



FEDERAL ELECTION COMMISSION

AK003864

June 15, 1993

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
AGRAN FOR PRESIDENT 92

Attached please find a copy of the final audit report on Agran for President 92 which was approved by the Commission on June 8, 1993.

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

Attachment as stated

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



FEDERAL ELECTION COMMISSION

REPORT OF THE AUDIT DIVISION
ON
AGRAN FOR PRESIDENT 92

I. Background

A. Audit Authority

This report is based on an audit of Agran for President 92 (the Committee). The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states that "after each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037." Also Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the campaign has materially complied with the limitations, prohibitions and disclosure requirements of the Federal Election Campaign Act of 1971, as amended.

B. Audit Coverage

The audit covered the period from the Committee's inception, August 21, 1991^{*/}, through July 31, 1992. During this period, the Committee reports reflect an opening cash balance of \$-0-, total receipts of \$630,442, total disbursements of \$593,253, and a closing cash balance of \$37,189. In addition, a limited review of the Committee's transactions and disclosure reports was conducted through March 31, 1993, for purposes of determining the Committee's remaining matching fund entitlement based on its financial position.

^{*/} The original Statement of Organization was filed with the Federal Election Commission August 21, 1991. The Committee opened its bank account August 6, 1991, which was the start of reported activity.

C. Campaign Organization

The Committee registered with the Federal Election Commission on August 21, 1991. The Treasurers of the Committee during the period covered by the audit were Peter J. Van Susteren from August 21, 1991 to March 31, 1992 and Christopher H. King from March 31, 1992 to the present.

The campaign established its national headquarters in Irvine, California.

To handle its financial activity, the campaign used only one bank account. From this account the campaign made approximately 1,023 disbursements. Approximately 5,728 contributions were received from 4,417 persons. These contributions totaled \$335,488. (Per Committee's magnetic tape files.)

In addition to contributions, the campaign received \$269,691 in matching funds from the United States Treasury. This amount represents 1.95% of the \$13,810,000 maximum entitlement that any candidate could receive. The candidate was determined eligible to receive matching funds on May 14, 1992. To date, the campaign has made 2 matching funds requests. The Commission has certified 99.53% of the requested amount. For matching fund purposes, the Commission determined that Mr. Agran's candidacy ended July 15, 1992. This determination was based on Commission regulations which specify the matching payment period ends "...on the date on which the national convention of the party whose nomination a candidate seeks nominates its candidate for the office of President of the United States,..." 26 U.S.C. §9032(6); see also 11 C.F.R. §9032.6. The campaign has continued to receive matching fund payments to defray expenses incurred before July 15, 1992 and to help defray the cost of winding down the campaign.

Attachment 1 to this report is a copy of the Commission's most recent Report on Financial Activity for this campaign. The amounts shown are as reported to the Commission by the campaign.

As part of the Commission's standard audit process, an inventory of the Committee's records was conducted prior to the audit fieldwork. This inventory was to determine if the Committee's records were materially complete and in an auditable state. The inventory indicated that the records were complete and by agreement with the Committee, the audit commenced immediately following the inventory.

D. Audit Scope and Procedures

In addition to a review of the qualified campaign expenses incurred by the campaign, the audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.A.4);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed;
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. proper disclosure of campaign debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records;
7. adequate recordkeeping for campaign transactions;
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by the campaign to disclose its financial condition and establish continuing matching fund entitlement (see Section III.A.);
9. the campaign's compliance with spending limitations; and
10. other audit procedures that were deemed necessary in the situation.

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

II. Findings and Recommendations - Non-repayment Matters

A. Apparent Excessive Contributions

Section 441a(a)(1) A of Title 2 of the United States Code states, in part, that no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed \$1,000.00.

Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or

political committee is a contribution unless the payment is exempted from the definition of contribution under 11 CFR 100.7(b)(8).

If the payment is not exempted, it shall be considered a contribution unless it is for the individual's transportation and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business such as food or lodging.

During the review of the Committee's disbursements the Audit staff noted a number of reimbursements to individuals that were for various kinds of campaign activity. For subsistence and transportation expenses, the Committee did not reimburse the individuals within the time periods required by 11 CFR 116.5. Individuals were also reimbursed for other kinds of campaign expenditures, such as advertising, supplies, telephone, postage, copying, tape production, and secretarial services. It was also noted, that a number of individuals paid the transportation, travel, and other campaign expenses incurred by other individuals, including the candidate's expenses.

