



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 5, 1987

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
MONDALE/FERRARO COMMITTEE, INC.
MONDALE/FERRARO COMMITTEE, INC./
LEGAL AND ACCOUNTING COMPLIANCE FUND
INDEPENDENTS FOR MONDALE/FERRARO

Attached please find a copy of the subject final audit report which was approved by the Commission on February 5, 1987.

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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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION

ON

THE MONDALE/FERRARO COMMITTEE, INC., THE MONDALE/FERRARO COMMITTEE, INC./LEGAL AND ACCOUNTING COMPLIANCE FUND, AND INDEPENDENTS FOR MONDALE/FERRARO

I. Background

A. Overview

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This report is based on an audit of the Mondale/Ferraro Committee, Inc. (the "General Fund"), the Mondale/Ferraro Committee, Inc./Legal and Accounting Compliance Fund (the "Compliance Fund"), and Independents for Mondale/Ferraro ^{1/} to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Federal Election Campaign Fund Act. The audit was conducted pursuant to 26 U.S.C. § 9007(a) 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, 26 U.S.C. § 9009(b) states, in part, that the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

The Mondale Presidential Campaign - General registered with the Federal Election Commission on June 14, 1984 as the principal campaign committee of the Honorable Walter F. Mondale. On July 31, 1984, the committee changed its name to the Mondale/Ferraro Committee, Inc. This committee was financed by funds received pursuant to 26 U.S.C. § 9005.

The Mondale Presidential Campaign - Legal and Accounting Compliance Fund registered with the Federal Election Commission on June 14, 1984. On July 31, 1984, the committee changed its name to the Mondale/Ferraro Committee, Inc./Legal and Accounting Compliance Fund. This committee was established in accordance with 11 C.F.R. § 9003.3. The General Fund and the Compliance Fund filed separate disclosure reports as required by 11 C.F.R. § 9006.1.

^{1/} There were no findings pertaining to Independents for Mondale/Ferraro.

Independents for Mondale/Ferraro registered with the Federal Election Commission on September 10, 1984 as an authorized committee of the Candidate. It was financed solely by funds received from the General Fund, was accounted for as a cost center on the General Fund's automated general ledger, and likewise filed separate disclosure reports.

The audit covered the period from the General and Compliance Funds' inception, June 14, 1984, through December 31, 1984, the final coverage date of the latest reports filed at the time of the audit. In addition, certain financial activity was reviewed through March 31, 1985. Finally, follow-up fieldwork was conducted to perform a limited review of General and Compliance Fund activity through March 31, 1986.

The General Fund reported an opening cash balance of \$-0-, total receipts of \$44,419,140.68, total disbursements of \$43,027,424.28 and a closing cash balance on December 31, 1984 of \$1,391,726.37 ^{2/}. The Compliance Fund reported an opening cash balance of \$-0-, total receipts of \$1,186,274.68, total disbursements of \$615,774.42 and a closing cash balance on December 31, 1984 of \$570,500.46 ^{2/}. The Independents for Mondale/Ferraro reported an opening cash balance of \$-0-, total receipts and total disbursements of \$135,645.51, and a closing cash balance on December 31, 1984 of \$-0-.

Under 11 C.F.R. § 9007.1(b)(3) and § 9007.1(e)(4) additional audit work may be conducted and addenda to this report issued as necessary.

This report is based on documents and workpapers supporting each of the factual statements contained herein. They form part of the record upon which the Commission based its decisions on the matters addressed in the report and were available to the Commissioners and appropriate staff for review.

B. Key Personnel

During the period audited, the Treasurer of both the General and Compliance Funds was Mr. Michael S. Berman. The Treasurer of Independents for Mondale/Ferraro was Mr. Mark Barrett.

C. Scope

The audit included such tests as verification of total reported receipts, disbursements and individual transactions; review of required supporting documentation; analysis of debts and obligations; review of contribution and expenditure

^{2/} The reported totals do not calculate correctly due to minor mathematical discrepancies.

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limitations; and such other audit procedures as deemed necessary under the circumstances.

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

A. Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that each report under this section shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and disbursements.

1. General Fund

The Audit staff performed a reconciliation of the General Fund's bank accounts to the reports filed and determined that cash on hand as of December 31, 1984 was overstated by \$598,550.16. This overstatement was the net result of the following misstatements (parentheses indicate that the error caused an understatement of cash on hand):

Receipts

1. Math error (receipts overstated)	\$ 44,366.00	
2. Unreported receipts	(9,608.21)	
3. Miscellaneous	<u>(.45)</u>	
Net Receipt Overstatement		\$ 34,757.34

Disbursements

1. Math errors (disbursements understated)	\$ 493,579.45	
2. Unreported disbursements (See Exhibit B,1)		
Headquarters checking	\$202,315.77	
Drafts	<u>70,594.23</u>	272,910.00
3. Voided checks reported	(220,261.26)	
4. Miscellaneous	<u>17,564.63</u>	
Net Disbursement Understatement		<u>563,792.82</u>
Total Cash on Hand Overstatement		<u>\$598,550.16</u>

As part of the regular 1985 First Quarter report filed on April 15, 1985, the General Fund amended prior reports by disclosing a previously omitted expenditure of \$103,198.50 (for headquarters rent) and by correcting a \$315,620.20 math error. In addition, the General Fund's regular 1985 Second Quarter report filed on July 15, 1985, amended a prior report by disclosing \$70,423.48 in previously omitted drafts. As a result, cash on hand on the General Fund's reports remains overstated by \$109,307.98. The General Fund's representatives agreed to amend their reports to correct the remaining misstatement.

2. Compliance Fund

The Audit staff performed a reconciliation of the Compliance Fund's bank accounts to their reports filed and determined that cash on hand as of December 31, 1984 was overstated by \$20,915.47. This overstatement was the result of (1) an unexplained failure to disclose certain disbursements (\$25,887.15) (see Finding II.B. 2.), (2) a failure to adjust for reported checks subsequently voided (\$5,064.15), and (3) other miscellaneous items (\$92.47).

Compliance Fund officials were provided with the details of these misstatements and agreed to file amended reports to correct them.

In the Interim Audit Report, the Audit staff recommended that, within 30 days of receipt of the report: (1) the General Fund correct the remaining \$109,307.98 cash on hand misstatement by amending the cash on hand figure of the most recent report filed, and (2) the Compliance Fund file a comprehensive amendment for 1984 correcting the disbursement and cash on hand figures, and in addition, amend the cash on hand figure of the most recent report filed.

The response to the Interim Audit Report stated "MFC agrees to amend its reports to correct the errors as outlined in the Report. These errors amounted only to 1 percent percent (sic) of Committee transactions. Eighty-two percent of these errors have already been corrected by the Committee." However, no amended reports were filed with the response. Though not filed timely, the General and Compliance Funds, as part of their April 15, 1986 Quarterly report, substantially complied with the recommendations in the Interim Audit Report.

Conclusion

The Commission determined that no further action is necessary on this matter.

