



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20461

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January 29, 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
THE COMMITTEE TO ELECT MICHAEL PATRICK FLANAGAN

Attached please find a copy of the final audit report and related documents on The Committee to Elect Michael Patrick Flanagan which was approved by the Commission on January 5, 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**

**The Committee to Elect
Michael Patrick Flanagan**

Approved January 5, 1996



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

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

**FINAL AUDIT REPORT
ON
THE COMMITTEE TO ELECT MICHAEL PATRICK FLANAGAN
EXECUTIVE SUMMARY**

The Committee registered with the Office of the Clerk of the U.S. House of Representatives on March 24, 1994 as the principal campaign committee for Mr. Michael Patrick Flanagan, Republican candidate for the U.S. House of Representatives for the fifth District in the state of Illinois.

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 an exit conference held after the audit fieldwork (6/16/95) and later in an interim audit report. The Committee's responses have been included in the findings set forth in this summary.

The following is an overview of the findings contained in the final audit report.

Misstatement of Financial Activity

Sections 434(b)(1),(2) and (4) of Title 2 of the United States Code. The Committee did not file a Year End Report covering the period between November 29 and December 31, 1991. The Audit staff determined that the Committee should have reported total receipts of \$1,755, disbursements of \$76 and ending cash on hand of \$1,679.

For 1992, the Committee's receipts and disbursements were overstated by \$2,898 and \$4,662, respectively, and ending cash on hand was understated by \$3,444. These differences were primarily due to including in reported totals an amount totaling \$3,081 for both receipts and disbursements which represented debts owed to individuals.

The Committee responded by filing a Year End report for 1991 and filing amended Summary and Detailed Summary Pages for 1992 that materially corrected the misstatements.

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Apparent Excessive Contributions - Individuals

Section 441a(a)(1) of Title 2. The audit identified 4 contributors who exceeded their contribution limitations by a total of \$3,680.

In response to the interim audit report, the Committee provided photocopies of the fronts of three refund checks, totaling \$3,080. The Committee's treasurer stated that he will forward copies of the negotiated refund checks upon receipt. In addition, the Committee stated that it had already reimbursed \$500 to one individual in March of 1995. For the remaining \$100, an analysis of the Committee's response indicated that this amount does not appear to be excessive.

Disclosure of Occupation and Name of Employer

Section 434(b)(3)(A) of Title 2. The Committee itemized 22 contributions, totaling \$12,535, for which the contributors' occupation and name of employer was not disclosed. In response to the interim audit report, the Committee filed amended Schedules A that materially disclosed the required information.

Itemization of Contributions from Individuals

Section 434(b)(3)(A) of Title 2. The audit identified 15 contributions, totaling \$6,962, that were not itemized by the Committee. In response to the interim audit report, the Committee filed amended Schedules A that contained a material number of these itemizations.

Debts and Obligations

Section 434(b)(8) of Title 2. The audit identified obligations totaling \$30,493 which the Committee did not disclose when incurred. In addition, beginning with the July 15 Quarterly Report through the January 31 Year End Report, itemized report entries related to debts and obligations did not contain the nature or purpose, as required, nor were certain entries itemized on the correct reporting form.

In response to the interim audit report, the Committee filed amended Schedules C and D which materially corrected these discrepancies.

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WASHINGTON DC 20461

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REPORT OF THE AUDIT DIVISION
ON
THE COMMITTEE TO ELECT MICHAEL PATRICK FLANAGAN

I. Background

A. Overview

This report is based on an audit of The Committee to Elect Michael Patrick Flanagan (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 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.

The audit covered the period November 29, 1993, the date of the Committee's initial bank transactions, through December 31, 1994. The Committee reported a beginning cash balance of \$1,679; total receipts for the period of \$117,275; total disbursements for the period of \$112,888 and an ending cash balance of \$4,386.^{1/} The Committee maintained one bank account for its activity during the audit period.

B. Campaign Organization

The Committee registered with the Office of the Clerk of the United States House of Representatives on March 24, 1994 as the principal campaign committee for Mr. Michael Patrick Flanagan, Republican candidate for the U.S. House of Representatives for the fifth District in the state of Illinois. The Committee maintained its headquarters Chicago, Illinois.

