




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

AK005714

December 5, 1994

MEMORANDUM

TO: RON HARRIS, PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
DEMOCRATS FOR ECONOMIC RECOVERY - LAROCHE IN 92

Attached please find a copy of the final audit report and related documents on Democrats for an Economic Recovery - LaRouche in 92 which was approved by the Commission on November 30, 1994.

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

957/0193

REPORT OF THE AUDIT DIVISION
ON

**Democrats for Economic Recovery –
LaRouche in 92**

Approved November 30, 1994



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

95070193

TABLE OF CONTENTS
DEMOCRATS FOR ECONOMIC
RECOVERY - LAROUCHE IN 92

	Page
Final Audit Report	1
Background	1
Findings	4
Transmittal to Committee	13
Transmittal to Candidate	15
Chronology	17

05170198



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20461

AK005644

REPORT OF THE AUDIT DIVISION
ON
DEMOCRATS FOR ECONOMIC RECOVERY -
LAROCHE IN 92

I. Background

A. Audit Authority

This report is based on an audit of Democrats for Economic Recovery - LaRouche in 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 Committee 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 January 14, 1991, the date of the Committee's first transaction, through March 31, 1994. During this period, the Committee's reports reflect an opening cash balance of \$-0-, total receipts of \$1,698,661, total disbursements of \$1,657,883, and a closing cash balance of \$40,778.1/ In addition, a limited review of the Committee's transactions through September 30, 1994 was conducted for purposes of determining the Committee's remaining matching fund entitlement.

1/ Figures included in this report are rounded to the nearest dollar.

C. Campaign Organization

The Committee registered with the Federal Election Commission on January 23, 1991. The Treasurer for the period audited was Kathy A. Magraw, who continues to serve as the Committee's Treasurer. The Committee maintains its headquarters in Leesburg, Virginia.

During the audit period the Committee used two bank accounts to handle its financial activity. From these accounts approximately 1,400 campaign disbursements that totaled about \$1,700,000 were made. Approximately 7,600 contributions were received that totaled about \$1,600,000.

In addition to contributions, the campaign received \$568,435 in matching funds from the United States Treasury. This amount represents 4% of the \$13,810,000 maximum entitlement that any candidate could receive. The candidate was determined eligible to receive matching funds on July 2, 1993.^{2/} The campaign made one matching fund request in the amount of \$575,339. The Commission certified 98.8% of the requested amount on April 28, 1994. For matching fund purposes, the Commission determined that Lyndon H. LaRouche, Jr.'s candidacy for the Democratic Party's presidential nomination ended July 15, 1992. This determination was based on the date of the convention pursuant to the Commission's regulations at 11 CFR §9033.5(c) which states, in relevant part, that the candidate's date of ineligibility shall be the last day of the matching payment period as specified in 11 CFR §9032.6; which states that the matching payment period may not exceed "the date on which the party nominates its candidate."

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

D. Audit Scope and Procedures

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

1. The receipt of contributions or loans in excess of the statutory limitations;

^{2/} The U.S. Court of Appeals for the District of Columbia Circuit instructed the Commission to certify matching funds to Lyndon H. LaRouche, Jr. for his 1992 Presidential Election Campaign. [LaRouche v. F.E.C., 996 F.2d 1263, 1269 (1993).]

2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of receipts from individuals and other entities, to include the itemization of receipts 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 Committee debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records;
7. adequate recordkeeping for campaign transactions;
8. ~~accuracy of the Statement of Net Outstanding Campaign Obligations filed by the Committee to disclose its financial condition and establish continuing matching fund entitlement (see Finding II.B.);~~
9. the Committee's compliance with spending limitations; and
10. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of the Committee's records is normally conducted prior to the audit fieldwork. This inventory is conducted to determine if the auditee's records are materially complete and in an auditable state. Based on our review of the records presented at the entrance conference, fieldwork began immediately.

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

II. Findings and Recommendations - Repayment Matters

A. Calculation of Repayment Ratio

Section 9038.3(c)(1) of Title 11 of the Code of Federal Regulations states that if on the last day of candidate eligibility the candidate's net outstanding campaign obligations reflect a surplus, the candidate shall within 30 days of the ineligibility date repay to the Secretary an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

Pursuant to 11 CFR §§9033.5(c) and 9032.6, Mr. LaRouche's date of ineligibility was determined to be July 15, 1992.

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

$$\frac{\text{Total Matching Funds Received through the Date of Ineligibility - July 15, 1992 } 3/}{\text{Numerator plus Total Deposits to the Candidate's Accounts}} = .270034$$
$$\frac{\$568,435}{\$568,435 + \$1,536,617} = .270034$$

Thus, the repayment ratio for a surplus is 27.0034%.

B. Determination of Net Outstanding Campaign Obligations - Surplus Repayment

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires the candidate to submit a statement of net outstanding campaign obligations which contains, among other things, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs. Subsection (b) of this section states, in part, that the total of outstanding campaign obligations shall not include any accounts payable for non-qualified campaign expenses.

