgiveness or recontribution of monies originally loaned to the campaign prior to the Committee's receipt of public funds. The loans that were subsequently forgiven or recontributed were considered as part of the Committee's computation of net outstanding qualified campaign expenses for purposes of calculating the Committee's entitlement pursuant to 26 U.S.C. Section 9004(b)(1) but were not counted as contributions which would have correspondingly reduced the amount of the entitlement. The subsequent forgiveness or recontribution of monies that were deemed outstanding obligations cannot now be retained after the Committee received an entitlement based on the fact that those monies were outstanding campaign debts which would be repaid with public funds. Thus, those monies which were realized by the forgiveness or recontribution of those loans which constituted a basis for entitlement pursuant to 26 U.S.C. Section 9004(b)(1) are funds in excess of the Committee's entitlement and subject to the provisions of 26 U.S.C. Section 9007(b)(1).

Other less significant differences on the NOQCE between Committee and Audit totals were not disputed by the Committee.

In the interim audit report the Commission preliminarily determined that, absent a showing to the contrary within 30 days of receipt of the report, the Committee received \$587,046.98 in payments from the Fund to which it was not entitled. The Audit staff also recommended that the Committee obtain a written independent appraisal as to the fair market value of artwork which was created on a volunteer basis by various artists during the campaign.

Analysis of the Committee's Response

In its response to the interim audit report, the Committee addressed the following areas.

(a) Artwork

The Committee stated that the artwork at issue was solicited and collected by a New York gallery owner who, because of problems posed by the receipt and disposition of the artwork, never transferred the items collected to the Committee. The artwork was never received by the Committee and thus is not now and never was an asset of the Committee.

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For the reasons noted by the Audit staff on pages 14 and 15, we believe that the loans from individuals which were forgiven or recontributed after December 4, 1980, should be considered as contributions and a reduction to entitlement accordingly. We also believe that it would be inappropriate to permit the Committee to refund the amount of the forgiven/recontributed loans to the contributors in lieu of repayment of said monies to the U.S. Treasury. In addition, after further legal analysis by the Office of General Counsel, the Audit staff considers the contributions solicited after December 4, 1980 to be contributions made to defray qualified campaign expenses of the 1980 campaign and a further reduction to entitlement. The Audit staff has therefore, in reconciling the cash amount on the NOQCE, included (i.e., subtracted from the NOQCE cash amount) an expenditure of \$75,610.00 which was made on November 24, 1980 relating to the fundraising appeal which occurred after December 4th. We have also included the amount of the contributions received (\$160,557.96) as an asset of the Committee in our calculation of the NOQCE position.

In conclusion, as part of our audit work performed at the end of the 30 day response period to the interim audit report, we have updated the NOQCE statement through June 30, 1981 as shown below.

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NATIONAL UNITY CAMPAIGN FOR JOHN ANDERSON
STATEMENT OF NET OUTSTANDING QUALIFIED CAMPAIGN EXPENSES
DECEMBER 4, 1980

(Audited Statement Updated Through June 30, 1981)

Assets

Cash-on-hand and in banks		\$ 2,562,948.99
Accounts receivable:		
Additional public funds entitlement	\$ 77,397.76	
Press billings	- 0 -	1/
Refunds	241,384.24	2/
Due from State bank accounts	30,631.09	
Accrued interest receivable	25,247.47	
Interest receivable-earned post 12/4/80	97,808.50	
Private contributions solicited post-12/4/80	160,557.96	
Total accounts receivable		633,027.02
Capital & other assets		<u>-0-</u>
Total assets		\$ 3,195,976.01