B. Failure to Itemize Expenditures

Section 434(b)(5) of Title 2 of the United States Code requires that each report 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.

1. General Fund

In addition to the checking accounts maintained at the General Fund's headquarters, a draft account was established, which was utilized in lieu of State office or advance staff checking accounts. Bank drafts of various denominations were issued to General Fund staff for making disbursements in the field. As a matter of convenience, it was General Fund practice to itemize all disbursements, regardless of amount.

Included in the \$202,315.77 in unreported expenditures from the Headquarters checking account, noted in Finding II. A. 1. above, are 44 expenditures, totaling \$201,382.21, which were not itemized as required. The balance of the unreported expenditures do not require itemization. One of the 44 expenditures was a payment in the amount of \$103,198.50 for headquarters rent. General Fund officials could offer no explanation why the 44 expenditures had not been disclosed.

Our review of the draft account revealed that there were 618 drafts, totaling \$70,594.23, which were not itemized (and therefore not reported, as mentioned at Finding II.A. 1.). Of these, 616 drafts totaling \$70,423.48 were paid by the bank on October 17, 1984. Due to a computer programming peculiarity, these drafts were not included in the 12 Day Pre-General report covering October 1-17, 1984, nor did they appear on the report that followed.

As previously mentioned, the General Fund amended prior reports by disclosing the \$103,198.50 expenditure for headquarters rent and by disclosing \$70,423.48 in drafts in its April 15 and July 15, 1985 filings, respectively.

General Fund officials were provided with copies of workpapers detailing the above items and agreed to file amended reports to disclose the remaining expenditures.

2. Compliance Fund

Our review of the Compliance Fund's expenditures revealed that there were 12 expenditures totaling \$25,643.61 which were not itemized as required. Since it was also Compliance Fund practice to itemize all expenditures, these items were not reported and are included in the \$25,887.15 mentioned at Finding II.A. 2.

Compliance Fund officials could not explain the omission of these expenditures yet agreed to file amended reports to itemize them.

In the Interim Audit Report, the Audit staff recommended that, within 30 days of receipt of the report: (1) the General Fund file a comprehensive amendment itemizing the remaining 43 headquarters account expenditures, totaling \$98,183.71, and the two drafts totaling \$170.75 and (2) the Compliance Fund file a comprehensive amendment to disclose the above 12 expenditures.

The General Fund's response to the Interim Audit Report stated that "MFC agrees to amend its reports to correct the errors as outlined in the Report. Fifty-eight percent of these expenditures have already been itemized on amended disclosure reports. The errors were a result of computer and coding errors and represented only .6 percent of Committee expenditures." No amended reports were filed with its response.

Though not filed timely, the General and Compliance Funds, as part of their April 15, 1986 Quarterly report, substantially complied with the recommendations in the Interim Audit Report.

Conclusion

The Commission determined that no further action is necessary on this matter.

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

A. Apparent Prohibited Contributions (Fees Charged by Media Vendor)

Section 9003(b)(2) of Title 26 of the United States Code states, in relevant part, that no contributions to defray qualified campaign expenses will be accepted except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. § 9006(c).

Section 441b(a) of Title 2 of the United States Code, in part, prohibits corporations from making contributions or expenditures in connection with any election to any political office. This section likewise prohibits candidates from knowingly accepting or receiving such contributions.

Included in the definition of contribution at 11 C.F.R. § 100.7(a)(1) is "anything of value" which, according to 11 C.F.R. § 100.7(a)(1)(iii), includes in-kind contributions. It further states that the provision of any goods or services at a charge which is less than the usual and normal charge is a contribution. Included as an example of such goods or services is advertising services. The provision of such services at less than the usual and normal charge results in an in-kind contribution equal to the difference between the usual and normal charge for the goods or services (at the time of the contribution) and the amount charged the political committee.

During the course of the general election campaign the General Fund retained the services of two media firms. The first firm, which had also been retained by the Mondale For President Committee, Inc. in the primary election campaign, provided production services as well as much of the radio and spot market television buying. This firm was paid a total of \$11,359,701.95, as follows:

Media production	\$ 843,157.42
Media time and space (air time)	9,366,544.53
Creative fee	450,000.00
Time buy fee	<u>700,000.00</u>
	<u>\$11,359,701.95</u>

Fees as a percentage of time buys	(<u>1,150,000</u> / 9,366,544.53)	12.28%
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The second firm, which is incorporated, placed national network television buys only and was paid \$8,408,607.87, as follows:

Media production	\$	10,000.00
Media time and space		8,228,951.51
Consulting fees		<u>169,656.36</u>
	\$	<u>8,408,607.87</u>

Fees as a percentage of time buys	(<u>169,656.36</u>)	2.06%
		8,228,951.51		

(The vendor's invoices indicate that it charged the General Fund an "agency fee" of 1.75% of the gross amount of television time buys, which equates to 2.06% of the net amount of the buys, as above.)

In light of the disparity between the fees charged by the media firms (12.28% of gross time buys vs. 1.75%), it appeared that the fee charged by the second firm may have been less than the usual and normal charge for such services (at least as compared to the fee negotiated by the General Fund with respect to the first firm), resulting in a possible prohibited in-kind contribution.

General Fund officials commented that it is important to distinguish between the services provided by the two firms. They described the first firm as a "full service" advertising agency which provided a wide range of services, i.e. creative design, artwork, planning, trafficking, etc., in addition to merely placing the ads. It was this firm that conducted the spot market buying which, the officials noted, involved far more placements with far more stations than did the network ad placement. They stated that the second firm was retained mainly as a convenience to relieve some of the load from the first firm, they placed network ads only, and provided no other services. General Fund officials advised that it is common practice to charge lesser commissions for such services due to the large dollar value of relatively few placements. The officials agreed to seek and furnish written representation from the second firm to substantiate that the services were, in fact, rendered "at arm's length".

On January 2, 1986 the General Fund submitted its response to the Interim Audit Report. In its response, the General Fund reiterated the comments noted above stating, "The services provided by these firms were vastly different...."

"Consultants '84 provided a full range of advertising services to the campaign. These services included creative design, artwork, production, media strategy and planning, trafficking and placement of advertising. Consultants also did the spot market buying for the campaign. This involved identification of local radio and television stations in targeted locales, coordinating the buys to coincide with other campaign activity and targeting the advertising to the particular spot markets, in addition to placing the spot advertising on over 350 local stations."

"This is in sharp contrast to the services performed by McCaffrey & McCall which served as a network time buyer for the Committee. McCaffrey & McCall did not perform creative work for the Committee. Their role was simply to purchase the optimum network time available based on the amount budgeted by the Committee for a particular week. McCaffrey and McCall had only to deal with the three networks on a one time per week basis. On the other hand, spot buying done by Consultants '84 occurred on a daily basis and involved as many as 350 local stations."

In addition, the General Fund supplied a letter from the advertising firm which states:

"...[T]he Mondale/Ferraro Committee hired McCaffrey and McCall, Inc. for the limited task of purchasing time on the three networks for the broadcast of Mondale/Ferraro advertising that had been created and produced by others."