Contributions resulting from the untimely reimbursement of expenses incurred by individuals were added to contributions made by these individuals. The review revealed that one person made apparent excessive contributions. The individual was in excess of the limit for most of the period August 21, 1991 through January 17, 1992. The amount in excess varied depending upon when reimbursements were received. The largest amount in excess was \$6,419 on November 5, 1991. At the time of fieldwork, there were no expense reimbursements outstanding. A review of FEC disclosure reports filed subsequent to fieldwork revealed no other debt to this person was reported.

This matter was discussed with the Committee during the exit conference. They were not aware of the requirements of 11 C.F.R. 116.5.

In the Interim Audit Report the Audit staff recommended that the Committee submit additional documentation to establish that the individual did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), or provide any other comments or documentation that the Committee believed were relevant. The Committee's response stated that all documentation of the Committee's disbursements was provided at the time of the audit and that they have nothing further to provide. The response goes on to state

that "... the Committee, both during and since the conclusion of the campaign, has complied to the best of its ability with the requirements of the Federal Election Campaign Act, as amended, and the regulations relevant thereto."

Given that the Committee's response provided no additional information, there is no change in the analysis presented in the Interim Audit Report.

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

A. Determination of Net Outstanding Campaign Obligations

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 days of the candidate's date of ineligibility, 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 necessary winding down costs.

Section 9034.1(b) of Title 11 of the Code of Federal Regulations states, in part, that if on the date of ineligibility a candidate has net outstanding obligations as defined under 11 C.F.R. §9034.5, that candidate may continue to receive matching payments provided that on the date of payment there are remaining net outstanding campaign obligations.

The NOCO statement is the basis for determining further matching fund entitlement. Mr. Agran's date of ineligibility was July 15, 1992. Consequently, he may only receive matching payments to the extent that he has net outstanding campaign obligations as defined in 11 C.F.R. §9034.5.

The Committee filed a Statement of Net Outstanding Campaign Obligations (NOCO) which reflected the Committee's financial position at July 15, 1992. The Audit staff analyzed the Committee's NOCO Statement and made adjustments to properly reflect the Candidate's cash position and to correct other misstatements. The Audit staff also took into account receipts that occurred between July 16, 1992 and August 31, 1992; winding down expenses between July 16, 1992 and March 31, 1993. The Committee's NOCO as adjusted by the Audit staff appears below.

Agran For President 92
Statement of Net Outstanding
Campaign Obligations as of July 15, 1992

ASSETS

Cash on hand	\$ 42,341.00	
Accounts Receivable	2,970.00	
Capital & Other Assets	<u>-0-</u>	
TOTAL ASSETS		<u>\$ 45,311.00</u>

LIABILITIES

Accounts Payable for Qualified Campaign Expenses as of 7/15/92 and Winding Down Expenses between 7/15/92 and 3/31/93		
TOTAL LIABILITIES		<u>(66,071.00) a/</u>
Net Outstanding Campaign Obligations		<u>(\$ 20,760.00)</u>

Conclusion

Between July 16, 1992 and August 31, 1992 the Committee received matching funds, individual contributions, and interest totaling \$20,389.00. As of August 31, 1992, the candidate's maximum remaining matching fund entitlement was \$371.00. No matching funds were received after August 31, 1992. This analysis is subject to change based on future adjustments to the NOCO statement.

a Winding down expenses for September 1, 1992 through March 31, 1993 are based on Committee disclosure reports and are subject to audit verification.

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Adjusted Receipts
 (Through December 31, 1992)

Page 1 of
 Additional Matching Funds
 certified after the period
 covered by this release
 submitted
 1/3/93