Obligations for Qualified Campaign Expenses

Accounts payable:		
Loans from individuals	\$1,421,510.52	4/ 5/
Vendor payables	965,188.29	6/
Income taxes payable	60,729.32	7/
Anderson for President Primary Committee	1,006.66	
Total accounts payable	\$2,448,434.79	
Estimated winding down costs 7/1/81 to 9/30/81 (projected termination date) 8/		
Payroll	\$ 28,438.00	
Payroll taxes	11,698.00	
Legal fees	30,000.00	
Health Insurance	900.00	
Office Rent	4,000.00	
Furniture and equipment rental	4,500.00	
Telephone	3,600.00	
Postage, freight & shipping	900.00	
Supplies	500.00	
Computer services	10,000.00	
Travel	5,000.00	
Record shipping & storage	3,000.00	
Fundraising costs	- 0 -	
Office insurance	1,738.00	
Staff benefits (i.e. coffee, parking)	1,500.00	
Reserve for State unemployment taxes	2,000.00	9/
Total winding down costs	\$ 107,774.00	
Total Obligations For Qualified Campaign Expenses		<u>(2,556,208.79)</u>
Subtotal		\$ 639,767.22
Less: Net interest income (minus tax effect) earned on investment of Federal funds.		<u>(58,665.05)</u>
Net Outstanding Qualified Campaign Expenses-Surplus		<u>\$ 581,102.17</u>

* Amount of Federal funds received over and above the amount necessary to defray qualified campaign expenses.

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NOQCE Footnotes

- 1/ There was no specific documentation provided by the Committee to support this total. Any press billings receivable are included in the refund's total (\$241,384.24) which was determined by reviewing all receipts in the 12/5/80 - 6/30/81 period plus receivables outstanding at 6/30/81.
- 2/ Included in this amount is an \$18,000.00 refund due from a vendor based upon Committee records available at the time of this revision to the NOQCE. This amount is subject to reduction or elimination pending the receipt of a detailed accounting of the charges from the vendor.
- 3/ Total interest accrued (\$25,247.47) and receivable (\$97,808.50) totaling \$123,055.97 includes \$108,553.80 which was earned on the investment of public funds. The estimated tax effect is \$49,888.75 leaving a net amount repayable to the U.S. Treasury of \$58,665.05. (See Finding II.B.2.)
- 4/ As a result of audit work performed at the end of the 30 day response period to the interim audit report, the amounts applicable to the loan repayment/solicitation effort conducted after December 4, 1980 were updated through June 30, 1981 as follows:

Repayment checks endorsed by lenders to the Committee and deposited by the Committee.	\$231,601.61
Repayment checks negotiated (deposited or cashed) by the lender with the lender issuing his/her personal check to the Committee.	184,556.47
Repayment checks returned by the lender to the Committee and not negotiated (deposited) by the Committee due to non-negotiability of the instrument i.e., checks voided, not properly endorsed, stop payment checks or checks otherwise rendered non-negotiable by lenders.	21,007.35
Loans forgiven by lenders in December, 1980	<u>14,456.22</u>
Total loans forgiven	<u><u>\$451,621.65</u></u>
- 5/ Amendments to the Committee's disclosure reports may be necessary due to the method used in reporting the forgiven/recontributed 1980 loans as contributions in 1981.
- 6/ Excluded from the total are three (3) expenditures totalling \$3,541.97 which were found to not be related either expenditures incurred during the expenditure report period or qualified winding down costs.
- 7/ Income taxes payable includes \$49,888.75 which was earned on the investment of public funds. (See Finding II.B.2.)
- 8/ Winding down costs are estimates based on future activity projected through September 30, 1981. These estimates are subject to revision based upon actual costs incurred.
- 9/ The reserve for State unemployment taxes was established to cover future billings from States where unemployment taxes were not paid for Committee employees who worked at the State campaign offices.

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Recommendation

The Audit staff recommends that the Commission determine that the Committee has received \$581,102.17 in payments from the fund to which it was not entitled and that this amount is repayable in full within 30 days of receipt of this report, to the U.S. Treasury. During the 30 days, the Committee may submit legal and factual materials to demonstrate that repayment is not required.

Summary of Repayments to the U.S. Treasury

Non-qualified campaign expenditures - parking fines (Finding II.B.1.)	\$ 183.00
Interest received on Federal funds (Finding II.B.2.)	58,665.05
Federal funds received in excess of entitlement (Finding II.B.3.)	<u>581,102.17</u>
Total Repayment	<u><u>\$639,950.22</u></u>

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NATIONAL UNITY CAMPAIGN FOR JOHN ANDERSON
STATEMENT OF NET OUTSTANDING QUALIFIED CAMPAIGN EXPENSES
DECEMBER 4, 1980

(As Presented By The Committee March 3, 1981)