3/ The Audit staff's calculation of the ratio assumes that the matching funds were received prior to the Candidate's date of ineligibility.

Section 9038(b)(3) of Title 26 of the United States Code states that amounts received from the matching payment account may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into candidate's accounts shall be promptly repaid to the matching payment account.

On February 27, 1992, the Commission made a final determination that the Candidate be denied eligibility to receive Federal matching funds. As a result of litigation by the Committee, on July 2, 1993, the U.S. Court of Appeals for the District of Columbia Circuit instructed the Commission to certify matching funds to Lyndon H. LaRouche, Jr. for his 1992 Presidential Election Campaign. The Committee filed a Statement of Net Outstanding Campaign Obligations (NOCO) on April 1, 1994. The NOCO is the basis for determining the Committee's financial position at the Candidate's date of ineligibility. Our analysis assumes that the matching funds were received prior to the Candidate's date of ineligibility.

The Audit staff reviewed the Committee's financial activity through September 30, 1994, analyzed winding down costs, and prepared a NOCO Statement as of July 15, 1992, which appears below:

95970193

DEMOCRATS FOR ECONOMIC RECOVERY - LAROUCHE IN 92
 Statement of Net Outstanding Campaign Obligations
 as of July 15, 1992
 as determined at September 30, 1994 by the Audit staff

ASSETS

Cash <u>a/</u>	\$26,821	
Accounts Receivable	3,647	
Matching Funds Receivable <u>b/</u>	568,435	
Capital Assets	<u>1,294</u>	
Total Assets		\$600,197

LIABILITIES

Accounts Payable for Qualified Campaign Expenses	\$44,645	
Winding Down Costs:		
Actual 7/16/92 thru 3/31/94	\$66,073	
Reported 4/1/94 thru 9/30/94	11,663	<u>77,736</u>
Total Liabilities		<u>122,381</u>
NOCO Surplus/(Deficit)		\$477,816
Repayment Percentage (See Finding II.A.)		<u>.270034</u>
Repayment Amount		<u>\$129,027</u>

a/ This figure includes cash available in bank accounts as well as contributor checks dated on or before 7/15/92 but deposited after 7/15/92.

b/ Matching funds were received on February 24, 1994 (\$100,000) and on May 20, 1994 (\$468,435).

At the exit conference, the Audit staff informed Committee representatives of the surplus. In a written response to matters presented at the exit conference, the Committee noted that the differences between its NOCO calculations and those of the Audit staff are immaterial, and therefore, does not challenge the NOCO amounts determined by the Audit staff. However, the Committee did state that "...this concession should not be understood to represent either an agreement with all of the methodologies and conclusions contained in the Audit Division's report, or a waiver by the candidate of the right to take up any of these issues in any future campaigns in which he may participate, should they recur in those campaigns at a more material level...".

On September 14, 1994, the Committee submitted a letter (with attachments) accompanied by a cashier's check in the amount of \$132,300, payable to the U.S. Treasury. According to the Committee's letter, it understands the actual repayment amount may vary somewhat based on other considerations (e.g., interest earned on deposit of Federal funds) and has tendered this payment in a greater amount to encompass possible increases. The Committee noted that the "...payment is issued with the understanding that, should the Commission determine a lesser amount is due, the difference will be refunded at the appropriate time after that determination is made."

The interim audit report recommended that the Committee demonstrate that it was not in a surplus position. The interim audit report also stated that absent such a demonstration, the Audit staff would recommend that the Commission make an initial determination that the Committee make a pro rata repayment to the United States Treasury pursuant to 26 U.S.C. §9038(b)(3). As noted above, on September 14, 1994, the Committee had submitted a repayment check.

In a letter submitted in response to the interim audit report, the Committee's Treasurer stated that "...the candidate and committee have no comments at this time, but reserve our right to respond at any appropriate future time to findings made by the Commission." In addition, the Treasurer noted the apparent overpayment by the Committee and expects the "...return of the excess portion upon proper determination of the exact amount due."

Finally, the Audit staff has revised the above NOCO presentation based on our review of the Committee's October 15, 1994 Quarterly Disclosure Report.

9507019315

Recommendation #1

The Audit staff recommends that the Commission make an initial determination that the Committee was required to make a pro rata repayment of \$129,027 to the United States Treasury pursuant to 26 U.S.C. §9038(b)(3). On September 14, 1994, the Committee submitted a repayment check in the amount of \$132,300.

C. Interest Earned on Investment of Federal Funds

Section 9038.2(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that the Commission may determine that the net income derived from the investment of surplus public funds after the candidate's date of ineligibility, less Federal, State and local taxes paid on such income, is also repayable.

