



FEDERAL ELECTION COMMISSION  
WASHINGTON D C 20463

December 10, 1996

**MEMORANDUM**

TO: Ron M. Harris  
Press Officer  
Press Office

FROM: Robert J. Costa *RJC*  
Assistant Staff Director  
Audit Division

SUBJECT: Public Issuance of the Final Audit Report on Friends for Franks

Attached please find a copy of the final audit report and related documents on Friends for Franks which was approved by the Commission on November 27, 1996.

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

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**REPORT OF THE AUDIT DIVISION**  
**ON**  
**Friends for Franks**

**Approved November 27, 1996**



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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

AR#95-12

**FINAL AUDIT REPORT  
ON  
FRIENDS FOR FRANKS**

**EXECUTIVE SUMMARY**

Friends for Franks registered with the United States House of Representatives on May 4, 1993 as the principal campaign committee for Gary A. Franks, Republican candidate for the U.S. House of Representatives from the state of Connecticut, 5th District.

The audit was conducted pursuant to 2 U.S.C. §438(b), which states that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The findings of the audit were presented to the Committee at the completion of fieldwork on September 7, 1995 and later in an interim audit report. The Committee's response to those findings is included in the final audit report.

The following is an overview of the findings contained in the final audit report. The Audit staff's testing of contributions was limited because no computerized file or listing of contributions was provided. Our testing of disbursements and debts owed was also limited because approximately half of the records provided were generated by the payee and the Committee had no system in place to track debts.

**RECORDKEEPING FOR DISBURSEMENTS AND CHECKS MADE PAYABLE TO "CASH"** - 2 U.S.C. §432(c)(5). The Audit staff identified 165 disbursements, totaling \$194,037, for which a record of the payees' address and/or purpose was not maintained, as required. Much of the missing information was included on the Committee's disclosure reports. The Committee provided listings of disbursements which included the missing information for all but 29 of the 165 recordkeeping errors. No vendor generated documentation was provided (such as invoices, receipted bills, etc.).

The Committee disclosed two \$2,500 loans from the Candidate and one \$2,500 loan reimbursement to the Candidate. The Committee provided statements from the Candidate explaining that he made no loans to the Committee and that the \$2,500 reimbursement to him was for campaign expenses he had incurred at his residence. In response to the interim audit report, the Committee provided a statement from the former Campaign Manager which claimed that the Candidate had incurred expenses at his residence for newspapers, meals and mileage in excess of \$2,500. No documentation was provided relative to these expenses.

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The Committee made 20 payments to the Candidate's spouse, totaling \$62,500, which were noted as payment for services, salary, payroll or consulting on the memo line of the checks and/or the check register descriptions. No consulting agreements or payroll records were provided. In response to the interim audit report, the Committee provided a written statement from the Assistant Treasurer which explained that the Candidate's spouse performed as a fundraising consultant. No information was provided documenting the services performed.

There were 19 Committee checks, totaling \$5,205, made payable to "cash" for which the required records were not maintained. In response to the interim audit report, the Committee stated that it was unable to document these payments but that they were for small items that cost less than \$100 such as food and gas money. The Committee also claimed that it had implemented new procedures so that petty cash is handled properly in the future.

**MISSTATEMENT OF FINANCIAL ACTIVITY** - 2 U.S.C. §§434(b)(1),(2) and (4). The Audit staff's reconciliation of the Committee's reported financial activity to its bank activity revealed a misstatement for 1994. The Committee filed amended reports which materially corrected this misstatement.

**DISCLOSURE OF OCCUPATION AND NAME OF EMPLOYER** - 2 U.S.C. §§434(b)(3)(A) and 431(13)(A). The audit identified a material number of errors regarding the Committee's disclosure of contributors' occupation and name of employer and the Committee was unable to demonstrate that it had exercised best efforts to obtain this information. In response to the interim audit report, the Committee provided a sample solicitation form which requested this information but there was no evidence provided that this form was used during the period covered by the audit. The Committee also filed amended Schedules A (Itemized Receipts) but these amendments did not materially correct the disclosure omissions.