Assets

Cash-on-hand and in banks		\$2,651,291.00
Accounts receivable:		
Additional public funds entitlement	\$ 77,397.00	
Press billings	22,834.00	
Refunds	<u>134,500.00</u>	
Total accounts receivable		\$ 234,731.00
Capital & other assets		<u>- 0 -</u>
Total assets		\$2,886,022.00

Obligations for Qualified Campaign Expenses

Accounts payable:		
Loans from individuals	\$1,878,000.00	
Vendor payables	<u>465,000.00</u>	
Total accounts payable		\$2,343,000.00

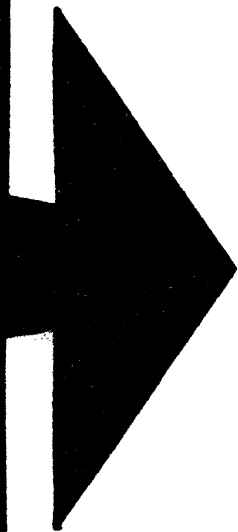
Estimated winding down costs 12/5/80
to 7/31/81 (projected termination date)

Payroll	\$ 180,000.00	
Payroll taxes	18,000.00	
Legal fees	20,000.00	
Health Insurance	2,400.00	
Office Rent	12,000.00	
Furniture and equipment rental	8,000.00	
Telephone	12,000.00	
Postage, freight & shipping	8,000.00	
Supplies	4,000.00	
Computer services	40,000.00	
Travel	4,000.00	
Record shipping & storage	3,000.00	
Fundraising costs	<u>100,000.00</u>	
Total winding down costs		\$ 411,400.00

Total Obligations For Qualified Campaign Expenses		<u>(2,754,400.00)</u>
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Net Outstanding Qualified Campaign Expenses-Surplus		<u>\$ 131,622.00</u>
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 19, 1983

MEMORANDUM

TO: FRED EILAND
PRESS OFFICER

FROM: BOB COSTA *RC*

SUBJECT: PUBLIC ISSUANCE OF ADDENDUM TO THE
FINAL AUDIT REPORT OF THE NATIONAL
UNITY CAMPAIGN FOR JOHN ANDERSON

Attached please find the above mentioned Addendum to the Final Audit Report of the National Unity Campaign for John Anderson which was approved by the Commission on July 14, 1983.

Informational copies have been received by all parties involved and the Addendum may be released to the public as of today, July 19, 1983.

Attachment as stated

cc: FEC Library
RAD
Public Record ✓



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

83 JUN 27 P 4: 48

June 27, 1983

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JAMES A. PEHRKON *J.P. Pehrkon*
ACTING STAFF DIRECTOR

FROM: BOB COSTA *BC*

SUBJECT: ADDENDUM TO FINAL AUDIT REPORT ON THE
NATIONAL UNITY CAMPAIGN FOR JOHN ANDERSON

AGENDA ITEM

For Meeting of: 7-14-83

Agenda Item No: _____

Exhibit No: _____

I. Summary of Issues and Recommendations

Based on the Audit staff's review of records of the National Unity Campaign For John Anderson ("the Committee") with respect to the incurrence and payment of non-qualified campaign expenses, \$1,276.66 in expenses for non-campaign related purposes were noted (see 11 C.F.R. 9007.2(a)(4)(i)). This represents an increase of \$1,093.66 from the amount (\$183.00) noted in the final audit report. This amount (\$1,276.66) was repaid to the U.S. Treasury on September 2, 1982. In addition, in accordance with the Commission's determination of March 10, 1982 (see discussion at II. below), the amount of interest received (net of applicable taxes) requiring repayment to the U.S. Treasury pursuant to 11 C.F.R. 9007.2(a)(6) is revised from \$58,665.05 as noted on page 12 of the final audit report to \$17,415.86. A check in this amount was delivered to the U.S. Treasury on August 5, 1982.

As noted on pages 4 and 5 of Exhibit A, the Committee's proposal to undertake a shared solicitation with the National Unity Committee with respect to the refund of 17 excessive contributions would distort the remedial nature of the refund, and therefore it is recommended that such solicitation not be permitted.

Finally, all monies remaining in the Committee's accounts at the conclusion of the wind down period which are in excess of those needed to defray qualified campaign expenses are to be repaid to the U.S. Treasury in accordance with the Commission's determination of March 10, 1982.