An attachment included with the letter received from the Committee on September 14, 1994, details the investment of surplus funds and the interest earned on the surplus. The schedule noted that \$468,435 in matching fund proceeds was invested; of this amount, \$130,105 represented surplus Federal funds. The Committee calculated the ratio for the Federal portion of the invested funds to be approximately 27.77% ($\$130,105/\$468,386$) and noted total interest earned on the Federal portion was \$1,447 ($\$5,208 \times 27.77\%$). Workpapers were also provided detailing the Committee's calculation of \$234 in Federal and State tax liabilities.

The Audit staff's analysis determined the amount of surplus Federal funds to be \$129,635. Our revised ratio for the Federal portion of the invested funds was determined to be approximately 27.67% ($\$129,635/\$468,435$). The total interest earned on the Federal portion of the invested funds was \$1,441 ($\$5,208 \times 27.67\%$). In addition, the Audit staff determined that the Committee's calculation of Federal and State taxes owed is materially correct. Therefore, at the time of the interim audit report, the Audit staff calculated that the amount of interest earned on the Federal portion less applicable taxes is \$1,207 ($\$1,441 - \234).

As previously noted, on September 14, 1994, the Committee submitted a cashier's check payable to the U.S. Treasury, representing repayment of the Federal portion of surplus funds, interest earned on investment of surplus Federal funds and other amounts that may be owed by the Committee.

The interim audit report recommended that the Committee submit documentation to show that no repayment obligation (or a lesser amount) exists. Absent such a submission, the Audit staff would recommend that the Commission make an initial determination that \$1,207 is repayable to the United States Treasury pursuant to 11 CFR §9038.2(b)(4). The interim audit report also noted that the Committee had submitted a repayment check.

In a letter submitted in response to the interim audit report, the Committee's Treasurer stated that "...the candidate and committee have no comments at this time, but reserve our right to respond at any appropriate future time to findings made by the Commission." In addition, the Treasurer noted the apparent overpayment by the Committee and expects the "...return of the excess portion upon proper determination of the exact amount due."

Based on our revisions to the NOCO presentation above and the resultant decrease in the amount of surplus Federal funds, the Audit staff has recalculated the amount of interest earned on the investment of public funds less applicable taxes to be \$1,200.

Recommendation #2

The Audit staff recommends that the Commission make an initial determination that the Committee was required to make a repayment of \$1,200 to the United States Treasury pursuant to 11 CFR §9038.2(b)(4). On September 14, 1994, the Committee had submitted a repayment check in the amount of \$132,300.

III. Recap of Amounts Repayable to the United States Treasury

Reflected below are amounts due the United States Treasury as noted in the report.

Finding II.B. Surplus Repayment	\$ 129,027
Finding II.C. Interest Earned on Surplus	1,200
Total Amount Repayable	<u>\$ 130,227</u>
Less: Repayment Received 9/14/94	<u>132,300</u>
Apparent Overpayment	<u>\$ (2,073) 4/</u>

4/ The amount of the overpayment should be refunded subsequent to the Committee's receipt of the Commission's final repayment determination.

95070123117

Adjusted Receipts
(Through September 30, 1994)

Attachment 1
Page 1 of 2

	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	\$331,631	\$0	\$500	\$3,000	\$1,029	\$3,001	\$608,852
Jerry Brown	\$4,239,345	\$5,176,336	\$0	\$0	\$0	\$0	\$4,693	\$9,420,374
Bill Clinton	\$12,518,130	\$24,983,688	\$2,429	\$0	\$0	\$1	\$30,724	\$37,534,972
Tom Harkin	\$2,103,352	\$3,080,206	\$415,570	\$0	\$0	\$0	\$22,601	\$5,621,729
Bob Kerrey	\$2,196,284	\$3,913,332	\$349,757	\$0	\$0	(\$1,225)	\$5,931	\$6,466,079
Lyndon LaRouche	\$566,434	\$1,604,065	\$0	\$0	\$0	\$0	\$8,231	\$2,180,730
Paul Tsongas	\$3,039,388	\$5,072,689	\$3,566	\$0	\$45,000	(\$9,575)	\$0	\$8,151,068
Doug Wilder	\$289,026	\$508,519	\$750	\$0	\$0	\$0	\$1,039	\$799,334
Total Democrats	\$25,225,650	\$44,670,466	\$772,072	\$500	\$48,000	(\$9,770)	\$76,220	\$70,763,136
Republicans								
Patrick Buchanan	\$4,999,993	\$7,157,808	\$24,750	\$0	\$0 ¹	\$0	\$43,940	\$12,226,461
George Bush	\$10,658,513	\$27,088,825	\$44,250	\$0	\$0	\$0	\$222,417	\$38,014,005
David Duke*	\$0	\$220,715	\$0	\$0	\$1,000	\$0	\$0	\$271,615
Total Republicans	\$15,658,496	\$34,467,348	\$69,000	\$0	\$1,000	\$0	\$266,357	\$50,512,301
Other Party								
Andre Marrou*	\$0	\$582,770	\$181	\$116	\$15,000	\$0	\$0	\$578,067
Lenora Fulani*	\$1,935,524	\$2,201,490	\$0	\$325	(\$1,258)	\$1,200	\$0	\$4,137,281
John Hagelin	\$353,160	\$563,800	\$449	\$0	\$0	\$5,630	\$5,316	\$928,355
Total Other Party	\$2,288,684	\$3,328,060	\$630	\$441	\$13,742	\$6,830	\$5,316	\$5,643,703
Grand Total	\$43,172,830	\$82,465,874	\$841,702	\$941	\$62,742	(\$2,940)	\$347,893	\$126,939,142
Perot	\$0	\$3,905,594	\$0	\$65,544,735	\$2,056,371	\$0	\$5,807	\$71,512,507