**CONTRIBUTIONS SUBJECT TO 48 HOUR DISCLOSURE NOTICE** - 2 U.S.C. 434(a)(6). The Audit staff determined that the Committee did not file the required 48 hour notices for 16 contributions, totaling \$20,000. In response to the interim audit report, the Committee provided a statement from the former Campaign Manager explaining that he believed all required 48 hour notices were faxed to the FEC but that he could not recall the dates they were sent.

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**REPORT OF THE AUDIT DIVISION  
ON  
FRIENDS FOR FRANKS**

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of Friends for Franks (the Committee) undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of the reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

**B. AUDIT COVERAGE**

The audit covered the period from the Committee's initial deposit on May 13, 1993 through December 31, 1994. The Committee reported a beginning cash balance of \$0; total receipts for the period of \$630,999; total disbursements for the period of \$527,842; and an ending cash balance on December 31, 1994 of \$116,684.<sup>1</sup>

**C. CAMPAIGN ORGANIZATION**

The Committee registered with the Clerk of the U.S. House of Representatives on May 4, 1993 as the principal campaign committee for Gary A. Franks, Republican candidate for the U.S. House of Representatives from the state of Connecticut,

<sup>1</sup> Does not foot due to various reporting errors, as well as the Committee's disclosure of some contributions deposited in 1993 by the Franks Congress Committee, the committee authorized by Congressman Gary A. Franks relative to the 1992 election (see Finding II.B.). All figures presented in this report have been rounded to the nearest dollar.

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5th District. The Treasurer of the Committee is Mr. Frank Hitchcock, who was also the Treasurer during the audit period. The Committee maintains its headquarters in Waterbury, Connecticut.

To handle its financial activity, the Committee used four bank accounts (3 checking and 1 savings) and purchased one certificate of deposit. The Committee made 328 disbursements from its main operating account, totaling approximately \$514,000. The Committee received approximately 800 contributions from individuals, totaling \$240,000 and approximately 438 contributions from political committees, totaling \$372,000.<sup>2</sup>

#### D. AUDIT SCOPE AND PROCEDURES

The audit covered the following general categories, however, the scope of our testing regarding contributions received from individuals and political committees was limited. Although the Committee satisfied the recordkeeping requirements of 11 CFR §102.9 in maintaining its contribution records, these records were not maintained in a manner which would have allowed the Audit staff to perform the substantive testing normally undertaken when reviewing contributions because the Committee could not produce a computerized file or a listing of all contributions received during the audit period and the Committee had no system in place to aggregate contributions (see Finding II.C.).

The scope of the Audit staff's testing regarding the Committee's disbursements and the debts owed by the Committee was also limited because approximately half of the records provided were generated by the Committee rather than the payee, and the Committee had no system for tracking debts owed.

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
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 (see Findings II.C. and D.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.A.4.);

<sup>2</sup> The Committee overstated its reported receipts and disbursements (see Finding II.B.).

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 (see Finding II.B.);
7. adequate recordkeeping for Committee transactions (see Finding II.A.); and
8. 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 further any of the matters discussed in this report in an enforcement action.

## **II. AUDIT FINDINGS AND RECOMMENDATIONS**

### **A. RECORDKEEPING FOR DISBURSEMENTS AND CHECKS MADE PAYABLE TO "CASH"**

Section 432(c)(5) of Title 2 of the United States Code requires the treasurer of a political committee to keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or cancelled check for each disbursement in excess of \$200.

Section 102.9(b)(1)(iv) of Title 11 of the Code of Federal Regulations defines "purpose" as a brief statement or description of why the disbursement was made.

Section 102.11 of Title 11 of the Code of Federal Regulations states, in part, that a political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person per purchase or transaction. If a petty cash fund is maintained, a written journal of all disbursements shall be maintained which includes the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement.

Section 434(b)(5)(A) Title 2 of the United States Code states that each report under this section shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.