II. Background

On October 14, 1981, the Commission approved the final audit report on the National Unity Campaign For John Anderson which, pursuant to 26 U.S.C. Section 9007(b), and 11 C.F.R. 9004.5, required repayment of \$639,950.22 comprised of federal funds received in excess of entitlement, interest received on federal funds, and non-qualified campaign expenses.

As a result of its consideration of the Committee's response to the final audit report, the Commission made a determination on March 10, 1982 to allow the Committee to refund contributions received after December 4, 1980 (the end of the expenditure report period), and interest earned thereon to the original contributors in lieu of repayment to the U.S. Treasury. All funds remaining in Committee accounts (except those necessary for winding down in accordance with the estimates depicted in the Statement of Financial Condition attached) after the refund effort is concluded are to be repaid to the U.S. Treasury.

Subsequent to the above determination, the Committee proposed that a solicitation on behalf of the National Unity Committee ("the PAC")* be included with the reissuance of certain loan repayment checks. The Committee also suggested the possibility of both committees sharing the cost of this mailing. The Committee also proposed that any repayment(s)/payment(s) to the U.S. Treasury for non-qualified campaign expenses and/or civil penalties be permitted to be made from Committee accounts containing only private contributions. On July 29, 1982, the Commission approved both proposals with the understanding that any reimbursement for shared costs by the PAC would occur prior to the proposed mailing.

In August 1982 and April 1983, the Audit staff performed follow-up work to obtain an update of the Committee's financial condition (see Exhibit B). Based on these reviews, the current status of the refund effort, interest repayment, and non-qualified campaign expenses is discussed below.

* According to the Committee's proposed solicitation letter, the PAC is a "new political Committee" which was formed in 1981. The letter goes on to state: "[I]t is an entirely separate entity from the 1980 campaign committee. It has endeavored to maintain contact with our supporters by publishing a bi-monthly newsletter, 'An Independent View,' and otherwise continuing to promote the ideas we espoused in 1980."

A. Contribution Refund Effort

In accordance with the Commission decision of March 10, 1982, the Audit staff calculated the value of the contributor refund pool. The estimated value, as of March 31, 1983, of the refund pool is \$291,223.00. The total amount originally contributed was \$601,990.50. The Committee at this time contemplates mailing the refund checks in July. The checks have a negotiation restriction of 90 days thereby affording a cutoff of the refund effort in October 1983. At that point, any funds remaining (other than those necessary to defray winding down costs as estimated) are to be paid to the U.S. Treasury.

The Committee proposes to include a solicitation with the refund checks. According to the Committee, the letter accompanying the refund checks will state that to continue the activities of the PAC, it would be appreciated if the recipient of the refund check would consider making a contribution to the PAC.

The Committee indicated that the PAC would share the cost of this mailing on an equitable basis with the Committee. Our analysis of the Committee's cost estimates with respect to the contribution refund effort involving approximately 15,700 contributors revealed that the total estimated cost is \$29,181.89 with the PAC's share calculated at \$10,116.48. Based on the assumptions made by the Committee in arriving at the PAC's share of the costs and after certain adjustments to those figures, it appears that the Committee's computation of costs to be shared is consistent with the Commission's July 29, 1982 determination. The Committee does not intend to commence the mailing until receipt and deposit of the PAC's share of the cost of this mailing.

The Committee also proposed a shared solicitation with the PAC with respect to a mailing of refund checks for 17 excessive contributions. This proposal is essentially distinct from the unique refund/solicitations of surplus funds described above. For the reason stated in Section I, this shared solicitation is deemed not to be permissible under the Act.

B. Interest Earned on Federal Funds

The final audit report cited interest earned on federal funds in the amount of \$108,553.80, minus taxes of \$49,888.75 leaving a net amount repayable to the U.S. Treasury of \$58,665.05. As a result of the Commission's determination on March 10, 1982, which changed the treatment of the interest earned on contributions received after December 4, 1980, the interest earned on federal funds changed to \$32,251.60, minus taxes of \$14,835.74 leaving a net amount repayable of \$17,415.86. The Committee repaid the amount of \$17,415.86 on August 5, 1982.