^{1/} Does not foot due to various reporting errors (see Finding II.A.). All amounts presented in this report have been rounded to the nearest dollar.

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

C. Key Personnel

The current Treasurer is Mr. Donald J. Griffin. He also was the Treasurer during the audit period.

D. Scope

The audit included such tests as verification of total reported receipts and expenditures; review of required supporting documentation, and analysis of Committee debts and obligations and such other audit procedures as deemed necessary under the circumstances. However, although the disbursement records provided by the Committee met the minimum recordkeeping requirements of 2 U.S.C. 432(c)(5) and 11 CFR 102.9(b), records related to \$29,642 or 27% of disbursements did not contain any documentation prepared outside of the Committee. Therefore, substantive testing of disbursements was limited.

The Audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.B.);
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;
5. proper disclosure of campaign debts and obligations (see Finding II.E.);
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records (see Finding II.A.);
7. adequate recordkeeping for campaign transactions;

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8. other audit procedures that were deemed necessary in the situation.

Unless specifically discussed below, no material non-compliance with statutory or regulatory requirements 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

A. Misstatement of Financial Activity

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

The Audit staff's reconciliation of the Committee's reported activity to its bank activity for the audit period revealed the following misstatements:

1. November 29, 1993 through December 31, 1993

The Committee did not file a Year End Report due on January 31, 1994. Based on our analysis of Committee bank records, the Audit staff determined that the Committee should have reported total receipts of \$1,755, disbursements of \$76 and ending cash on hand of \$1,679 including Schedules A, itemizing those contributions greater than \$200.

2. January 1, 1994 through December 31, 1994

The Committee's reported receipts and disbursements were overstated by \$2,898 and \$4,662 respectively, and ending cash on hand was understated by \$3,444 ^{2/}. These differences are primarily due to including in reported totals an amount totaling \$3,081 for both receipts and disbursements which represented debts owed to individuals.

At the exit conference, the Committee agreed to file amended disclosure reports for 1993 and 1994. The Committee filed a January 31 Year End Report for 1993 on June 30, 1995 which disclosed the required information.

^{2/} The interim audit reported forwarded to the Committee cited a receipts understatement of \$3,214, disbursements overstatement of \$1,581 and ending cash on hand understatement of \$6,475.

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In the interim audit report, the Audit staff recommended that the Committee file amended Summary and Detailed Summary Pages for calendar year 1994 to correct the misstatements discussed above.

In response to the interim audit report, the Committee filed amended Summary and Detailed Summary Pages for 1994 that materially corrected the misstatements discussed above.

B. Apparent Excessive Contributions

Section 441a(a)(1) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. The term "anything of value" includes all in-kind contributions.

Section 110.1(k) of Title 11 of the Code of Federal Regulations states, in part, that any contribution made by more than one person, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. A contribution made by more than one person that does not indicate the amount to be attributed to each contributor shall be attributed equally to each contributor. If a contribution to a candidate on its face or when aggregated with other contributions from the same contributor exceeds the limitations on contributions, the treasurer may ask the contributor whether the contribution was intended to be a joint contribution by more than one person. A contribution shall be considered to be reattributed to another contributor if the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution; and within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

Our review of contributions from individuals identified 4 apparent excessive contributions totaling \$3,680. Two involved checks (\$2,000 and \$4,000) where only one signature was present, although the Committee, in its records and on its reports, assigned the respective contributions between both spouses and

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elections. We did not find any evidence that the Committee attempted to reattributed or redesignate any of the contributions pursuant to 11 CFR 110.1(k)(3) or 110.1(b)(5). Of the remaining 2 contributions, one exceeded the contribution limit by \$580 and the second by \$100.

At the exit conference, the Committee was provided with a schedule detailing the issues discussed above. The Committee did not comment.

In the interim audit report, the Audit staff recommended that the Committee provide evidence that the contributions in question were not excessive; or absent such evidence, refund the excessive amounts to each individual and provide copies of the front and back of the negotiated checks.