## 1. Recordkeeping for Disbursements

The Audit staff reviewed all Committee disbursements to determine if records were maintained as required. The scope of this review was limited because approximately half of the disbursement records provided were generated by the Committee rather than the payees (such as invoices, receipted bills, etc.). Although cancelled checks were made available for most of the remainder, cancelled checks were not available for 34 Committee disbursements, totaling \$24,832, at the close of audit fieldwork. Included in these 34 items was one check to the Candidate disclosed by the Committee as "Reimbursement of Loan," three checks to the Candidate's spouse and six checks made payable to "Cash."

The Audit staff determined that the records maintained for 165 disbursements, totaling \$194,037, did not contain the payees' address, as required. This accounts for 38% of the total dollar value of the Committee's disbursements. In addition to the address omissions, the purpose for 33 of the items was missing or inadequate.

At the exit conference, the Audit staff explained that the missing information was disclosed on the Committee's reports for many of the recordkeeping errors (47% of the items, which accounted for 79% of the total dollar value of the errors). A listing of the 165 recordkeeping errors was provided to the Committee. The Committee's Counsel stated that in his opinion, if the Committee maintained a copy of its reports that it has met the recordkeeping requirements. The Audit staff explained that documentation with which to verify the accuracy of the information disclosed by the Committee is necessary; copies of the disclosure reports are not sufficient.

Subsequent to the exit conference, the Committee provided a listing which contained the missing information for 113 of the 165 recordkeeping errors.<sup>3</sup> This accounts for 64% of the total dollar value of the 165 errors. Additional documentation relative to 20 payments to the Candidate's spouse (see Section II.A.3.) or the 19 checks made payable to "cash" (see Section II.A.4.) was not provided. A listing of the 52 items, totaling \$70,365, for which no documentation was provided was attached to the interim audit report.

In the interim audit report, the Audit staff recommended that the Committee submit the required information relative to the remaining 52 recordkeeping errors. It was further recommended that the Committee submit photocopies of the 34 cancelled checks (front and back) not previously made available to the Audit staff.

<sup>3</sup> The majority of this information corrected items for which no payee addresses were maintained in the Committee's files. No vendor generated documentation was provided (such as invoices, receipted bills, etc.)

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In the Committee's response to the interim audit report, the Committee submitted a listing of the 52 items noted by the Audit staff as recordkeeping errors. The Committee also submitted photocopies of 24 of the 34 cancelled checks (front and back) not previously made available to the Audit staff.

The listing of 52 items submitted by the Committee included the purpose "Campaign Consultant, Fundraiser" relative to the 20 payments to the Candidate's spouse (see Section II.A.3.). Although the Committee met the minimum recordkeeping requirements of 11 CFR §102.9(b) relative to 19 of these 20 payments (no cancelled check was provided for one \$5,000 payment), the Audit staff notes that the Committee did not provide documentation which demonstrated that bona fide services were provided by the Candidate's spouse (see Section II.A.3.). In addition, the Committee provided payees' addresses related to four of the 52 recordkeeping errors. Of the remaining 29 errors (52 - 19 - 4), 19 were checks made payable to "cash" (see Section II.A.4.).

Additionally, no explanation was provided by the Committee regarding the 10 (34 - 24) remaining cancelled checks requested by the Audit staff. Among the 10 disbursements for which no cancelled checks were submitted were a \$2,500 reimbursement to the Candidate in June 1994 (see Section II.A.2.) and the \$5,000 payment to the Candidate's spouse noted above.

## 2. Candidate Loan Reimbursement

The Committee disclosed the receipt of a \$2,500 loan from Gary A. Franks (the Candidate), once on its April 1994 Quarterly report and again on its July 1994 Quarterly report. The Audit staff was unable to locate or identify any deposits related to a Candidate loan. The Committee disclosed a \$2,500 payment to the Candidate with the purpose noted as "Reimbursement of Loan" on its July 1994 Quarterly report. No cancelled check was available to support this reported transaction, however, on June 22, 1994 a \$2,500 check did clear the Committee's account -- the check number as recorded in the check register matched the check number recorded on the bank statement.