"The fee that McCaffrey and McCall, Inc. charged the Mondale/Ferraro Committee (1.75% of gross media costs) was, based on the number of placements, negotiations

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with the networks, the services provided to the Committee, and the dollar value of advertising placed, well within the usual and normal range of fees charged by McCaffrey and McCall, Inc. to its clients."

Conclusion

The Commission determined that no further action is necessary on this matter.

B. Apparent Non-Qualified Campaign Expenses

Section 9007(b)(4) of Title 26 of the United States Code states, in part, that if the Commission determines that any amount of any payment made to the eligible candidates of a political party under Section 9006 was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, it shall notify such candidate of the amount so used, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

The term "qualified campaign expense" is defined at 26 U.S.C. § 9002(11)(A)(iii) as an expense incurred by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such office. Further, 26 U.S.C. § 9002(11)(B) stipulates that such expenses must be incurred within the expenditure report period (as defined at 26 U.S.C. § 9002(12)) or incurred before the beginning of such period if for property, services, or facilities used during such period. As examples of permissible pre-report period expenses, 11 C.F.R. § 9003.4(a) states that if such expenditures are for property, services or facilities which are to be used in connection with his or her general election campaign and which are for use during the expenditure report period, such expenditures will be considered qualified campaign expenses. Examples of such expenditures include but are not limited to: Expenditures for establishing financial accounting systems, expenditures for organizational planning and expenditures for polling.

In addition, 11 C.F.R. § 9004.4(b)(3) states that expenditures incurred after the close of the expenditure report period are not qualified campaign expenses, except to the extent permitted under 11 C.F.R. § 9004.4(a)(4), which, provides in relevant part, that winding down costs, such as 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, shall be considered qualified campaign expenses.

The expenditure report period for the General Fund is July 18, 1984 through December 6, 1984. The Audit staff's review of the General Fund's expenditures revealed the following.

1. Apparent Non-Campaign Related Expenses

Two possible non-campaign related expenses totaling \$1,437.15 were noted. These expenditures, for a slide presentation and for photographs of the Mondale family, both appeared to have been incurred after the closing date of the expenditure report period. At the exit conference, General Fund representatives stated that they felt these were campaign-related and that they would research the items and submit documentation or repay them as necessary.

In the Interim Audit Report the Audit staff recommended that the General Fund demonstrate that these expenditures were qualified campaign expenses by virtue of being both campaign-related and winding down in nature.

In response, the General Fund stated that "one payment of \$432.15 was a fundraising expense of the Legal and Accounting Compliance Fund that was inadvertently paid out of the wrong account." The General Fund stated that the amount will be reimbursed by the Compliance Fund. A review of the General Fund's disclosure reports and records through September 30, 1986 shows no such reimbursement. Absent such refund, this amount is still subject to repayment.^{3/}

With respect to the second payment (\$1,005.00), the General Fund states that it "was incurred during the expenditure report period and appears to be a payment to a photographer for prints of the Mondale family to meet a backlog of requests for photographs received during the General Election campaign. It is, therefore, a qualified campaign expenditure (sic)." The invoice to the General Fund was dated December 7, 1984, one day after the close of the expenditure report period. Payment was effected by the General Fund by check dated December 12, 1984. There is no indication as to when the goods were received. In the opinion of the Audit staff, the General Fund's response resolves, in all material aspects, the points raised in the Interim Audit Report, concerning the second payment (\$1,005.00).

^{3/} Should this reimbursement be received, the surplus (as determined by the NOQCE Statement) would increase by a corresponding amount.

Conclusion

On February 5, 1987, the Commission made an initial determination that this expenditure is a non-qualified campaign expense and that an equal amount is repayable to the U.S. Treasury pursuant to 11 C.F.R. § 9007.2(b)(2) within 90 days of receipt of this report.

If the candidate does not dispute this determination, or provide evidence to demonstrate the refund (\$432.15) has been received, within 30 calendar days of the receipt of this report, it will be considered final.

Recommended Repayment Amount: \$432.15

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2. Apparent Primary Campaign Related Expenditures

The auditors noted two expenditures, totaling \$28,928.02, which appeared to be related to the primary campaign. The documentation available indicates that \$28,718.75 related to reimbursement of expenses for airfare, lodging, meals, etc., incurred between May 20 and July, 1984. The remaining \$209.27 related to a utility bill covering 5/2-6/30/84.

At the exit conference, General Fund representatives indicated that they felt a portion of the expenses may have been related to the primary campaign but that most of the expenses fell under the 11 C.F.R. § 9003.4(a) organizational planning provision. They indicated that the matter would be researched and documentation provided supporting their position.

In the Interim Audit Report, the Audit staff recommended that the General Fund demonstrate that the above expenditures totaling \$28,928.02 are qualified campaign expenses.

In its response to the Interim Audit Report, the General Fund agreed that the utility bill should be charged to the primary election. The General Fund further agreed that \$2,261.00 of travel and subsistence reimbursement is allocable to the primary election. However, the General Fund objected to a similar reallocation of \$26,457.75 in travel and subsistence expenses, noting that the subject expenses were incurred during late June and early July. Further, the General Fund argued that these expenses were incurred "...after all primaries were over..." and are properly allocable to the general election campaign pursuant to 11 C.F.R. § 9003.4(a) which provides for the incurrence of expenditures prior to the beginning of the expenditure report period if such expenditures are for "...services... to be used in connection with [the] general election campaign...." As such, the General Fund asserted that the subject travel and subsistence expenses relate to the general election campaign because "the ultimate outcome of the trips was that [the individual] assumed the role of general election campaign chairman...."

Given that this campaign official does not appear to have had an earlier role in the primary campaign (a review of the Mondale for President Committees' reports did not disclose previous payments), the types of expenses incurred, the timing of the activity and that this individual was the eventual general campaign chairman, the Audit staff accepts the General Fund's explanation of the relationship of the subject travel and subsistence expenses to the general election campaign and that these expenses are within the organizational planning provision of 11 C.F.R. § 9003.4(a). However, the General Fund provided no explanation of, or summary to support, which expenditures comprise the \$2,261.00 and the \$26,457.75 which they view as allocable to the primary and general election campaigns, respectively. We have reviewed the documentation supporting these expenditures and have concluded that \$24,768.29 in travel and subsistence expenses could reasonably be considered to have been general election-related. This determination was based on a review of the apparent dates of incurrence of the expenses. All expenses incurred after the date of the last primary election, North Dakota-June 12, 1984, were considered general election-related.

A review of the General Fund's disclosure reports through September 30, 1986 indicated that no such reimbursement had been received. Absent such reimbursement, this amount is still subject to repayment.^{4/}

Based on the above, the Audit staff considers \$4,159.73 (\$3,950.46 in travel and subsistence expenses and \$209.27 in utilities) to be primary election expenses paid by the General Fund.