	Federal Matching Funds	Individual Contributions Minus Refunds	PAC's and Other Comte Contrib Minus Refunds	Contributions from the Candidate	Candidate Loans Minus Repayments	Other Loans Minus Repayments	Other Receipts	Adjusted Total Receipts	
DEMOCRATS									
Larry Agran	\$269,691	\$131,631	\$0	\$500	\$5,000	\$1,029	\$2,887	\$610,738	\$0
Jerry Brown	\$4,239,345	\$5,175,876	\$0	\$0	\$0	\$0	\$4,200	\$9,419,421	\$0
Bill Clinton	\$12,518,130	\$25,183,298	\$5,204	\$0	\$0	\$1	\$9,219	\$37,715,852	\$0
Tom Hartun	\$2,008,703	\$3,057,748	\$489,809	\$4,533	\$0	\$0	\$7,833	\$5,568,626	\$75,823
Bob Kerrey	\$2,118,745	\$3,904,622	\$352,657	\$0	\$0	(\$1,225)	\$5,893	\$6,380,692	\$50,486
Lyndon LaRouche	\$0	\$1,570,875	\$0	\$0	\$0	\$0	\$0	\$1,570,875	
Paul Teague	\$2,922,807	\$4,934,453	\$3,588	\$0	\$45,000	(\$9,575)	\$0	\$7,896,251	\$38,268
Doug Wilder	\$289,026	\$508,519	\$750	\$0	\$0	\$0	\$1,039	\$799,334	\$0
Total Democrats	\$24,366,447	\$44,667,022	\$851,986	\$5,033	\$50,000	(\$9,770)	\$31,071	\$69,961,789	\$164,575
REPUBLICANS									
Patrick Buchanan	\$4,848,200	\$7,144,107	\$24,750	\$0	\$0	\$0	\$3,442	\$12,020,499	\$75,639
George Bush	\$10,118,246	\$26,997,770	\$44,150	\$0	\$0	\$0	\$218,188	\$37,378,354	\$0
David Duke	\$0	\$220,715	\$0	\$0	\$1,000	\$0	\$0	\$271,815	
Total Republicans	\$14,966,446	\$34,362,592	\$68,900	\$0	\$1,000	\$0	\$221,630	\$49,670,668	\$75,639
Other Party									
Andre Marrou	\$0	\$562,770	\$181	\$118	\$15,000	\$0	\$0	\$578,067	
Lenora Fulani	\$1,935,524	\$2,201,407	\$0	\$325	(\$1,258)	\$1,200	\$0	\$4,137,198	\$0
Total Other Party	\$1,935,524	\$2,764,177	\$181	\$441	\$13,742	\$1,200	\$0	\$4,715,265	\$0
Grand Total	\$41,268,417	\$81,793,791	\$921,067	\$5,474	\$64,742	(\$8,570)	\$252,701	\$124,347,722	\$240,214

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 Adjusted Disbursements
 (Through December 31, 1992)

	Operating Expenditures Minus Offsets	Exempt Fundraising Minus Offsets	Exempt Legal/Accounting Minus Offsets	Other (Reburs)	Adjusted Total Disbursements	Expenditures Subject to Limit	Latest Cash On Hand	Debts Owed by the Campaign
Democrats								
Larry Agran	\$598,750	\$0	\$0	\$95	\$598,845	\$608,117	\$10,866	\$8,970
Jerry Brown	\$6,399,824	\$2,278,837	\$204,607	\$108,584	\$8,991,852	\$6,876,171	\$143,091	\$0
Bill Clinton	\$27,716,791	\$3,497,698	\$1,809,826	\$55,101	\$33,179,316	\$27,716,798	\$2,729,467	\$0
Tom Harkin	\$3,825,304	\$1,184,978	\$170,402	\$0	\$5,180,684	\$3,868,209	\$171,990	\$146,420
Bob Kerrey	\$5,355,053	\$1,057,895	\$162,842	\$23,404	\$6,599,194	\$5,987,258	\$14,141	\$31,718
Lyndon LaHouche	\$1,488,853	\$0	\$85,915	\$0	\$1,554,768	\$1,488,856	\$16,107	\$27,922
Paul Tsongas	\$6,557,914	\$754,978	\$184,452	\$0	\$7,477,344	\$6,963,801	\$45,825	\$164,288
Doug Wilder	\$776,722	\$8,568	\$39	\$0	\$783,329	\$783,294	\$16,002	\$341
Total Democrats	\$52,719,211	\$8,780,854	\$2,678,081	\$187,184	\$64,365,332	\$54,090,304	\$3,147,289	\$379,659
Republicans								
Patrick Buchanan	\$11,173,605	\$0	\$0	\$0	\$11,173,605	\$11,173,606	\$934,729	\$1,027
George Bush	\$27,183,036	\$5,524,000	\$4,560,271	\$0	\$37,267,307	\$27,183,037	\$62,715	\$190,526
David Duke	\$353,838	\$0	\$0	\$1,000	\$354,838	\$0	\$0	\$29,250
Total Republicans	\$38,710,479	\$5,524,000	\$4,560,271	\$1,000	\$48,795,750	\$38,356,643	\$997,444	\$222,803
Other Party								
Andre Marrou	\$415,576	\$160,219	\$0	\$0	\$575,795	\$0	\$0	\$0
Lenora Fulani	\$4,101,295	\$0	\$0	\$3,235	\$4,104,530	\$4,124,158	\$59,840	\$52,024
Total Other Party	\$4,516,871	\$160,219	\$0	\$3,235	\$4,680,325	\$4,124,158	\$59,840	\$52,024
Grand Total	\$95,946,561	\$14,465,073	\$7,238,354	\$191,419	\$117,841,407	\$98,571,105	\$4,204,573	\$654,486