The Committee's Counsel explained that the Candidate did not make a loan to the Committee. A signed statement from the Candidate was provided to the Audit staff on August 25, 1995 which explained that in March 1994 he had written a \$2,500 check to the Committee to meet a campaign goal but that when he learned that the goal had already been reached, he asked the Committee to nullify the loan. He then stated that he was informed that the check had been "inadvertently misplaced" but the FEC report which contained the disclosure of the loan had already been sent. The Candidate added that "[t]he repayment of the loan on the subsequent report was shown in order to balance the campaign books from an accounting perspective "

The Candidate then explained in his statement that "[a]fter submitting campaign expenses covering several months, I received a check dated June 22, 1994 for reimbursement to me for travel, phone, rent, meals, utilities and miscellaneous expenses." At the exit conference, the Committee's Counsel explained that these expenses were incurred by the Candidate when the Committee was running its operations from the Candidate's residence.<sup>4</sup>

The only information contained in the Committee's records relative to expenses apparently incurred by the Candidate when using his residence for the Committee's headquarters were two cancelled checks. The Committee disclosed two reimbursements to the Candidate during the audit period. One reimbursement check was dated September 20, 1993 for which the Committee disclosed the purpose as "Phone Charges." The second check was dated September 8, 1994 for which the Committee disclosed the purpose as "Reimbursement phone, faxes, mileage."

The Candidate also added in this statement that "I can readily understand the present mix-up, therefore I will do the following: I will contribute \$2500.00 to my campaign and I will take all the aforementioned incurred expenses as an in-kind contribution to my campaign, and I will forego the \$2500 reimbursement." The Committee submitted a photocopy of a check (front only) from Congressman Franks to the Committee, in the amount of \$2,500.

No explanation was provided regarding the disclosure of the \$2,500 loan twice. At the exit conference the Audit staff requested documentation in support of the expenses for incidentals described in the Congressman's statement but the Committee's Counsel stated that these records were not available. He added that the Committee "stopped doing incidentals out of the Congressman's residence after the loan repayment" - which was received on June 22, 1994 per the Candidate's statement. The Committee's Counsel also stated that an additional statement from the Candidate would be provided.

The Committee was afforded 10 days to submit documentation related to the matters presented at the exit conference. An additional signed statement from the Candidate was provided to the Audit staff within this 10 day period. In this statement, the Candidate provided the same details as described in his first statement and added that "[i]n an abundance of caution, on August 25, 1995, I wrote a check in the amount of \$2,500 to my campaign so that the record is clear that I did not benefit in any way as a result of the inadvertent mix-up regarding the loan." He continued that "the campaign will amend its reports to (1) eliminate the two references to the \$2,500 loans, (2) show that the June 22, 1994 \$2,500 payment was a reimbursement for campaign expenses I

<sup>4</sup> The Audit staff noted that there was only one payment made by the Committee for rent during the audit period which was paid by a check dated July 5, 1994 in the amount of \$900 to a vendor. The purpose noted on the cancelled check relative to this payment was "3 months rent."

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incurred in the months prior rather than a repayment of a loan, and (3) revise the reports leading up to the June 22, 1994 payment to me. The revised report will show the expenses I incurred on behalf of the campaign."

Although not in effect during the period covered by the audit, the "personal use of campaign funds" regulations at 11 CFR §113.1(g)(1)(i)(E), effective April 5, 1995, state that "personal use" includes but is not limited to the use of funds in a campaign account for mortgage, rent or utility payments: (1) for any part of any personal residence of the candidate or a member of the candidate's family; or (2) for real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage.

Prior to these revised regulations, the Commission's legal interpretation of "personal use" was set forth in the Commission's advisory opinions. Advisory Opinion (AO) 1988-13 allowed a candidate to rent space to his campaign committee, as long as such rental payments were the usual and normal charge for the facilities in question and AO 1985-42 allowed for campaign funds to be used to pay the rent on an apartment used by a candidate and his campaign staff. AO 1992-1 allowed a candidate to be reimbursed by his campaign committee for the following campaign-related expenses: travel, subsistence, telephone, postage and photocopying, as well as requiring the candidate to provide the Committee with the documentation required by 11 CFR §102.9(b).