Conclusion

On February 5, 1987, the Commission made an initial determination that \$4,159.73 in primary election expenses paid by the General Fund are not qualified campaign expenses. As a result, an equal amount must be repaid to the U.S. Treasury within 90 days of the Committee's receipt of this report in accordance with 11 C.F.R. § 9007.2(b)(2).

If the Candidate does not dispute this determination, or provide evidence to demonstrate the reimbursement (\$4,159.73) has been received, within 30 calendar days of the receipt of this report, it will be considered final.

^{4/} Should this reimbursement be received, the surplus (as determined by the NOQCE Statement) would increase by a corresponding amount.

Recommended Repayment Amount: \$4,159.73

C. Income Generated From Air Charter Billings

Section 9004.5 of Title 11 of the Code of Federal Regulations, states, in part, that investment of public funds or any other use of public funds to generate income is permissible, provided that all net income from such investment shall be repaid to the Secretary (emphasis added).

Sections 9004.6(a) and (b) of Title 11 of the Code of Federal Regulations consider expenditures for transportation, ground services, and facilities made available to media personnel, to be qualified campaign expenses subject to the 11 C.F.R §§ 9003.2(a)(1) and (b)(1) overall expenditure limitation. Reimbursement for such services is limited to an individual's pro rata cost of the transportation and services plus an additional 10%. Reimbursements received in compliance with the requirements of this section may be deducted from the amount of expenditures that are subject to the overall expenditure limitation of 11 C.F.R. § 9003.2(a)(1) and (b)(1), except to the extent that such reimbursements exceed the amount actually paid by the committee for the services provided.

Throughout the campaign, the General Fund incurred qualified campaign expenses for air transportation made available to the Secret Service and to members of the press and for ground services and incidentals made available to the press only. The General Fund sought reimbursement for such services by billing the users an amount equal to their pro-rata cost plus 10%. Therefore, the General Fund had the potential to realize net income from air charters in an amount equal to 10% of its cost.^{5/}

The General Fund had billed members of the press and Secret Service a total of \$5,732,478.57. The dollar value of costs associated with these billings, which served as the basis for the 10% surcharge, was calculated to be \$5,211,344.15. The resulting difference of \$521,134.42 represented potential net income.

^{5/} Cost is comprised of airfare, ground transportation and incidentals, such as phone, lodging, and equipment.

During the audit, General Fund officials advised the Audit staff, however, that for the following reasons, it was unlikely that the full amount then outstanding would be collected. First, the Secret Service was limited by statute as to the amount it would reimburse for such services, therefore, the balance due (\$174,489.26) was considered uncollectable. Second, one of the news services, with \$152,442.49 outstanding and due the General Fund, had filed for Chapter 11 bankruptcy protection; the chance of further collection was remote. [And finally, due primarily to billing errors, the amounts originally billed to the passengers were understated by \$81,779.13.] Therefore, as of March 31, 1985, potential net income was determined to be \$112,423.54 (\$521,134.42 less the three uncollectable amounts noted).

At the exit conference, the General Fund's officials were in basic agreement as to the amounts presented, however, they strongly disagreed with the Audit staff's treatment of the (excess) 10%. They asserted that all or a portion of this 10% "surcharge" represented their cost of providing these services, potentially eliminating any profit. Documentation in support of this assertion was not provided, however, General Fund officials stated that they were prepared to substantiate their position.

The General Fund's response to the Interim Audit Report reiterated its argument that the 10% "surcharge," which amounted to \$521,134.42, represented actual costs of administration. Further, a lengthy description of the types of costs involved in providing these services was included.

The Audit staff does not dispute that the provision of transportation, ground services and facilities, and incidentals to members of the press and the Secret Service required a significant utilization of General Fund resources. However, no cost accounting analysis or summary was submitted to substantiate that the \$521,134.42 in administrative costs billed was the General Fund's "actual" cost or what portions of that cost has been applied to the overall spending limitation.

Although no additional costs have been documented, the potential profit from air charters has been significantly reduced from the amount calculated in the Interim Audit Report. In the Interim Audit Report, accounts receivable from air charters was shown at \$739,760.94 as of March 31, 1985. This amount was net of the billing errors and uncollectable amounts noted above. Between April 1 and December 31, 1985, the General Fund reported collections on those receivables of \$651,236.53. Follow-up fieldwork indicated that the General Fund's reported collections were correct and that no further amounts were realized through March 31, 1986. With respect to the remaining amounts, the General Fund's response states "MFC has made extensive efforts to

collect from these entities, having written and phoned each organization repeatedly to no avail. Many of these entities are foreign press from whom it is impossible to collect." The Audit staff is of the opinion that the General Fund's position with regard to the remaining receivables is reasonable and it is assumed that no further collections will be made. If additional collections are identified in the future, appropriate adjustments will be made. Based on audited collections by the General Fund through March 31, 1986, the Audit staff calculated that the amount collected by the General Fund exceeds direct costs and amounts due the press by \$22,971.73.^{6/}

The cost figure used to determine collections in excess of direct costs does not include an administrative cost element. Though the General Fund argues that such costs were incurred, no calculation of the amount was provided. However, in view of the General Funds' narrative description, the fact that in excess of \$5.2 million in non-administrative costs were incurred, and that in its Notice of Proposed Rulemaking (Federal Register, Volume 51, Number 150, page 28168) for the 1988 election cycle the Commission has provided a standard 3% administrative cost deduction (which would provide a deduction of up to \$156,000 in this case), the Audit staff does not dispute that in this case a reasonable estimate of actual administrative costs would exceed collections in excess of direct cost..

Conclusion

On February 5, 1987, the Commission determined that the General Fund's response resolves the issues raised, and, therefore, no further action is necessary.

D. Repayment of Net Interest Received on 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.

^{6/} The General Fund's response states that "using the 'income theory' contained in the Report, MFC would actually receive only \$21,714.13 in so-called 'income'." The General Fund's figure is incorrect apparently due to computational errors; the correct figure is \$22,971.73.

During the course of the campaign, the General Fund maintained interest bearing accounts at two different financial institutions. In addition, the General Fund made an investment in three-day securities. Through March 31, 1985, the General Fund earned interest totaling \$206,954.38.

On this income, the General Fund has paid \$104,152.00 in taxes on interest income earned through December 31, 1984, and owes an additional \$9,307.82 in taxes for 1984 as the result of an error in computing taxable income. Further, it is estimated that the General Fund will pay \$3,356.41 in taxes on interest earned for the period January 1, 1985 to March 31, 1985. Therefore, the interim audit report concluded that net interest income of \$90,138.15 is repayable to the U.S. Treasury.

The General Fund's representatives do not dispute that this amount is repayable.

In addition during follow-up fieldwork a small amount of interest income earned between April 1, 1985 and March 31, 1986 was identified. Therefore, the after tax interest repayment has been increased to \$90,142.19.

Conclusion

On February 5, 1987, the Commission made an initial determination that interest income, net of taxes, earned through March 31, 1986 totalling \$90,142.19 is repayable to the U.S. Treasury pursuant to 11 C.F.R. § 9007.2(b)(4). In accordance with 11 C.F.R. § 9007.2(d), the repayment is due within 90 days of the receipt of this report.