Page 10
11/30/94

8 1 8 9 6 1 0 7 0 9 6

Adjusted Disbursements
(Through September 30, 1994)

	Operating Expenditures Minus Offsets	Exempt Fundraising Minus Offsets	Exempt Legal/Accounting Minus Offsets	Other Disburse	Adjusted Total Disbursements	Expenditures Subject to Limit	Latest Cash On Hand	Debts Owed By the Campaign
Democrats								
Larry Agran	\$609,111	\$0	\$0	\$95	\$609,206	\$616,223	\$47	\$3,170
Jerry Brown	\$8,316,822	\$2,278,938	\$311,790	\$108,584	\$9,014,934	\$6,688,482	\$136,482	\$0
Bill Clinton	\$25,321,257	\$5,524,000	\$3,989,875	\$0	\$34,834,932	\$24,528,607	\$284,544	\$20,932
Tom Harkin	\$4,027,785	\$1,144,006	\$198,833	\$35,316	\$5,405,720	\$3,142,973	\$164,246	\$143,389
Bob Kerrey	\$5,181,458	\$1,078,978	\$179,911	\$23,404	\$6,461,751	\$6,050,481	\$9,662	\$0
Lyndon LaRouche	\$1,550,893	\$0	\$132,929	\$290,604	\$1,974,426	\$1,520,588	\$215,155	\$0
Paul Tsongas	\$6,808,157	\$754,978	\$191,375	\$0	\$7,754,510	\$7,001,568	\$7,498	\$164,472
Doug Wilder	\$806,776	\$8,568	\$39	\$0	\$813,383	\$807,258	\$786	\$0
Total Democrats	\$50,821,039	\$10,785,468	\$5,004,352	\$458,003	\$66,868,862	\$50,356,176	\$817,418	\$331,963
Republicans								
Patrick Buchanan	\$11,828,268	\$0	\$0	\$0	\$11,828,268	\$11,828,272	\$487,655	\$0
George Bush	\$27,429,418	\$5,526,322	\$4,936,167	\$73,400	\$37,967,307	\$27,429,422	\$6,405	\$0
David Duke	\$353,838	\$0	\$0	\$1,000	\$354,838	\$0	\$0	\$29,250
Total Republicans	\$39,611,524	\$5,526,322	\$4,936,167	\$74,400	\$50,150,413	\$39,257,694	\$494,060	\$29,250
Other Party								
Andre Marrou'	\$415,576	\$160,219	\$0	\$0	\$575,795	\$0	\$0	\$0
Lenora Fulani'	\$4,204,009	\$0	\$0	\$3,235	\$4,207,244	\$4,207,526	\$0	\$0
John Hegelin	\$700,534	\$91,458	\$52	\$90,293	\$882,337	\$700,534	\$0	\$0
Total Other Party	\$5,320,119	\$251,677	\$52	\$93,528	\$5,665,378	\$4,908,060	\$0	\$0
Grand Total	\$95,552,662	\$16,563,467	\$9,942,571	\$625,931	\$122,684,651	\$94,521,932	\$1,311,478	\$361,213
net	\$69,152,998	\$0	\$0	'8	\$69,168,386	\$0	\$975,716	\$1,938,407

61526107090

050/0123 00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

AK005701

November 30, 1994

Ms. Kathy A. McGraw, Treasurer
Democrats for Economic
Recovery - LaRouche in 92
c/o Richard Welsh
60 Sycolin Rd.
Leesburg, VA 22075

Dear Ms. McGraw:

Attached please find the Final Audit Report on Democrats for Economic Recovery - LaRouche in 92. The Commission approved this report on November 30, 1994. As noted on page 3 of this report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 CFR §9038.2(c)(1) and (d)(1), the Commission has made an initial determination that you were required to repay to the Secretary of the Treasury \$130,227. On September 14, 1994, a payment of \$132,300 was submitted based on preliminary figures.

Should the Candidate dispute the Commission's determination that a repayment is required, Commission regulations at 11 CFR §9038.2(c)(2) provide the Candidate with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (January 3, 1995), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 CFR §9038.2(c)(3) permits a Candidate who has submitted written materials to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by the Candidate within the 30 Day period in making a final repayment determination. Such materials may be submitted by counsel if the Candidate so elects. If the Candidate decides to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690 or toll free at (800) 424-9530. If the Candidate does not dispute this initial determination within the 30 day period provided, it will be considered final.

