



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 29, 1985

MEMORANDUM

TO: FRED EILAND
PRESS OFFICER

FROM: ROBERT J. COSTA *RJC*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
THE LAROUCHE CAMPAIGN

Attached please find a copy of the final audit report of The LaRouche Campaign which was approved by the Commission on October 17, 1985.

Informational copies of the report have been received by all parties involved and the audit report may be released to the public.

Attachment as stated

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REPORT OF THE AUDIT DIVISION
ON
THE LAROCHE CAMPAIGN

I. Background

A. Overview

This report is based on an audit of The LaRouche Campaign ("the Committee") to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Presidential Primary Matching Payment Account Act. The audit was conducted pursuant to 26 U.S.C. § 9038(a) which 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."

In addition, 26 U.S.C. § 9039(b) and 11 C.F.R. § 9038.1(a)(2) state, in relevant part, that the Commission may conduct other examinations and audits from time to time as it deems necessary.

The Committee registered with the Federal Election Commission on October 21, 1983. The Committee maintains its headquarters in New York, New York.

The audit covered the period October 1, 1983, through June 30, 1984, the last day covered by the most recent report filed with the Commission at the time of the audit. During this period, the Committee reported an opening cash balance of \$-0-, total receipts of \$3,814,402.71, total disbursements of \$3,784,524.90 and a closing cash balance of \$29,877.81. In addition, a limited review of financial activity was conducted through July 31, 1984 to determine the amount of remaining matching fund entitlement as of the close of the audit fieldwork (see Section III.B.).

The Committee has continued to receive contributions and make disbursements. In addition, revised statements of Net Outstanding Campaign Obligations have been submitted with each matching fund submission as required by 11 C.F.R. § 9034.5(d). Under 11 C.F.R. §§ 9038.1(b)(3) and 9038.1(e)(4) additional audit work may be conducted and addenda to this report issued as necessary.

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This report is based upon documents 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 Treasurer of the Committee is Mr. Edward Spannaus.

C. Scope

The audit included such tests as verification of total reported receipts, disbursements 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. Since the Committee's contribution records were predominately internally generated, this audit did not include the verification of individual contributions to externally generated records.

II. Findings and Recommendations Related to Title 2 of the United States Code

A. Contributions by Foreign Nationals

Section 441e of Title 2, United States Code, states that it shall be unlawful for any person to solicit, accept, or receive a contribution from a foreign national.

During the course of the audit, the auditors identified contributions totaling \$11,429.13 from 24 individuals who appeared to be foreign nationals in that their mailing addresses were outside of the United States. The Assistant Treasurer for the Committee indicated that these contributions were probably from Americans living and/or working abroad.

On December 14, 1984, and January 4 and February 6, 1985, the Committee provided documentation signed by three (3) of the contributors which confirmed their U.S. citizenship. For 21 individuals, the Committee provided notarized statements from campaign volunteers who attest to having solicited the contributions, with references to dates and amounts, and who swear that during the course of the solicitation or in previous discussions, they ascertained that the contributor was a U.S. citizen.

Recommendation

The Audit staff recommends that no further action be taken on this matter.

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B. Matters Referred to the Office of General Counsel

Certain matters noted during the audit were referred to the Office of General Counsel.

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

A. Apparent Non-Qualified Campaign Expenses

1. Determination of Repayment Ratio

Section 9038(b)(2)(A) of Title 26, United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for purposes other than to defray qualified campaign expenses or to repay loans the proceeds of which were used to defray qualified campaign expenses, it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such an amount.

The Commission, in a Notice of Proposed Rulemaking published in the Federal Register on June 28, 1984, set forth a pro-rata formula which would base repayments for non-qualified campaign expenses on the proportion of federal funds to total funds received by the candidate. Further, the final version and the Explanation and Justification was published in the Federal Register on August 22, 1984 and transmitted to Congress.

On March 5, 1985 the revised regulations were resubmitted for publication. The proposed regulations were before the Congress for 30 legislative days as of May 20, 1985, and were approved by the Commission for publication in final form on June 11, 1985.

The formula and its application with respect to the Committee's receipt activity is as follows:

Total Matching Funds Certified Through		
Date of Ineligibility (6/7/84)	<u>2/</u>	=
Numerator + Private Contributions		
Received through 6/7/84		
\$ <u>453,586.62</u>		
(\$453,586.62 + \$1,490,047.60) = .233370		

Therefore, the Committee's repayment ratio for non-qualified campaign expenses is 23.3370%.

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2. Post-Ineligibility Campaign Expenditures

Section 9032(9) of Title 26, United States Code, and Section 9032.9 of Title 11, Code of Federal Regulations, in part, define a qualified campaign expense as a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value incurred by a candidate or his authorized committee in connection with his campaign for nomination for election from the date the individual became a candidate through the last day of the candidate's eligibility.

Furthermore, included in the examples of disbursements that are not qualified campaign expenses under 11 C.F.R. § 9034.4(b)(3) are "post ineligibility expenditures" or expenses incurred after a candidate's date of ineligibility, to the extent that they do not qualify as winding down costs.