In the interim audit report, the Audit staff recommended that the Committee submit documentation, such as receipts and utility bills, to document any campaign expenses incurred at the Candidate's residence. The report further noted that additional recommendations may be warranted regarding any campaign expenses incurred at the Candidate's residence once this information had been reviewed by the Audit staff.

In the Committee's response to the interim audit report, the Committee submitted a written statement from the Committee's former Campaign Manager stating that he had personal knowledge that the Candidate incurred at least \$2,500 in expenses on behalf of the Committee prior to the Committee issuing a \$2,500 reimbursement check to the Candidate in June 1994 relative to these expenses. He added that these expenses were as follows

Newspapers	\$12.00 per week x 78 weeks = \$936.00
Meals	\$11.50 per week x 78 weeks = \$897.00
Mileage	40 miles at .26 x 78 weeks = \$811.20

The former Campaign Manager further stated that although these expenses on behalf of the Committee exceeded \$2,500, the Candidate only received reimbursement of \$2,500. He added that the \$2,500 check from the Candidate to the Committee in August 1995 was made "...because of the confusion over the series of

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transactions involving these funds." The Committee filed an amended Schedule B (Itemized Disbursements) which revised the "purpose of disbursement" relative to the June 1994 payment to the Candidate from "Reimbursement of Loan" to "Reimbursement for 78 wks of meals, mileage, and newspapers."

The Audit staff notes that no documentation, other than this written statement, was provided relative to the campaign expenses incurred by the Candidate at his residence. Currently, 11 CFR §113.1(g)(1)(ii) states, in part, that the Commission will determine on a case by case basis whether payments from campaign funds for expenses such as meals, travel and subsistence would fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign or duties as a Federal officeholder, and therefore are personal use.

### 3. Disbursements to the Candidate's Spouse

Twenty of the 165 recordkeeping errors, totaling \$62,500, were payments made to the Candidate's spouse. Examples of the purposes noted by the Committee on the memo line of the checks and/or recorded in the check register for these payments were as follows: services, salary, payroll and consulting. No consulting agreements or payroll records were provided to the Audit staff in support of these payments. As a result, we were unable to determine what services were provided. Cancelled checks were available for 17 of these 20 payments.

At the exit conference, the Committee's Counsel explained that the 20 disbursements to the Candidate's spouse were related to consulting services she provided in the fundraising area and that no consulting agreement was available. He added that there were some press inquiries into this situation during the audit period and that records exist to support the consulting services she performed.

Although not in effect during the period covered by the audit, the "personal use of campaign funds" regulations at 11 CFR §113.1(g)(1)(i)(H), effective April 5, 1995, state that "personal use" includes but is not limited to the use of funds in a campaign account for salary payments to a member of the candidate's family, unless the family member is providing bona fide services to the campaign. The regulation adds that if a family member (which includes the spouse of the candidate) provides bona fide services to the campaign, any salary payment in excess of the fair market value of the services provided is personal use.

As discussed above in Section II.A.2., prior to these revised regulations, the Commission's legal interpretation of "personal use" was set forth in the Commission's advisory opinions. Advisory Opinion (AO) 1992-4 concluded that a campaign committee could hire the candidate's wife and pay her a salary to compensate her for services provided to the campaign.

In the interim audit report, the Audit staff recommended that the Committee submit documentation, such as consulting agreements, payroll records or other information, to document the services provided to the Committee by the Candidate's spouse. The report further noted that additional recommendations may be warranted regarding the services provided to the Committee by the Candidate's spouse once this information had been reviewed by the Audit staff.

In the Committee's response to the interim audit report, the Committee submitted a written statement from the Committee's Assistant Treasurer, explaining that the consulting arrangement with the Candidate's spouse covered calendar year 1994<sup>5</sup> and is still in effect. She stated that the Candidate's spouse acted as a fundraising consultant whose duties included arranging fundraising events, soliciting contributions, preparing thank you notes and purchasing media time for the campaign.

The Audit staff notes that other than this written statement, no consulting agreements, or other information documenting the activities performed by the Candidate's spouse, were provided.