1
3
9
5
9
/
0
1
9
3

MS. KATHY A. MCGRAW
Page 2

The Commission approved Final Audit Report will be placed on the public record on December 5, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matters covered during the audit or in the audit report should be directed to Alex Boniewicz or Henry Miller of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,



Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

95070123322



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AK005701

November 30, 1994

Mr. Lyndon H. LaRouche, Jr.
Democrats for Economic
Recovery - LaRouche in 92
c/o Richard Welsh
60 Sycolin Rd.
Leesburg, VA 22075

Dear Mr. LaRouche:

Attached please find the Final Audit Report on Democrats for Economic Recovery - LaRouche in 92. The Commission approved this report on November 30, 1994. As noted on page 3 of this report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 CFR §9038.2(c)(1) and (d)(1), the Commission has made an initial determination that you were required to repay to the Secretary of the Treasury \$130,227. On September 14, 1994, a payment of \$132,300 was submitted based on preliminary figures.

Should the Candidate dispute the Commission's determination that a repayment is required, Commission regulations at 11 CFR §9038.2(c)(2) provide the Candidate with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (January 3, 1995), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 CFR §9038.2(c)(3) permits a Candidate who has submitted written materials to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by the Candidate within the 30 Day period in making a final repayment determination. Such materials may be submitted by counsel if the Candidate so elects. If the Candidate decides to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690 or toll free at (800) 424-9530. If the Candidate does not dispute this initial determination within the 30 day period provided, it will be considered final.

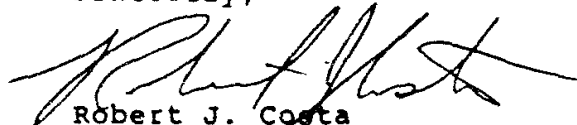
939/012-103

MR. LYNDON H. LAROUCHE, JR.
Page 2

The Commission approved Final Audit Report will be placed on the public record on December 5, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matters covered during the audit or in the audit report should be directed to Alex Boniewicz or Henry Miller of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,


Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

259 / 019 31794

CHRONOLOGY

DEMOCRATS FOR ECONOMIC
RECOVERY - LAROUCHE IN 92

Pre-Audit Inventory Commenced	6/15/94
Audit Fieldwork	6/15/94 - 8/3/94
Interim Audit Report to the Committee	11/10/94
Response Received to the Interim Audit Report	11/16/94
Final Audit Report Approved	11/30/94

95070198

RECEIVED
F.E.C.
SECRETARIAT



FEDERAL ELECTION COMMISSION

AK094663 14 PH 2:56

**SUBMITTED LATE
AGENDA ITEM**

For Meeting of: FEB 17 1994

February 14, 1994

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: ELIGIBILITY REPORT - LYNDON H. LAROUCHE, JR./DEMOCRATS
FOR ECONOMIC RECOVERY - LAROUCHE IN '92

Attached is a report from the Audit Division regarding the eligibility of Lyndon H. LaRouche, Jr./Democrats for Economic Recovery-LaRouche in '92 to receive Presidential Primary Matching Fund payments.

We request that this matter be placed on the agenda for the February 17, 1994, Commission meeting. Should you have any questions regarding this matter, please contact Ray Lisi at 219-3720.

Attachment as stated

9507019326



FEDERAL ELECTION COMMISSION

AK004662

ELIGIBILITY REPORT
OF THE
AUDIT DIVISION
FOR
LYNDON H. LAROUCHE, JR.
DEMOCRATS FOR ECONOMIC RECOVERY LAROUCHE IN '92

For a Candidate seeking to become eligible to receive Presidential primary matching fund payments, 26 U.S.C. §9033(a) and (b) and 11 C.F.R. §§9033.1 and 9033.2 set forth a series of agreements and certifications which must be executed by a Candidate and to which the Candidate and any of the Candidate's authorized committees will comply as a condition to receiving payments from the Presidential Primary Matching Payment Account under 26 U.S.C. §9037 and 11 C.F.R. §9037.1. In addition, 11 C.F.R. §9036.1(b) requires the Candidate and Committee to submit a Threshold Submission, prepared in accordance with the Commission's Guideline for Presentation in Good Order, which documents that matchable contributions exceeding \$5,000 have been received from residents of at least 20 States, which with respect to any one contributor, do not exceed \$250.

On November 18, 1991, Lyndon H. LaRouche, Jr. and Democrats for Economic Recovery-LaRouche in '92 submitted a Letter of Candidate and Committee Agreements and Certifications as specified by 11 C.F.R. §§9033.1 and 9033.2. Democrats for Economic Recovery-LaRouche in '92 also presented a Threshold Submission on November 18, 1991.