C. Non-Qualified Campaign Expenses

The final audit report cited non-qualified campaign expenses in the amount of \$183.00 for parking fines. During follow-up fieldwork subsequent to the final report, we noted additional expenses totaling \$1,093.66 which are also subject to repayment to the U.S. Treasury pursuant to 26 U.S.C. 9007(b)(4)(A). These items include tax penalties arising from late payment of unemployment insurance, post election purchase of office equipment, and other incidental expenses. The Committee repaid the amount of \$1,276.66 on September 2, 1982.

III. Support For the Recommendation

The recommendations are based on the Commission's determinations of March 10 and July 29, 1982 and review of the Committee's financial records subsequent to the final audit report.

IV. Staff Coordination

A copy of this memorandum was furnished to the Office of General Counsel for their consideration. Their comments are included at Exhibit A.

Attachments:

Exhibit A: Memorandum from Office of General Counsel re:
Addendum to the Final Audit Report-National Unity
Campaign for John Anderson, 83AR16.

Exhibit B: National Unity Campaign for John Anderson,
Statement of Financial Condition as of 3/31/83
(prepared by Audit Division).



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 10, 1983

MEMORANDUM

TO : Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: James A. Pehrkon *JAP*
Acting Staff Director

FROM : Charles N. Steele *CNS*
General Counsel

SUBJECT: Addendum to the Final Audit Report -
National Unity Campaign for John
Anderson, 83AR16

The Audit Division submitted for review the above-referenced addendum concerning the National Unity Campaign for John Anderson (the Committee). The addendum reports on the Committee's efforts to wind down its operations, to make repayments to the Treasury and refunds to contributors in accordance with the Commission's determinations of March 10, 1982. The auditors have updated the Committee's financial statement through March 31, 1983.

AUDIT QUESTION: LEGAL FEES AS
WIND DOWN EXPENSES

Attached to the addendum is a request for an opinion concerning the amount of legal fees included in the calculation of wind down expenses. In April 1983, during the latest audit review of the Committee, the auditors found that the Committee had incurred and paid legal fees totaling \$47,658.60. Counsel for the Committee billed as follows:

Legal Services	\$ 30,300.00
Retainer for remaining wind down period	12,000.00
Travel expense, telephone, etc.	<u>5,358.60</u>
TOTAL	\$ 47,658.60

Counsel's bill to the Committee included, in part, services for consultation concerning day-to-day legal inquiries, review of financial reports, services concerning MUR 1452 (Liberal Party), review of the refunding arrangement, and preparation of responses to the FEC. The retainer would extend services through the winding down process (presently estimated to end November 30, 1983). The auditors question the amount of the fees charged, particularly focusing on the amount of remaining retainer, in view of the minimal activity anticipated before the Committee may terminate.

11 C.F.R. § 9002.11(c)(1) states that "Expenses incurred after the expenditure report period are not qualified campaign expenses, except for winding down costs...." [Emphasis added.]

11 C.F.R. § 9004.4(a)(4) allows a candidate to use public funds to defray winding down costs, "provided that such costs are associated with the termination of the candidate's general election campaign. Examples of such costs include, but are not limited to: The cost of complying with the post-election requirements of the Act, the cost of necessary office space rental, and payroll costs for necessary personnel." [Emphasis added.]

The Regulations include "the cost of complying with post-election requirements of the Act" as qualified campaign expenses in wind down costs. The legal services itemized by the Committee's counsel appear to encompass the usual functions associated with the post-election repayment process and preparation of responses to a MUR investigation. The retainer of \$12,000 is the fee estimated to continue these services through the end of the winding down period, now projected through November 30, 1983. According to Committee counsel, the retainer covers "final services for the...MUR, the refunding procedure, and routine conferences and correspondence with committee officers...." The Committee is prepared to refund and terminate in due course; there is no question of litigation in the legal fees estimated to complete the winding down. Therefore, the legal services noted by counsel may be considered part of the valid

winding down costs contemplated by the Regulations. As qualified campaign expenses, these legal services provided to the Committee will reduce the amount available for refund to contributors.

The auditors question the reasonableness of Committee counsel's legal fees. The question posed to this Office focuses on the amount of fees charged and the number of hours expended on behalf of the Committee. The question does not concern whether the purpose of the fees was for qualified campaign expenses.