If the candidate does not dispute the Commission's initial repayment determination within 30 calendar days of receipt of this report, it will be considered final.

Recommended Repayment Amount: \$90,142.19

E. Determination of Net Outstanding Qualified Campaign Expenses

Section 9007.2(b)(3) of Title 11 of the Code of Federal Regulations states that if the Commission determines that a portion of payments from the Fund remains unspent after all qualified campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay to the United States Treasury an amount equal to such amount.

On November 26, 1984, the General Fund submitted a Statement of Net Outstanding Qualified Campaign Expenses

("NOQCE") to the Audit staff which appeared to depict its financial position as of October 31, 1984. During fieldwork, the auditors requested and received a NOQCE Statement as of December 6, 1984, the end of the expenditure report period (as defined by 26 U.S.C. § 9002(12)(A)). The Audit staff reviewed the December 6, 1984 NOQCE Statement as well as the available books and records to verify the totals and developed an updated statement.

In addition, the Audit staff developed an analysis of the General Fund's spending as of March 31, 1985, in comparison to the 2 U.S.C. § 441a(b)(1)(B) expenditure limitation of \$40,400,000, established for the 1984 election. The NOQCE Statement and the limitation calculation, as presented in the interim report, showed the General Fund to be \$170,055.70 under the expenditure limitation and in a surplus financial position in an equal amount. Any such surplus must be returned to the U.S. Treasury. However, the interim report noted that the use of estimates and the uncertainties surrounding the collection of receivables impact on the calculation of expenditures subject to the limitation as well as the NOQCE Statement. It was further noted that as events occurred which necessitate adjustments to these calculations, the transactions would be verified and adjustments made accordingly.

In its response to the Interim Audit Report, the General Fund makes a number of changes to the audited NOQCE Statement, as well as to the calculation of expenditures subject to the expenditure limitation. Many of the General Fund's changes are the result of its use of updated information while others represent disagreements in the handling of certain transactions. Additionally, follow-up fieldwork has been completed for reported activity through March 31, 1986. Changes to the Interim Audit Report figures are discussed below.

1. Accounts Receivable - Air Charter Reimbursements

The Interim Audit Report included Accounts Receivable from Air Charters in the amount of \$739,760.94. This amount represented gross receivables of \$1,066,692.69, less an allowance for doubtful accounts of \$326,931.75. As discussed in Section III.C. (Income Generated From Air Charter Billings), Air Charter Reimbursements Receivable has been reduced to \$651,236.53 based on actual collections through March 31, 1986. All remaining receivables will be considered uncollectible. Further adjustments will be made should any amounts be collected after March 31, 1986.

In addition, the General Fund argues that amounts billed to the press and the Secret Service should be deducted from the amount applicable to the expenditure limitation regardless of whether they are collected. The response to the

Interim Audit Report states that "Since MFC never intended to defray from its own funds the cost of transporting media, the amounts billed to press, whether or not collected, should be deducted from MFC's expenditures subject to the limit so that amounts spent on press do not increase MFC's limit spending."

The General Fund's response states that the "Secret Service owes \$169,574.48, but is limited by regulation in what it may pay. Another portion of the uncollectible bill-- \$152,442.49--is owed to MFC by [a news agency] which has gone bankrupt." The response goes on to say that other amounts are owed by various entities, "[m]any of these are foreign press from whom it is impossible to collect."

The Commission's regulations at 11 C.F.R. § 9004.6 are the relevant source of authority pertaining to reimbursements for transportation and services made available to media personnel and members of the Secret Service. It views expenditures in connection with providing transportation, ground services and facilities to these individuals as qualified campaign expenses. It sets the guideline for determining the amount that the passengers may be billed in situations where a committee seeks reimbursement for such expenditures. Section 9004.6(b) of Title 11 of the Code of Federal Regulations concludes that "reimbursement received ... may be deducted from the amount of expenditures that are subject to the overall expenditure limitation... except to the extent that such reimbursements exceed the amount actually paid by the committee for the services provided" (emphasis added). It is the clear intent of this regulation that only the amounts which a committee actually collects from the passengers may be deducted from the amount of expenditures subject to the overall spending limitation. With all due consideration of the General Fund's efforts to collect their past due accounts, "reimbursements received" cannot be construed to include uncollectible or written-off accounts receivable.

2. Accounts Receivable - Other

The NOQCE Statement in the General Fund's response to the Interim Audit Report includes \$138,889.76 in "other accounts receivable" which did not appear on the Interim Audit Report NOQCE Statement. These receivables represent amounts collected after the March 31, 1985 NOQCE date or amounts which are to be collected. Approximately \$107,000 of this amount represents reimbursement from the primary election campaign for shared winding down costs through June of 1986.

The Audit staff compared these amounts to those on the General Fund's reports during follow-up fieldwork for the period April 1, 1985 to March 31, 1986. That review indicated

that Other Receivables should be \$183,481.01. This amount, a portion of which is based on estimates, will be verified by reviewing General Fund reports and/or additional follow-up fieldwork, and adjustments made as required.

3. Disputed Bills

The General Fund's response to the Interim Audit Report included \$25,000 in accounts payable for disputed bills which total approximately \$75,000. A footnote to the Interim Audit Report NOQCE Statement acknowledged that these contingent liabilities existed but stated that, pending further investigation, no amount was being included in the NOQCE Statement. Additional information has been reviewed during follow-up fieldwork. Based on that review the NOQCE Statement has been revised accordingly.

4. Accounts Payable and Winding Down Costs

The General Fund's response to the Interim Audit Report's Determination of Net Outstanding Qualified Campaign Expenses contained significantly higher figures for Accounts Payable and Winding Down Costs than those initially determined by the auditors. The Audit staff reviewed these areas simultaneously, in an attempt to reconcile the audited amounts to those presented in the General Fund's response. It was ascertained that the General Fund's figures were arrived at by reviewing reported disbursements through December 31, 1985 and identifying and totalling those which the General Fund considered to have been incurred Winding Down Costs. This amount was then subtracted from total reported disbursements to arrive at Accounts Payable (\$430,790.83). The General Fund's (NOQCE) Winddown figure (\$491,851.69) was computed by adding an estimated amount of winding down costs to be incurred for 1986 to the actual winding down costs (as determined above) incurred through December 31, 1985. The difference between the Interim Audit Report Winding Down and Accounts Payable figures and those in the response to the Interim Audit Report are the result of the use of different cut-off dates and different assumptions with respect to winding down estimates. The Audit staff, in anticipation of such changes, included footnotes to the Interim Audit Report NOQCE Statement which recognized that additional payables may be identified necessitating an upward adjustment to the audited Accounts Payable figure. Similarly, it was noted that Winding Down Costs could also be subject to increases, as they were based on estimates.