The Office of General Counsel reviewed the Letter of Candidate and Committee Agreements and Certifications submitted by Lyndon H. LaRouche, Jr. and Democrats for Economic Recovery-LaRouche in '92. The legal analysis from that office concluded that the letter did not meet the requirements of 26 U.S.C. §9033 and 11 C.F.R. §9033.1 and 9033.2 because of qualifying language added to Paragraph VIII regarding the production of documentation relating to funds received and disbursements made on behalf of other political committees and organizations associated with the candidate. (see copy at Attachment I.) On December 2, 1991, a revised letter of Candidate and Committee Agreements and Certifications was submitted which omitted the qualifying language (see copy at Attachment II.) The Audit Division reviewed the Threshold Submission and, based upon the information and documentation contained in the submission, has certified that the eligibility requirements have been met. (See listing of qualifying States and verified amounts at Attachment III).

950701937

RECOMMENDATIONS

- 1) The Audit Division recommends that the Commission determine that Lyndon H. LaRouche, Jr./Democrats for Economic Recovery-LaRouche in '92 have fulfilled the requirements set forth in 26 U.S.C. §9033(a) and (b) and 11 C.F.R. §§9033.1, 9033.2, and 9035.1(b) and have established eligibility to receive primary matching fund payments under 26 U.S.C. §9037 and 11 C.F.R. §9037.1.
- 2) The Audit Division further recommends that, in accordance with 11 C.F.R. 9036.1(c) and the Commission's Guideline for Presentation in Good Order, a notification letter be sent to the Candidate regarding the Commission's eligibility determination. The letter further advises that additional Matching Fund Requests may be presented to the Commission for review. (See proposed letter at Attachment IV.)
- 3) The Audit Division recommends that the Commission notify the Secretary of the Treasury of the Candidate/Committee's eligibility to receive payments from the Presidential Primary Matching Payment Account. (See proposed letter at Attachment V.)

Attachments as stated

950/0123

Received w
audit 11/20/91
RJC

ATTACHMENT 1
Page 1 of 2



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

November 25, 1991

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

Kim L. Bright-Coleman
Associate General Counsel

Carmen R. Johnson
Assistant General Counsel

SUBJECT: Letter of Candidate Agreements and Certifications
Submitted by Lyndon LaRouche/Democrats for Economic
Recovery: LaRouche in '92 (LRA #385)

The Office of General Counsel has reviewed the letter dated November 11, 1991, submitted by Lyndon LaRouche/Democrats for Economic Recovery: LaRouche '92, setting forth the agreements and certifications required of candidates seeking to become eligible to receive Presidential primary matching funds. On November 20, 1991, we received your memorandum summarizing the results of your review of the letter for compliance with the requirements of 11 C.F.R. §§ 9033.1 and 9033.2.

Based on our review of the letter, the Office of General Counsel concludes that the letter does not meet the requirements of 26 U.S.C. § 9033 and 11 C.F.R. §§ 9033.1 and 9033.2. Specifically, our review of the letter noted that the Committee added qualifying language to Paragraph VIII. The statement reads ". . . to the extent such receipts and disbursements pertain to my Presidential primary campaign, and to the extent I or my authorized committee(s) have the legal authority to obtain and furnish such documentation." We believe that the inclusion of such qualifying language in the letter is contrary to the Commission's regulations and Guideline for Presentation in Good Order ("Guideline").

The Commission's regulations provide that, "[t]he candidate and the candidate's authorized committee(s) will obtain and furnish to the Commission upon request all documentation

61161029

Memorandum to Robert J. Costa
Letter of Candidate Agreements and Certifications
Submitted Lyndon LaRouche/Democrats for Economic Recovery:
LaRouche '92 (LRA #385)
Page 2

ATTACHMENT 1
Page 2 of 2

relating to funds received and disbursements made on the candidate's behalf by other political committees and organizations associated with the candidate." 11 C.F.R. § 9033.1(b)(6). See also Guideline, Suggested Format for Candidate and Committee Agreements and Certifications, Appendix 1. In promulgating this provision, the Commission stated that this requirement will ensure a more timely production of pertinent records that the Commission needs to audit the candidate's Presidential campaign committee or to make repayment determinations. See 56 Fed. Reg. 35896, 35904 (July 29, 1991).

Thus, there is no authority in the Commission's regulations or the Guideline for the inclusion of the qualifying language in the letter. Therefore, this Office recommends that Lyndon LaRouche/Democrats for Economic Recovery: LaRouche '92 revise its letter of candidate and committee agreements to comport with the Commission's regulations and the Guideline by removing the offending language. This Office will not recommend the approval of the letter until the letter is revised to meet the appropriate standards.

In a separate memorandum, this Office will address the Audit Division's request regarding the effect of the candidate's conviction on his eligibility to receive federal matching funds.