4. Checks Made Payable to "Cash"

Also included in the 165 recordkeeping errors were 19 checks, totaling \$5,205, made payable to "cash." The Audit staff determined that the required records were not maintained relative to these payments. The recordkeeping deficiencies were in the following categories: (1) missing or inadequate purpose; (2) no record of the name of the recipient of the cash; and, (3) no record of the cash recipient's address. The Committee did not maintain a written journal relative to the distribution of cash.

The Committee itemized all 19 of these payments on its disclosure reports. One was disclosed as "Petty Cash" and the remaining 18 were disclosed as "Cash." Purposes were disclosed for all 19 payments but none of the names and addresses of the recipients of the cash were disclosed. The Committee also disclosed a \$1,000 receipt as a "Refund to petty cash" on March 31, 1994 which was possibly related to two checks made payable to "cash," totaling \$2,000, dated March 24, 1994 and March 25, 1994. The purpose disclosed for these two payments was "Chicago Trip." At the exit conference, Committee representatives stated that the Committee did not know who received this cash and that at this time it would be difficult to determine.

Seventeen of the 19 checks made payable to "cash" were in excess of \$100. The excessive portions of these payments totaled \$3,325. At the exit conference, the Committee was provided with a listing of the 19 items made payable to "cash." The Committee's Counsel stated that it was unlikely that the 17 payments noted by the Audit

<sup>5</sup> The Audit staff notes that nine of the payments to the Candidate's spouse were made in calendar year 1993

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staff as in excess of \$100 were excessive because each payment could conceivably be broken down into several payments of less than \$100. We responded that until the Committee provided documentation which details how the funds were spent, the Audit staff would treat each check made payable to cash as a single purchase or transaction.

In the interim audit report, the Audit staff recommended that the Committee submit amended Schedules B (Itemized Disbursements), if required, disclosing the names and addresses of the persons who received the cash from the 19 checks made payable to "cash" noted above. It was further recommended that Committee provide documentation which demonstrated that the 17 cash payments in excess of \$100 complied with 11 CFR §102.11.

It was also recommended that in the future, the Committee should adopt and implement procedures to insure compliance with 11 CFR §102.11 relative to checks payable to "cash." Furthermore, if the Committee decided to set up a petty cash fund, no disbursements should be made to any person in connection with a single purchase or transaction in excess of \$100 and a written journal of all disbursements should be maintained which includes the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement.

In the Committee's response to the interim audit report, the Committee Counsel stated that "[d]espite diligent efforts to determine the purpose of each cash disbursement from the 1994 campaign, it is impossible to reconstruct that information with specificity" and that "Committee staff generally recalls that many cash payments were for small items that cost less than \$100 such as food and gas money." He added that the Candidate's current authorized Committee has implemented new procedures so that petty cash is handled properly in the future.

The Committee also submitted a written statement from the Committee's Assistant Treasurer stating that these revised procedures require that the date, amount, payee and purpose for each petty cash disbursement be recorded in a journal and that if payments to the same payee aggregate in excess of \$200 in a calendar year, the disbursement is itemized on the Committee's disclosure reports.<sup>6</sup> She added that disbursements are also monitored to ensure that no cash payments exceed \$100.

## **B. MISSTATEMENT OF FINANCIAL ACTIVITY**

Sections 434(b)(1),(2) and (4) of Title 2 of the United States Code require a political committee to disclose the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for each reporting period and the calendar year.

<sup>6</sup> A record of each payee's address is also required (11 CFR §102.11)

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The Audit staff reconciled the Committee's reported financial activity to its bank activity for the period May 13, 1993 through December 31, 1994 and determined that a material misstatement occurred relative to reports filed covering 1994 activity.

1. Beginning Cash-on-Hand Balance

The Committee reported a beginning cash balance at January 1, 1994 of \$120,411. The Audit staff determined the correct balance to be \$101,164. This overstatement was due to mathematical errors made in 1993, as well as some contributions to the Franks Congress Committee, deposited in 1993 by the Franks Congress Committee, which were disclosed by the Committee.