Follow-up fieldwork, which provided audited information through March 31, 1986, necessitated further revision in these areas. The auditors verified Accounts Payable, as of

March 31, 1985, totalling \$355,224.64, based on actual payments made by the General Fund through March 31, 1986. It was also determined that no payables remain on the General Fund's books, with the exception of the Disputed Bills previously discussed. Actual Winding Down costs of \$498,232.69 were determined by netting the Accounts Payables figure (\$355,224.64) against reconciled disbursements (\$853,457.33) for the period 4/1/85 to 3/31/86; and, an estimate of additional Winding Down Costs (\$69,185.19) to be incurred through September 30, 1986 was added.

5. Amounts Due the Press

The Interim Audit Report included an amount for accounts payable due the press of \$32,381.36 which represented amounts collected from the press for air charters and incidentals which were in excess of amounts billed. The figure was as of March 31, 1985. The General Fund's response, verified by follow-up fieldwork, indicates that after March 31, 1985 an additional \$927.40 was received. Therefore, accounts payable due the press has been increased to \$33,308.76. General Fund officials intend to research these prior to making any refunds. A review of the General Fund's disclosure reports through September 30, 1986 show that none of these refunds have been made. If it is determined that the refunds will not be made, the amount of the surplus repayment should be adjusted accordingly.

Presented below is a revised NOQCE Statement.

Mondale/Ferrro Committee, Inc.
Statement of Net Outstanding Qualified Campaign Expenses
As of March 31, 1985
As Determined on March 31, 1986

<u>Assets</u>		
Cash		\$259,385.33a/
Accounts Receivable:		
Air Charter Reimbursements Receivable (see Finding III.C.)	\$651,236.53 b/	
Other Receivables	183,481.01	
Media Vendor Refundc/	87,183.67	
C&P Depositd/	5,000.00	
Bills Paid Twice	<u>1,081.56</u>	
Total Receivables e/		927,982.77
Capital Assets f/		<u>1,750.00</u>
Total Assets		\$1,189,118.10
<u>Liabilities</u>		
Accounts Payable	\$355,224.64	
Contingent Liabilities g/	25,000.00	
Amounts Due to the Press for Overpayments Received	33,308.76	
Winding Down Costs		
Actual (4/1/85-3/31/86)	\$498,232.69	
Estimated h/ (4/1/86-9/30/86)	<u>69,185.19</u>	567,417.88
Interest Income Repayable (see Finding III.D.)	90,142.19	
Income Taxes Payable	12,669.48	
Total Liabilities i/		\$ (1,083,762.95)
Net Outstanding Qualified Campaign Expense Surplus at 3/31/85		\$ <u>105,355.15</u> i/

- 3 3 3 7 0 1 8 7
- a/ During follow-up fieldwork, a substantial number of stale-dated, outstanding checks were noted. These items would have a significant impact on the extent of the General Fund's surplus. As such, this issue will be addressed separately in an addendum to this report and any adjustment made as information and documentation become available.
 - b/ If any written-off receivables (see Finding III.E.1.) are subsequently realized, adjustments will be made accordingly.
 - c/ The General Fund, by letter dated November 21, 1986, advised the Audit staff of the receipt of this media vendor refund.
 - d/ Any interest earned on this deposit will be recognized as an adjustment to the NOQCE Statement at the amount(s) realized.
 - e/ Apparent primary election expenses paid by the General Fund are not shown as a receivable although the amount (\$4,159.73, see Finding III.B.2. above) could be reimbursed by the primary committee. Additionally, a fundraising disbursement (\$432.15, See Finding III.B.1. above) is not shown as a receivable although it also could be reimbursed by the Compliance Fund.
 - f/ Includes only those assets satisfying the 11 C.F.R. § 9004.9(d)(1) capital asset criteria. However, any other assets, such as furniture, calculators, etc., subsequently liquidated have been added to Other Receivables at the amounts realized. Further, adjustments will be made as necessary based on amounts actually realized as the related information and documentation becomes available.
 - g/ This amount, based on estimates, will be verified and any adjustments made, as actual costs and the related documentation becomes available.
 - h/ Projected Winding Down Costs are necessarily based on estimates. Any adjustments will be made as actual costs and the related documentation to support them become available.
 - i/ Non-qualified campaign expense repayment items are not included as liabilities on the NOQCE statement in accordance with 11 C.F.R. § 9004.9(a), in that, such expenses do not meet the definition of qualified campaign expense at 11 C.F.R. § 9002.11.

i/ The \$4,591.88 difference between the NOQCE surplus figure and that noted at the Expenditures Subject to Limitation Statement (See page 27) results from the adjustment for apparent non-qualified campaign expenses at item I.6.d. of the latter statement.

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Related to the development of the NOQCE Statement, the Audit staff also determined that the General Fund appears to have complied with the expenditure limitation imposed by 2 U.S.C. § 441a(b)(1)(B). For the 1984 election, the limitation was \$40,400,000.00.

The Interim Audit Report concluded that as of March 31, 1985, the Committee's spending was \$170,055.70 less than the expenditure limitation. Using information contained in the General Fund's response to the Interim Audit Report and information obtained during the follow-up fieldwork covering the period April 1, 1985 to March 31, 1986, the revised figures shown below were developed.

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Mondale/Ferraro Committee, Inc.
Expenditures Subject to Limitation at March 31, 1986

I. Operating Expenditures

1.	1986 Expenditures (through 3/31/86)	\$ 48,909.79
2.	1985 Expenditures	2,863,502.81
3.	1984 Expenditures	43,236,407.13
4.	Contingent Liabilities	25,000.00
5.	Winding Down Costs (4/1-9/30/86)	69,185.19
6.	Adjustments:	
a.	1984 Income Taxes Paid	(104,152.00)
b.	Outstanding Check Voided 4/85	(998.07)
c.	Amounts Due to the Press for Overpayments Received	33,308.76
d.	Apparent Non-Qualified Campaign Expenses (See Finding III.B.1 and 2)	<u>(4,531.88)</u>
	Total Operating Expenditures ^{a/}	\$46,166,571.73

II. Operating Offsets

1.	1986 offsets (through 3/31/86)	\$ (10,966.96)
2.	1985 offsets	(2,326,867.07)
3.	1984 offsets	(3,428,669.50)
4.	Additional Adjustments:	
a.	Media Vendor Refund	(87,183.67)
b.	Other Accounts Receivable (est.)	(15,000.00)
c.	Bills Paid Twice	(1,081.56)
d.	C&P deposit	(5,000.00)
e.	Capital Assets ^{b/}	<u>(1,750.00)</u>
	Total Operating Offsets	(\$ 5,876,518.76)

Expenditures Subject to Limitation	\$40,290,052.97
Limitation	<u>\$40,400,000.00</u>
Amount in Excess/(Under) Limitation	<u>(\$ 109,947.03)</u>

^{a/} Winding Down Costs are treated as qualified campaign expenses of the General Fund in this calculation. In addition, the Audit staff determined that there was \$1,315,201.35 in allocable exempt legal and accounting overhead costs incurred by the General Fund. Should accounts payable, Winding Down Costs, etc., materialize in such a manner so as to cause the General Fund to have spent in excess of the expenditure limitation, it may, at its election, allocate all or a portion of the above amounts to

the Compliance Fund, and receive a like reimbursement from the Compliance Fund.

b/ It is assumed that the remaining Capital Assets will be liquidated at this amount.