Lyndon LaRouche/Democrats for Economic Recovery: LaRouche '92 also presented a threshold submission. If a routine Eligibility Report is prepared for Commission consideration, no legal analysis of the Eligibility Report will be prepared by this Office. The Eligibility Report will, however, include our legal analysis of the candidate's 9033 letter as an attachment.

Staff assigned: Gregory R. Baker

05070123

ANDERSON, ROSSI & DAVIS

ATTORNEYS AT LAW

FOUR LONGFELLOW PLACE, SUITE 3705

BOSTON, MASSACHUSETTS 02114

(617) 742-8200

FACSIMILE (617) 742-7876

ODIN P. ANDERSON
ROBERT L. ROSSI
A. DAVID DAVIS
LYNNE R. HODOLANOF COUNSEL:
ELEANOR W. PENNERCAPE COD OFFICE
275 MILL WAY
(ON BARNSTABLE HARBOR)
BARNSTABLE, MA 02630
(508) 362-8544

November 27, 1991

Greg Baker, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463RE: Democrats for Economic Recovery-
LaRouche in '92
Threshold Submission "9033 Letter"

Dear Mr. Baker:

In light of our telephone discussions of 11/26/91, I consider the concerns raised in my faxed letter of that date to be resolved. Enclosed please find the revised Candidate Agreement letter which replaces the letter currently in your possession as part of the Threshold Submission.

Very truly yours,



Odin P. Anderson, Esq.

Enclosure

95070123456789

Lyndon H. LaRouche, Jr.
c/o Democrats for Economic Recovery-LaRouche in 92
PO Box 690
Leesburg, VA 22075

November 28, 1991

Chairman
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Chairman:

As a candidate seeking to become eligible to receive Presidential primary funds, I certify and agree to the following provisions:

- I. I am seeking the nomination of the Democratic Party for election to the Office of President in more than one State. I and/or my authorized committee(s) have received matchable contributions which in the aggregate exceed \$5,000 from residents of each of at least twenty States which with respect to any one person do not exceed \$250.00.
- II. I and/or my authorized committee(s) have not incurred and will not incur qualified campaign expenses in excess of the expenditure limitations prescribed by 26 U.S.C. Part 9035 and 11 C.F.R. Part 9035.
- III. I acknowledge that I have the burden of proving that disbursements made by me, and any of my authorized committee(s) or agents are qualified campaign expenses as defined at 11 C.F.R. Part 9032.9.
- IV. I and my authorized committee(s) will comply with the documentation requirements set forth in 11 C.F.R. Part 9033.11.
- V. Upon the request of the Commission, I or my authorized committee will supply an explanation of the connection between any disbursement made by me or my authorized committee(s) and the campaign as prescribed by 11 C.F.R. Part 9033.1(b)(3).
- VI. In accordance with 11 C.F.R. Part 9033.1(b)(4), I and my authorized committee(s) agree to keep and furnish to the Commission all documentation for matching fund submissions, any books, records (including bank records for all accounts) and supporting documentation and other information that the Commission may request.

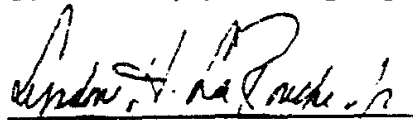
957/0193032

- 95970193733
- VII. As provided at 11 C.F.R. Part 9033.1(b)(5), I and my authorized committee(s) agree to keep and furnish to the Commission all documentation relating to disbursements and receipts including any books, records (including bank records for all accounts), and documentation required by this section including those required to be maintained under 11 C.F.R. Part 9033.11, and other information that the Commission may request. The records provided for the post-primary audit shall also include production of magnetic media containing all information required to be maintained on my authorized committee(s)' receipts and disbursements, if my authorized committee(s) maintain(s) its (their) records on computer. Upon request by the Commission, documentation explaining the computer software capabilities shall also be provided. The production of all computerized information shall be in conformance with 11 C.F.R. Part 9033.12.
- VIII. ~~I and my authorized committee(s) will obtain and furnish to the Commission upon request all documentation relating to funds received and disbursements made on my behalf by other political committees and organizations associated with me.~~
- IX. In accordance with 26 U.S.C. Part 9038 and 11 C.F.R. Part 9033.1(b)(7), I and my authorized committee(s) shall permit an audit and examination pursuant to 11 C.F.R. Part 9038 of all receipts and disbursements, including those made by me, all authorized committee(s) and any agent or person authorized to make expenditures on my behalf or on behalf of my authorized committee(s). I and my authorized committee(s) shall facilitate the audit by making available in one central location, office space, records and such personnel as are necessary to conduct the audit and examination, and shall pay any amounts required to be repaid under 11 C.F.R. Parts 9038 and 9039.
- X. Pursuant to 11 C.F.R. Part 9033.1(b)(8), the person listed below is entitled to receive matching fund payments on my behalf which will be deposited into the listed depository which I have designated as the campaign depository. Any change in the information required by this paragraph shall not be effective until submitted to the Commission in a letter signed by me or the Treasurer of my authorized principal campaign committee.