As discussed herein, we have reviewed the attorney's bill which details the valid winding down services rendered. In addition to this documentation, the attorney provided a breakdown of fees charged and the number of hours billed for services by two partners, two associates and a paralegal in the law firm. It appears that Committee counsel has adequately accounted for the services in his bill to the Committee. Based on our examination of the documents provided and the analysis of the services as valid qualified campaign expenses, the Office of General Counsel concludes that the available information is sufficient in this case to document the amount of fees charged. Therefore, no further scrutiny of documentation for the fees is warranted in this particular matter.

A.1. Refund of Surplus Funds

On March 10, 1982, in its decision concerning the response to the Final Audit Report of the National Unity Campaign for John Anderson, the Commission determined that the Committee could not retain surplus campaign funds as it requested. However, in lieu of repayment to the U.S. Treasury, the Commission allowed the Committee to refund to contributors on a pro rata basis all private contributions received after the end of the expenditure report period and all interest earned thereon. Funds remaining after the refund effort are to be repaid to the U.S. Treasury.

Subsequently, during consideration of the Committee's method for refunding the monies, the Commission agreed that the Committee may include in the refund cover letter a solicitation of funds for John Anderson's political action committee, the National Unity Committee and share the costs of the mailing based in part on the amount allocable to each committee. In addition, the Commission allowed the Committee to use monies in the "contribution refund pool" to repay non-qualified campaign expenses to the U.S. Treasury and to pay civil penalties.

In April 1983, the auditors examined the Committee's records to recalculate the financial statement through March 31, 1983, and to establish the amount of funds available for refund to contributors. The total available for refund or repayment is \$291,223.00.

The auditors reviewed the Committee's proposed refund scheme to ensure that the method used to apportion costs of the mailing between the Committee and the PAC comport with the Commission's determination regarding the dual purpose refund/solicitation mailing. The auditors reviewed records showing that the cost of the cover letter was shared based on an allocable percentage of the message content. Other costs associated with the mailing (e.g., envelopes for return contributions to the PAC) were attributed to and will be paid by the Committee or PAC as appropriate. The Committee will receive the PAC's share of costs before commencing the mailing. Based on the information from the Committee and the audit staff, it appears that the refund/solicitation method for the refund of monies received after the end of the expenditure report period is in keeping with the Commission's decision of July 29, 1982, which allowed the joint effort.

A.2. Refund of Excessive Contributions

The Committee also proposes to solicit funds for the PAC in a letter refunding 17 checks representing excessive contributions. The Committee did not raise the issue of including a solicitation with the refund of excessive contributions at the time it proposed the refund/solicitation of surplus funds. Consequently, the Commission has not considered this particular matter in previous deliberations about the refund effort.

This issue is essentially distinct from the unique refund/solicitation of surplus funds. Significantly, the refund of excessive contributions is a remedial measure to rectify an apparent violation of 2 U.S.C. § 441a(f) ^{1/} and should not be converted into a fundraising effort benefiting a political action committee. A shared refund and solicitation of excessive contributions in this case would open the door to similar

^{1/} The Committee previously attempted timely refunds of these 17 excessive contributions. Because the refund checks remain outstanding, the Committee will again refund the excessive portions totaling less than \$3,000.

refund/fundraising schemes. For example, other committees receiving excessive contributions may wish to transfer the excessive funds to an unrelated committee and notify contributors after the fact.

It is the position of this Office that a committee receiving an excessive contribution may not retain the excessive portion, nor may it transfer or solicit contribution refunds for another unrelated committee. ^{2/} A shared solicitation of funds accepted in violation of the Act would distort the remedial nature of the refund. The Office of General Counsel recommends against the Commission placing its imprimatur on an arrangement which allows an unrelated political committee to profit from contributions received in apparent violation of the Act.

B. Interest Earned on Federal Funds

11 C.F.R. § 9004.5 permits investment of public funds to generate income, provided that all interest earned on such investments, less applicable income taxes, shall be repaid to the U.S. Treasury. See 11 C.F.R. § 9007.2(a)(6).

The final audit report calculated the interest earned on public funds with the interest earned on investment of the contributions received after the end of the expenditure report period (December 4, 1980). As a result of the Commission's subsequent decision to allow a refund of the contributions in lieu of repayment, the auditors recalculated the repayable interest on public funds, less taxes, omitting the interest on contributions which are to be refunded. On August 5, 1982, the Committee repaid \$17,415.86 to the U.S. Treasury.