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The NOQCE Statement indicates that the General Fund has unspent funds amounting to \$105,355.15 and is, therefore, in a surplus position.

As events occur which indicate that adjustments may be in order, they will be verified and the NOQCE Statement and expenditures subject to the limitation revised accordingly.

Conclusion

On February 5, 1987, the Commission made an initial determination that \$105,355.15 represents surplus funds and that an equal amount must be returned to the U.S. Treasury pursuant to 11 C.F.R. § 9007.2(b)(3) within 90 days of the receipt of this report.

In accordance with 11 C.F.R. § 9007.2(c)(1), if the candidate does not dispute the initial determination within 30 calendar days of the receipt of this report, the initial determination will be considered final.

Recommended Repayment Amount: \$105,355.15

F. Matters Referred to the Office of General Counsel

Certain other matters noted during the audit were referred to the Commission's Office of General Counsel.

IV. Summary - Amounts Repayable to the U.S. Treasury

Presented below is a summary of the amounts determined by the Commission as subject to the repayment provisions of 26 U.S.C. § 9007(b), as discussed in Section III. of this report.

Finding III.B.1.	Apparent Non-Campaign Related Expense.	\$ 432.15
Finding III.B.2.	Apparent Primary Campaign Related Expenditures	4,159.73
Finding III.D.	Net Interest Income	90,142.19
Finding III.E.	Determination of Apparent Surplus	<u>105,355.15</u>
Total Amount Due the U.S. Treasury		<u>\$200,089.22</u>

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SEPARATOR



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1987

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF ADDENDUM TO THE FINAL
AUDIT REPORT - MONDALE/FERRARO COMMITTEE, INC,
THE MONDALE/FERRARO COMMITTEE, INC./LEGAL AND
ACCOUNTING COMPLIANCE FUND, AND INDEPENDENTS
FOR MONDALE/FERRARO

Attached please find a copy of the above mentioned Addendum to the Final Audit Report which was approved by the Commission on June 4, 1987.

Informational copies of the Addendum to the Final Audit Report have been received by all parties involved and the Addendum may be released to the public.

Attachment as stated

cc: FEC Library
RAD
Office of General Counsel
Public Disclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ADDENDUM TO THE FINAL REPORT OF THE AUDIT DIVISION
ON THE MONDALE/FERRARO COMMITTEE, INC.,
THE MONDALE/FERRARO COMMITTEE, INC./LEGAL AND ACCOUNTING COMPLIANCE FUND,
AND INDEPENDENTS FOR MONDALE/FERRARO

I. Background

A. Overview

On February 5, 1987, the Federal Election Commission issued a final audit report on the Mondale/Ferraro Committee, Inc. ("The General Fund"), the Mondale/Ferraro Committee, Inc./ Legal and Accounting Compliance Fund ("the Compliance Fund"), and Independents for Mondale/Ferraro. That report was based on an audit of the above-named committees ("the Committees") pursuant to 26 U.S.C. § 9007(a). The audit covered the period June 14, 1984 through December 31, 1984.

This Addendum is based on follow-up audit fieldwork and a review of the Committees' filings. The follow-up fieldwork was conducted pursuant to 11 C.F.R. § 9007.1(b)(3) which states, in part, that the Commission may conduct additional fieldwork after completion of the fieldwork conducted pursuant to paragraph (b)(1) and (2) of this section.

In addition, 11 C.F.R. § 9007.1(e)(4) states, in part, that addenda to the audit report may be issued from time to time as circumstances warrant and additional information becomes available. Such addenda may be based, in part, on follow-up fieldwork conducted under paragraph (b)(3) of this section.

The follow-up fieldwork covered the period January 1, 1985 through March 31, 1986, the final coverage date of the latest reports filed at the time of the audit fieldwork. The General Fund reported an opening cash balance of \$972,907.67, total receipts of \$2,370,950.97, total disbursements of \$2,889,885.42, and a closing cash balance on March 31, 1986 of \$274,241.76. ^{1/} The Compliance Fund reported an opening cash balance of \$570,500.46, total receipts of \$102,974.42, total disbursements of \$78,127.08 and a closing cash balance on March 31, 1986 of \$574,567.77. ^{1/}

^{1/} The reported totals do not calculate correctly. Adjustments were made to reported cash on hand figures during 1985 as the result of the recommendations from the initial audit which covered activity through 12/31/84.

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

B. Key Personnel

The Treasurer of both the General and Compliance Funds during the period audited was Mr. Michael S. Berman. The Treasurer of Independents for Mondale/Ferraro was Mr. Mark Barrett.

C. Scope

The audit included such tests as verification of total reported receipts and disbursements; limited reviews of individual transactions and required supporting documentation; analysis of debts and obligations (including winding down costs); review of contribution and expenditure limitations; and such other audit procedures as deemed necessary under the circumstances.

II. Finding and Recommendation Relating to Title 2 of the United States Code

Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that each report under this section shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and disbursements made during a reporting period in the calendar year.

1. General Fund

The Audit staff performed a reconciliation of the General Fund's bank accounts to the reports filed and determined that reported cash on hand at March 31, 1986 was overstated by \$49,284.29. This misstatement was the net result of the following overstatements (understatements):

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Receipts

1. Receipt disclosed twice	\$30,000.00	
2. Unreported receipts	(3,717.63)	
3. Miscellaneous	<u>770.42</u>	
Net Overstatement		\$27,052.79

Disbursements

1. Interbank Transfer Reported	(\$10,946.00)	
2. Unreported disbursements	48,566.74	
3. Disbursements reported erroneously	(24,366.47)	
4. Math error	12,393.56	
5. Miscellaneous	(<u>3,416.33</u>)	
Net Overstatement		<u>22,231.50</u>
Total (Net) Cash on Hand Overstatement		<u>\$49,284.29</u>

General Fund representatives were provided with details of these errors and agreed to file amended reports to correct them.

2. Compliance Fund

The Audit staff performed a reconciliation of the Compliance Fund's bank accounts to their reports filed and determined that reported receipts and disbursements for 1985 were understated by \$2,309.52 and \$1,593.18, respectively.

Compliance Fund officials were provided details of these misstatements and agreed to file amended reports to correct them.

The General and Compliance Funds filed amendments substantially correcting these errors on July 15, 1986.

Recommendation

The Audit staff recommends no further action on this matter.

III. Finding and Recommendation Relating to Title 26 of the United States Code

Resolution of General Fund Outstanding Checks

Section 9003(b)(2) of Title 26 of the United States Code states, in part, that no contributions to defray qualified campaign expenses will be accepted except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. § 9006(c).