Name of Person: Kathy A. Magraw
Mailing Address: P.O. Box 690
Leesburg, VA 22075
Designated Depository: Sovran Bank
Address: King and Market Streets
Leesburg, VA 22075

- XI. Pursuant to 11 C.F.R. Parts 9033.1(b)(9), (10), and (11), I and my authorized committee(s) will: (A) prepare matching fund submissions in accordance with the Federal Election Commission's Guideline for Presentation in Good Order, including the provision of any magnetic media pertaining to the matching fund submissions and which conforms to the requirements specified at 11 C.F.R. Part 9033.12; (B) comply with the applicable requirements of 2 U.S.C. Part 431 et seq.; and the Commission's regulations at 11 C.F.R. Parts 100-115, and 9031-9039; (C) pay civil penalties included in a conciliation agreement imposed under 2 U.S.C. Part 437g against myself, any of my authorized committee(s) or any agent thereof.

Signed:


Lyndon H. LaRouche, Jr.

95110123334

DEMOCRATS FOR ECONOMIC RECOVERY-
LAROUCHE IN '92
QUALIFYING THRESHOLD STATES

<u>State Submitted</u>	<u>Verified Matchable Amount</u>
1. California	\$ 6,420
2. Colorado	5,445
3. Connecticut	6,225
4. Florida	6,223
5. Illinois	6,145
6. Kansas	5,630
7. Massachusetts	5,390
8. Maryland	5,750
9. Michigan	5,450
10. Minnesota	5,950
11. Missouri	6,155
12. North Carolina	5,725
13. Nebraska	5,575
14. New Jersey	6,100
15. New York	6,217
16. Ohio	5,762
17. Oregon	5,800
18. Pennsylvania	6,015
19. Texas	5,550
20. Virginia	5,965
21. Washington	5,075
22. Wisconsin	5,465
Total	<u>\$128,032</u>

051/01230



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

Lyndon H. LaRouche, Jr.
Democrats for Economic Recovery-
LaRouche in '92
Rt. 1, Box 284
Roundhill, VA 22141

Dear Mr. LaRouche:

This letter is to advise you that, pursuant to 11 C.F.R. §§ 9033.4 and 9036.1(c), on _____, 1994, the Federal Election Commission approved an Audit Division staff report which states that you, as a Presidential candidate, have satisfied the eligibility requirements of 2 U.S.C. §9033(a) and (b) and 11 C.F.R. §§9033.1, 9033.2 and 9036.1(b). In approving this report, the Commission has determined that your eligibility has been established to receive payments from the Presidential Primary Matching Payment Account under the provisions of 26 U.S.C. §9037 and 11 C.F.R. §9037.1. A copy of the report is enclosed for your information.

At this time a payment of \$100,000 will be certified to the Secretary of the Treasury for payment. An additional matching fund request containing contributions raised between January 1, 1991, through June 30, 1992, may be submitted on April 1, 1994. In addition, a matching fund request(s) containing contributions raised subsequent to July 1, 1992, may also be submitted on that date contingent on a deficit financial position based on a statement of net outstanding campaign obligations as of July 15, 1992, taking into account private contributions and public funds received after June 30, 1992.

The Commission suggests that if you have not already done so, your Committee contact the Office of Financial Management Service at the Department of Treasury to arrange for a method of payment and further that the bank account number of the account to which payments will be deposited also be transmitted in writing to the Department of Treasury.

950701010936

LETTER TO LYNDON H. LAROCHE, JR.
Page 2

Should you have any questions regarding these matters, please contact Mr. Raymond Lisi of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

For the Commission,

Trevor Potter
Chairman

Enclosure as stated

cc: Treasurer

951701237



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

AK004664

Honorable Lloyd M. Bentsen, Jr.
Secretary
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

On _____, the Federal Election Commission determined that the following candidate and his authorized committee had satisfied the eligibility requirements of 26 U.S.C. §9033 and 11 C.F.R. §§9033.1, 9033.2, and 9036.1 to receive presidential primary matching funds under 26 U.S.C. §9037 and 11 C.F.R. §9037.1:

Lyndon H. LaRouche, Jr.
Democrats for Economic Recovery-LaRouche in '92

Pursuant to 11 C.F.R. §9033.1(b)(8), the following individual and depository were designated by the candidate to receive funds from the Presidential Primary Matching Payment Account under 26 U.S.C. §9037 and 11 C.F.R. §9037.1:

Designated Recipient:	Kathy A. Magraw
Address of Recipient:	Rt. 1, Box 284 Roundhill, VA 22141
Designated Depository:	Sovran Bank King and Market Streets Leesburg, VA 2207

Certification will be transmitted as provided in 26 U.S.C. §9036(a) and 11 C.F.R. §9036.2.

For the Commission,

Trevor Potter

Attest:

Marjorie Emmons
Secretary to the Commission

9517019-2