2. Receipts

The Committee overstated reported receipts by \$8,998. This net overstatement was due to the following: a \$2,500 loan from the Candidate was reported twice, although funds were never deposited (see Finding II.A.2.); reported contributions, totaling \$6,000, which later became uncollectible and were never adjusted for on the reports; and, miscellaneous reporting errors resulting in a net understatement of \$2,002.

3. Disbursements

The Committee overstated reported disbursements by \$6,570. This net overstatement was due to the following: a reported disbursement, in the amount of \$4,900, which was later voided but was not adjusted for on the reports; a disbursement reportedly made to a state party committee, in the amount of \$2,500, which was not supported by Committee bank documentation<sup>7</sup>; and, miscellaneous reporting errors resulting in a net under- statement of \$830.

4. Ending Cash-on-Hand Balance

The Committee reported an ending cash balance at December 31, 1994 of \$116,684. The Audit staff determined the correct balance to be \$95,009. This overstatement was due to mathematical errors in the Committee's reported figures and the misstatements described above.

<sup>7</sup> The Committee disclosed the receipt of three \$2,500 contributions from the Connecticut Republican Federal Campaign Committee (CRF) and disclosed two \$2,500 disbursements to the CRF. Our review of the documentation available in the Committee's records did not reveal the nature of these transactions. The Audit staff noted that a stop payment was issued relative to one of the contributions received from the CRF. At the exit conference, the Committee's Counsel stated that he had no information about any of these transactions.



At the exit conference the Committee Counsel agreed to file the necessary amendments to correct the Committee's reported activity.

In the interim audit report, the Audit staff recommended that the Committee file a comprehensive amendment covering 1994 activity to correct the misstatement of financial activity noted above. The Audit staff further recommended that the Committee provide an explanation regarding the disclosure of transactions between the Committee and the CRF, as discussed above. The Committee filed amended reports which materially corrected these misstatements. Additionally, the Committee provided a satisfactory explanation relative to the CRF transactions.

### C. DISCLOSURE OF OCCUPATION AND NAME OF EMPLOYER

Section 434(b)(3)(A) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" as, in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Section 432(i) of Title 2 of the United States Code states, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act.

Sections 104.7(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that when the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by the Act, any report of such committee shall be considered in compliance with the Act. The treasurer and the committee will only be deemed to have exercised best efforts if all written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer; the treasurer makes at least one effort after the receipt of the contribution, in either a written request or documented oral request, within thirty days of the receipt of the contribution, to obtain the information; and, the treasurer reports all contributor information not provided by the contributor, but in the committee's possession, including information in contributor records, fundraising records and

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previously filed reports, in the same two year election cycle. (The effective date of this regulation was March 3, 1994).<sup>8</sup>

The Audit staff reviewed contributions received from individuals on a sample basis. This review was limited because no computerized file or listing of all contributions received during the audit period was made available. In addition, the Committee had no system in place to aggregate contributions.

The sample results indicated that for a material number of the reported entries tested, the occupation and name of employer was not disclosed. Our review also indicated that for 45% of the items tested, no record was maintained detailing the contributor's occupation and name of employer.

The Committee was unable to demonstrate that it had exercised best efforts to obtain, maintain and submit the required occupation and name of employer information because no written solicitations or response materials requesting this information were made available to the Audit staff. Also, no evidence of written or oral requests to contributors for the missing information was provided.<sup>9</sup> At the exit conference, the Committee's Counsel stated that the Committee was unable to locate these materials.

In the interim audit report, the Audit staff recommended that the Committee provide the following documentation or corrective amendments:

- Solicitation materials which demonstrated that best efforts had been used to obtain, maintain and submit the required disclosure information, as well as any evidence of written or oral requests to contributors for this information; or
- Absent such demonstration, the Committee was requested to make an effort to contact those individuals whose contributions aggregated in excess of \$200 in a calendar year and whose required information was missing or incomplete. These contributors were to be requested to submit this

<sup>8</sup> This regulation also includes the provision that to demonstrate best efforts, the written solicitations must contain a statement that the requested contributor information is required by Federal law. However, on February 20, 1996, the Court of Appeals for the D.C. Circuit invalidated the mandatory statement provision [Republican National Committee v. FEC, 76 F.3d 400 (D.C. Cir. 1996)]. The court provided that the following language appears to satisfy the best efforts requirement: "Federal law requires us to use our best efforts to collect the information." [RNC, 76 F.3d at 406]

<sup>9</sup> The majority of the errors involved contributions dated after the effective date of the change to 11 CFR §104.7. The Committee did not satisfy the best efforts provision of either the current or former regulation.