The term contribution as defined at 11 C.F.R. § 100.7(a)(1) includes a gift, subscription, loan (except for a loan made in accordance with 11 C.F.R. § 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. Further, 26 U.S.C. § 9007(b)(3) states that if the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

During the course of the follow-up fieldwork, the auditors identified 101 stale-dated checks, totaling \$46,853.26 (see Attachment I), that had been issued by the General Fund for goods and/or services provided, and, that remained outstanding. Four of these checks, totaling \$4,526.68 were issued between January 11 and August 27, 1985, while the remaining 97 checks (totaling \$42,326.58) had been outstanding since at least December 31, 1984. The records available at the time of the fieldwork did not allow for the identification of the payees of the checks issued prior to January 1, 1985.

Additionally, during discussions with the General Fund's representatives, the auditors were informed that the General Fund's records had been adjusted to reflect these items as part of cash on hand.

General Fund representatives, who were provided with schedules identifying these items, disputed the implication that they had accepted any contributions, but acknowledged that these items could impact upon their Statement of Net Outstanding Qualified Campaign Expenditures.

In the Interim Addendum the Audit staff recommended that within 30 days of receipt of the report the General Fund:

1. Provide the identification of the payees not identified on Attachment I.
2. Void outstanding checks that aggregate \$200 or less to a single payee and make the appropriate adjustment (increase) to cash on hand.
3. Determine, for those checks greater than \$200 or which aggregate in excess of \$200 to a single payee, if the checks represented remaining liabilities of the General Fund. Those which did not represent such liabilities were to be voided with the appropriate adjustment to cash on hand. For those which did represent remaining liabilities, steps were to be taken to effect payment.

With respect to any checks which the General Fund was able to void, it was noted that the amounts, when added to the cash balance on the NOQCE Statement, would cause an increase in the Surplus as calculated in the final audit report and require a repayment of an equal amount pursuant to 26 U.S.C. § 9007(b) (1).

It was also noted that with respect to those checks which represented liabilities of the General Fund, absent a showing that payment had been effected, the Audit staff would recommend that such amounts be considered contributions and an equal amount determined to be repayable to the Treasury pursuant to 26 U.S.C. § 9007(b) (3).

The General Fund's response, received March 20, 1987, states that "(b)ased on our review of records concerning the checks, we have determined that none of these checks represent outstanding liabilities of the Committee... Adjustments have been made to our NOQCE for the full amount of \$46,853.26 which will be included in the Committee's surplus repayment (as determined in the Final Audit Report)."

Recommendation

The Audit staff recommends no further action be taken on this matter. The NOQCE statement in the Final Audit Report will be adjusted to increase the General Fund's surplus, thereby causing an increase in the repayment pursuant to 26 U.S.C. § 9007(b) (1) of an equal amount.

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Schedule of State-Dated Checks

A. Checks Issued During 1984

	<u>Payee</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>
1.		132	8/13	\$ 150.00
2.		156	8/13	12.00
3.		189	8/15	226.22
4.		204	8/16	733.95
5.		405	8/30	215.00
6.		484	9/1	100.00
7.		552	9/4	150.00
8.		673	9/8	2,812.08
9.		716	9/8	100.00
10.		747	9/10	56.74
11.		1655	9/28	180.00
12.		1795	10/2	125.00
13.		1855	10/2	25.00
14.		1957	10/4	230.00
15.		2030	10/5	229.65
16.		2075	10/6	1,911.65
17.		2085	10/8	476.00
18.		2195	10/11	480.00
19.		2204	10/11	180.00
20.		2653	10/19	75.00
21.		2802	10/20	420.00
22.		2841	10/23	100.00
23.		2905	10/24	420.00
24.		2910	10/24	360.00
25.		2969	10/25	324.28
26.		3025	10/26	150.00
27.		3063	10/27	75.16
28.		3162	10/29	360.00
29.		3385	11/3	619.79
30.		3449	11/6	231.05
31.		3450	11/6	2,300.00
32.		3452	11/6	244.56
33.		3456	11/6	253.00
34.		3460	11/6	1,162.57
35.		3464	11/6	435.47

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Schedule of Stale-Dated Checks

A. Checks Issued During 1984

<u>Payee</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>
36.	3475	11/6	\$ 20.79
37.	3482	11/6	275.00
38.	3486	11/9	550.00
39.	3492	11/9	1,244.90
40.	3497	11/9	317.85
41.	3511	11/9	3,000.00
42.	3513	11/9	840.00
43.	3591	11/15	450.00
44.	3638	11/15	690.00
45.	3690	11/17	540.00
46.	3698	11/17	300.00
47.	3720	11/17	180.00
48.	3741	11/17	180.00
49.	3748	11/17	300.00
50.	3831	11/29	14.00
51.	3942	12/31	38.63
52.	800255	8/24	300.00
53.	800869	9/10	340.00
54.	800873	9/10	420.00
55.	800930	9/12	75.00
56.	801040	9/15	147.66
57.	801041	9/15	2,909.70
58.	801042	9/15	1,317.60
59.	801043	9/15	539.55
60.	801045	9/15	75.00
61.	801104	9/18	75.00
62.	801191	9/21	125.00
63.	801196	11/1	1,420.00
64.	801200	11/1	50.00
65.	801390	10/1	593.84
66.	801576	10/5	225.00
67.	801597	10/5	225.75
68.	801822	10/13	229.50
69.	801850	10/15	500.00
70.	801854	10/15	200.00

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Schedule of State-Dated Checks

A. Checks Issued During 1984

<u>Payee</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>
71.	802034	10/19	\$ 433.00
72.	802051	10/18	150.00
73.	802072	10/18	83.60
74.	802100	10/18	1,166.40
75.	802144	10/19	200.00
76.	802320	10/22	278.76
77.	802323	10/22	70.00
78.	802338	10/22	790.87
79.	802413	10/31	175.00
80.	802454	10/24	73.26
81.	802496	10/29	233.20
82.	802526	10/24	621.00
83.	802550	10/25	125.00
84.	802563	10/25	102.13
85.	802577	10/25	185.00
86.	802643	10/26	100.00
87.	802713	10/26	100.00
88.	802728	10/26	783.71
89.	802842	10/29	50.00
90.	803003	10/31	129.80
91.	803026	10/31	174.90
92.	803071	10/31	273.28
93.	803075	10/31	100.00
94.	803898	11/9	984.73
95.	804008	12/21	200.00
96.	20006	10/25	28.00
97.	802615	10/25	81.00

(1984) Total State-Dated Checks

\$42,326.58

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Schedule of State-Dated Checks

B. Checks Issued During 1985

<u>Payee</u>	<u>Check #</u>	<u>Date</u>	<u>Amount</u>
1. Dubbow's	4007	1/11	\$ 487.13
2. Jim Quackenbush	4207	1/30	341.45
3. Irma Gallardo	4708	2/21	200.00
4. Digital Equipment Corp.	804159	8/27	<u>3,498.10</u>
(1985) Total State-Dated Checks			<u>\$4,526.68</u>

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