Section 9034.4(a)(3) of Title 11, Code of Federal Regulations, defines winding down costs as (i) costs associated with the termination of political activity, such as the costs of complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies, or (ii) costs incurred before the candidate's date of ineligibility, for which written arrangement or commitment was made on or before the candidate's date of ineligibility (emphasis added).

As previously mentioned, the Commission determined that Mr. Lyndon LaRouche's date of ineligibility was June 7, 1984. That was the date that Mr. LaRouche's candidacy terminated for the purpose of incurring qualified campaign expenses under Title 26 of the United States Code. In reality, however, Mr. LaRouche continued to campaign for the presidential nomination. In relation to this continued campaign effort, the Audit staff identified \$233,996.01 in post-ineligibility expenditures made between June 8, 1984 and July 31, 1984. These expenditures could be grouped as follows:

1.	media and production	\$161,154.34
2.	printing	34,669.16
3.	apparent campaign and/or convention-related travel, subsistence, and other expenses	31,110.98
4.	press release costs	<u>7,061.53</u>
	Total	<u>\$233,996.01</u>

2/ On May 18, 1984, the Commission determined that the date of ineligibility pursuant to 11 C.F.R. § 9033.5(a) for Mr. Lyndon LaRouche was June 7, 1984.

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The Auditors did note during the fieldwork that some of these expenditures could have been qualified campaign expenses, i.e., incurred prior to 6/7/84. However, at that time they were not included in the Committee's June 7, 1984 accounts payable and from the documentation then available it could not be determined if the obligations for the goods or services received were incurred prior to June 7, 1984. To date no further documentation has been submitted by the Committee.

Included in the \$233,996.01 above is a payment to CBS Television by certified check in the amount of \$107,670.00 for a "national TV broadcast" aired on June 11, 1984. The certified check was prepared on June 7, 1984, the Candidate's date of ineligibility, however, the contract refers to an "Agreement made this 6th day of June, 1984" but it was not signed by the CBS-TV representative until June 8, 1984.

On December 19, 1984, the Committee submitted its response to the interim audit report which asserted that the above noted disbursements should not be viewed as non-qualified expenditures based, in part, upon the practical realities of campaign activity and the guidelines and regulations promulgated and administered by the Commission. Further, the Committee takes exception to the auditors' application of the pro-rata repayment provisions, supplying hypothetical examples, although no additional factual material with respect to the matters discussed above is provided. Therefore, no changes were effected upon the above noted problem.

Conclusion

On October 17, 1985, the Commission made an initial determination that the amount of post-ineligibility disbursements related to the Candidate's continued campaign effort (\$233,996.01) are non-qualified campaign expenses and the pro-rata portion of \$54,607.65 ($\$233,996.01 \times .233370$) must be repaid to the U.S. Treasury within 90 calendar days of receipt of this report in accordance with 11 C.F.R. § 9038.2(d).

If the Candidate does not dispute this determination within 30 calendar days of the receipt of this report, the initial determination will be considered final.

Repayment Amount: \$54,607.65

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B. Determination of Net Outstanding Campaign Obligations

Section 9034.5(a) of Title 11, Code of Federal Regulations, requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO) which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of the necessary winding down costs within 15 days of the candidate's date of ineligibility.

On June 17, 1984, the Committee filed a NOCO statement as of June 7, 1984, the candidate's date of ineligibility. This initial NOCO statement was subsequently amended on August 16, 1984.

Shown below is the Committee's financial position (NOCO) as of June 7, 1984, as determined by the Audit staff and agreed to by the Committee.

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The LaRouche Campaign
Statement of Net Outstanding Campaign Obligations

June 7, 1984

Assets:

Cash in Banks	\$ 92,802.00	
Deposits and Receivables	<u>9,987.57</u>	
Total Assets		\$ <u>102,789.57</u>

Obligations:

Loans Payable-Individuals (as of 6/7/84)	\$1,766,346.50	
Accounts Payable	358,126.96	
Winding Down Costs (through <u>12/31/84</u>)	<u>42,500.00</u>	
Total Obligations		\$ <u>2,166,973.46</u>
Net Outstanding Campaign Obligations (Deficit) as of 6/7/84		<u>(\$2,064,183.89)</u>

Shown below is an adjustment for private contributions and matching funds received during the period of 6/8/84 to 7/31/84, the most current financial information available at the close of fieldwork.

Net Outstanding Campaign Obligations (Deficit) as of 6/7/84		(\$2,064,183.89)
Net Private Contributions and Matching Funds-June (Post June 7, 1984)		61,510.35
Net Private Contributions and Matching Funds-July		<u>205,211.64</u>
Remaining Entitlement as of July 31, 1984 ^{3/}		<u>(\$1,797,461.90) ^{3/}</u>

The Commission has yet to consider the appropriateness of the Committee's inclusion of loans payable to individuals on their NOCO statement. Should the Commission elect to question this treatment, the Audit staff will assess the impact of their exclusion from the NOCO statement and the resultant effect on the Committee's matching fund entitlement (see 11 C.F.R. § 9034.5(e)).

^{3/} Does not include \$407,440 in loans received/incurred from 6/8/84-7/31/84. These post-ineligibility loans were excluded from both Assets and Obligations as they have an offsetting effect on net outstanding campaign obligations.

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