C. Non-Qualified Campaign Expenses

The Commission's repayment determination of March 10, 1982, and the concomitant Statement of Reasons required repayment of non-qualified campaign expenses totaling \$183.00. During follow-up field work, the auditors found additional non-qualified expenses of \$1,093.66 which are detailed in Section C of the Final Audit Addendum. On September 2, 1982, the Committee repaid \$1,276.66, thereby obviating the need for renewed repayment-procedures for the additional non-qualified expenses.

^{2/} In contrast, presidential committees have transferred excessive portions of contributions to their legal and accounting compliance fund with appropriate notice to the contributor.

Assets:

Cash-on-hand and in banks		\$380,515.45
Accounts Receivable:		
Due from Vendors	\$ 57,457.11	
Investment Income (Estimated)	10,286.68 <u>1/</u>	
National Unity Committee's share of refund effort	10,116.48 <u>2/</u>	
 Total Accounts Receivable		 <u>77,860.27</u> <u>3/</u>
 Total Assets		 <u>\$458,375.72</u>

Liabilities:

Accounts Payable		\$ 82,732.35 <u>4/</u>
Winding Down Costs 4/1/83- 11/30/83 <u>5/</u>		
Rent & related	7,588.08	
Salaries & salary related	52,163.82	
Office supplies & misc.	3,400.00	
Equipment rental	7,571.28	
Telephone	6,400.00	
Contributor refund mailing	7,297.19 <u>6/</u>	
 Total Winding Down Costs		 84,420.37
 Funds to be refunded to Contributors	 <u>291,223.00</u>	 <u>291,223.00</u> <u>7/</u>
 Total Liabilities		 <u>\$458,375.72</u>

Notes

- 1/ Investment income was estimated by projecting the interest on funds invested at current rates through termination. The amount of estimated taxes payable is included in Accounts Payable.
- 2/ Reimbursement for costs directly related to the NUC contribution solicitation which will be included in the contribution refund mailing.
- 3/ In the future, a receivable may exist relating to recovery of attorney fees concerning litigation recently before the U.S. Supreme Court. The amount is not determinable at this time and no estimate is included.
- 4/ In the future, a payable may also exist (see footnote 3/). No estimate is included.
- 5/ Winding down costs are estimated through 11/30/83. At the conclusion of the wind down period, the Audit staff will compare estimates against actual expenses incurred.
- 6/ Total cost of the refund mailing is estimated at \$29,181.89 with \$10,116.48 to be paid by NUC and \$11,505.72 already paid by the Committee.
- 7/ Value of the fund balance which, pursuant to the Commission's determination, is to be returned to the original contributors.



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 # 1388.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



FEC
DOCUMENT
SEPARATOR



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

July 19, 1984

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: BOB COSTA *RC*

SUBJECT: ADDENDUM #2 TO THE FINAL AUDIT REPORT
ON THE NATIONAL UNITY CAMPAIGN FOR
JOHN ANDERSON

I. Summary of Issue and Recommendation

On July 14, 1983, the Commission approved Addendum #1 to the final audit report on the National Unity Campaign For John Anderson ("the Committee"). The Commission approved the return of approximately \$291,000 to Committee contributors which would include a solicitation for funds for the National Unity Committee. ^{1/} Further, all monies remaining in the Committee's accounts at the conclusion of the wind down period (11/30/83) which are in excess of those needed to defray qualified campaign expenses are to be repaid to the U.S. Treasury in accordance with the Commission's determination of March 10, 1982.

Based on audit fieldwork performed for the period April 1, 1983 through December 14, 1983, the Audit staff calculated the amount repayable to the U.S. Treasury as \$50,905.58. On November 30, and December 22, 1983 the Committee presented checks to the Audit staff, totaling \$29,075.06, for delivery to the U.S. Treasury. As of this date, \$21,830.52 has yet to be repaid (see discussion at II.B.(1)).

^{1/} According to correspondence accompanying a statement of organization amendment received by the Commission on July 28, 1983, the National Unity Committee "has always been intended to be the successor to the National Unity Campaign for John Anderson and the nucleus for a new party. We had been told that NUCJA could not raise additional money until wind-down had been approved, nor should new funds be commingled with NUCJA accounts. Accordingly, the National Unity Committee was created to permit modest fund raising to support the newsletter and other similar activities which could not be undertaken by NUCJA and could not be considered a proper wind-down expense."