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information and to be informed that Federal law required the Committee to disclose such information;

- Documentation of any such contacts; and
- Amended Schedules A (Itemized Receipts) to disclose any information obtained from those contacts.

In the Committee's response to the interim audit report, the Committee submitted a written statement from the Committee's Assistant Treasurer explaining that the Committee is exercising best efforts to obtain contributor information and that when a contribution is made in excess of \$200 without the occupation and name of employer, written communication is made to the contributor to seek the information from the contributor. A sample form requesting this information was enclosed, but there is no evidence that this form was used during the period covered by the audit. It appears that this form is being utilized by the current authorized campaign committee for this Candidate.

The Committee also submitted a listing of some individuals who contributed to the Committee in 1994 along with their occupation and name of employer information. However, this listing did not materially correct the errors noted by the Audit staff during our review. In addition, the Committee filed amended Schedules A relative to the period covered by the audit, but these amendments did not materially correct the disclosure omissions noted during our review.

#### **D. CONTRIBUTIONS SUBJECT TO 48 HOUR DISCLOSURE NOTICES**

Section 434(a)(6) of Title 2 of the United States Code requires that each treasurer of the principal campaign committee of a candidate shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and the amount of the contribution. The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

The Audit staff reviewed all contributions received by the Committee within two and twenty days of the Connecticut Convention and General Election to identify all contributions of \$1,000 or more. On July 21, 1994, the Candidate ran unopposed in the Convention and as a result, was required to file 48 hour notices for

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contributions of \$1,000 or more received between July 2, 1994 and July 18, 1994.<sup>10</sup> Since the date of the General Election was November 8, 1994, the Committee was required to file 48 hour notices for contributions of \$1,000 or more received between October 20, 1994 and November 5, 1994. The Audit staff determined that the Committee did not file the required 48 hour notices for 16 contributions, totaling \$20,000.

At the exit conference, the Committee was provided with a schedule of these items. No explanation was provided by the Committee regarding this matter.

In the interim audit report, the Audit staff recommended that the Committee provide an explanation, including an account of any mitigating circumstances, as to why these notices were not filed or were filed late. In the Committee's response to the interim audit report, a signed statement from the former Campaign Manager was submitted which stated that he believed that all required 48 hour notices were "...faxed to the Reports Analysis Division of the Federal Election Commission" and that he could not recall the exact dates on which they were sent.

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<sup>10</sup> As a result of the Convention, no Primary Run-off Election (scheduled for September 13, 1994) was necessary for the Candidate



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 3, 1996

Mr. Frank Hitchcock, Treasurer  
Friends for Franks  
P.O. Box 2743  
Waterbury, CT 06223

Dear Mr. Hitchcock:

Attached please find the Final Audit Report on Friends for Franks. The Commission approved the report on November 27, 1996.

The Commission approved Final Audit Report will be placed on the public record on December 10, 1996. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155 or toll-free at (800) 424-9530. Any questions you have related to matters covered during the audit or in the report should be directed to Marty Favin of the Audit Division at (202) 219-3720 or at the above toll free number.

Sincerely,

Robert J. Costa  
Assistant Staff Director  
Audit Division

Attachment as stated

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**CHRONOLOGY**

**FRIENDS FOR FRANKS**

<b>Audit Fieldwork</b>	<b>7/5/95 - 9/7/95</b>
<b>Interim Audit Report to the Committee</b>	<b>4/2/96</b>
<b>Response Received to the Interim Audit Report</b>	<b>6/24/96</b>
<b>Final Audit Report Approved</b>	<b>11/27/96</b>

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