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II. Background

A. The Refund Effort

Pursuant to the Commission's determination of July 14, 1983, the Committee sent refund checks, totaling \$290,909.90, to approximately 15,700 past contributors. The checks were dated August 1, 1983 and carried a negotiation restriction of 90 days (i.e., "void after 90 days"). The Audit staff reviewed bank records and associated documentation pertaining to the refund effort.

The breakdown of refund checks is as follows:

Value of checks cashed with funds retained by contributors	\$115,498.51
Value of checks endorsed to the National Unity Committee	116,088.02
Value of checks voided	<u>59,323.37</u>
Total Amount Issued	\$290,909.90

It should be noted that included in the breakdown are 88 checks (totaling \$1,911.04) which were paid by the bank after October 31, 1983 (the last day a check could have been presented and paid within the language of the negotiation restriction). Of this amount, \$958.83 in funds were retained by the contributors and \$952.21 in checks were endorsed to the National Unity Committee.

B. Amount Repayable to U.S. Treasury

The Audit staff calculated the amount remaining in Committee accounts in excess of that necessary to defray qualified campaign expenses. At Exhibit A, the financial position of the Committee as of 12/14/83 is presented. The Treasurer of the Committee disputes several of the figures used by the Audit staff in arriving at the amount repayable to the U.S. Treasury.

84070163682

(1) Cash in Escrow - \$21,830.52

The Treasurer disputes the inclusion of \$21,830.52 which was in a Committee account referred to as the non-federal funds account. 2/ The Treasurer stated that since the account has never contained any federal funds, the monies therein are not subject to repayment. It is the opinion of the Audit staff that the Commission's decision with respect to the refund effort expressly requires the repayment of funds remaining in all Committee accounts. 3/

(2) in regard to footnotes 2/ and 3/

The Statement of Financial Position prepared by the Audit staff for inclusion in Addendum #1 contained footnotes similar to footnotes 2/ and 3/ in the financial statement at Exhibit A. The Treasurer is of the opinion that the litigation at issue does not involve the Committee, but rather is on behalf of the candidate, John B. Anderson, and any funds relative to awards for attorneys' fees are not subject to inclusion in a financial statement of the Committee. Inclusion by the Audit staff is predicated upon the fact that monies have already been expended by the Committee or its agent in payment of legal fees relating to the litigation at hand. Therefore any funds awarded resulting from a settlement of this case are to be used for the payment of bona fide legal fees with the surplus being repayable to the U.S. Treasury.

A letter was sent to the Treasurer of the Committee on _____ requesting a complete financial history of the ballot access litigation, including evidence of all court awards for legal fees or monies awarded over and above the fees charged. A revised statement of financial position will be prepared, if appropriate, after analysis of information pertaining to the court awards.

2/ See Agenda Document 82-114 considered on July 29, 1982 for a discussion of the use of funds in the non-federal funds accounts to pay civil penalties and make repayments to the U.S. Treasury.

3/ See Addendum #1 to Final Audit Report on the National Unity Campaign For John Anderson, page 1.

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III. Support for the Recommendation

The recommendation is based on the Commission's determinations of March 10, 1982, July 29, 1982 and July 14, 1983 and review of the Committee's financial records subsequent to the first Addendum to the final audit report.

IV. Staff Coordination

A copy of this memorandum was furnished to the Commission's Office of General Counsel for their consideration. Comments received from the Office of General Counsel are attached.

Attachments as stated

84070163684

**National Unity Campaign For John Anderson
Statement of Financial Position
As of 12/14/83**

Assets:

Cash in Escrow	\$21,830.52 <u>1/</u>
Accounts Receivable	<u>-0-</u> <u>2/</u>
Total Assets	<u>\$21,830.52</u>

Liabilities:

Accounts Payable	\$ -0- <u>3/</u>
Repayment Due U.S. Treasury	<u>21,830.52</u>
Total Liabilities	<u>\$21,830.52</u>

Notes

- 1/ This amount is being held in escrow by Committee counsel pending resolution of repayment question.
- 2/ A receivable may exist relating to recovery of attorney fees concerning litigation considered by the U.S. Supreme Court. No estimate is included.
- 3/ A payable may also exist (see footnote 2/). No estimate is included.

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