In response to the interim audit report, the Committee stated that "... the contributions referred to ... were made by the contributors and received by the Committee with verbal direction that each spouse was contributing to both the primary and general election. ... However, because of the absence of a clear and unequivocal designation and the passage of time for the contributor to make a redesignation the Committee has agreed to refund..." contributions totaling \$3,580 ^{3/}. The Committee provided copies of the front of three checks totaling \$3,080 dated October 19, 1995. In addition, the Committee stated that it had already reimbursed an individual for \$500 in March of 1995; however, no documentation supporting this transaction was provided. We have reviewed the July 31 Mid-Year Report for 1995 which disclosed a disbursement for \$500 as a loan repayment.

The treasurer stated that when refund checks clear the bank, copies of the front and back will be provided to the Audit staff for our review.

C. Disclosure of Occupation and Name of Employer

Section 434(b)(3)(A) of Title 2 of the United States Code states that each report 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.

3/ With regard to the remaining \$100 apparent excessive contribution, an analysis of the Committee's response indicated that this amount does not appear to be excessive.

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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.

Section 104.7(b)(1) and (2) of Title 11 of the Code of Federal Regulations state, in part, that with regard to reporting the identification of each person whose contribution(s) to the political committee and its affiliated committees aggregate in excess of \$200 in a calendar year (pursuant to 11 CFR 104.3(a)(4)), the treasurer and the committee will only be deemed to have exercised best efforts to obtain, maintain and report the required information if all written solicitations for contributions include a clear request for the contributor's full name, mailing address, occupation and name of employer, and include the following statement: "Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year." The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation. For each contribution received aggregating in excess of \$200 per calendar year which lacks the required information the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. Such effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. The written or oral request must be made no later than thirty (30) days after receipt of the contribution. The written or oral request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution. The request must clearly ask for the missing information, and must include the statement set forth in (b)(1) of this section. (The effective date of this regulation was March 3, 1994).

The Audit staff conducted a review of contributions from individuals which identified 22 contributions totaling \$12,535 for which the contributor's occupation and name of employer was not disclosed. We also identified 17 letters related to the above contributions, dated January 13, 1995, which the Committee sent to contributors requesting their occupation and name of employer. Fourteen responses were received containing the required information, however, the information was not disclosed. It also appears that the written request for this information was made outside the 30 day period. Although the requests did ask for the required information the exact language set forth at 11 CFR §104.7(b)(1) was not present.

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Finally, the Audit staff reviewed four solicitation devices. Two devices, one used in a connection with an election night event and a second for a debt reduction mailing, did not contain either a request for occupation and name of employer or language stating the reporting of such information is required by law. The remaining two devices met the requirements of 11 CFR 104.7; however, information was not present with which to associate contributions received to specific solicitation devices.

At the exit conference, the Committee was presented with a schedule detailing the issue discussed above. The Committee agreed to file amended Schedules A disclosing the contributors' occupation and name of employer as required.

In the interim audit report the Audit staff recommended that, the Committee (a) file on amended Schedules A the required information obtained; (b) absent a showing of best efforts, contact the remaining 8 contributors and provide copies of their responses to these requests; and (c) file amended Schedules A to disclose this information. Such request, if necessary, is to comply with 11 CFR §104.7(b).

In response to the interim audit report, the Committee filed Schedules A which materially disclosed the required information.

D. Itemization of Contributions from Individuals

Section 434(b)(3)(A) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person 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 states, in part, the term identification means the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Our review identified 15 contributions from individuals totaling \$6,962 (17.31% of contributions requiring itemization) which were not itemized by the Committee. Although we could not discern the reasons why these were not itemized 6 contributions were received by the Committee between October 6 and December 27, 1994.

At the exit conference, the Committee was provided with a schedule detailing this issue. Committee officials stated that amendments would be filed.

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In the interim audit report, the Audit staff recommended that the Committee file Schedules A for line 11(a)(i) itemizing the contributions from individuals discussed above (a negative adjustment to line 11(a)(ii) in a like amount is also necessary).

In response to the interim audit report, the Committee filed Schedules A for line 11(a)(i) which materially itemized the contributions from individuals discussed above.

E. Debts and Obligations

Section 434(b)(8) of Title 2 of the United States Code, states, in part, that each report filed under this section shall disclose the amount and nature of outstanding debts and obligations owed by to a political committee.

Sections 104.11(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. A debt or obligation, the amount of which is over \$500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other reoccurring administrative expense shall not be reported as a debt before the payment due date.

The Audit staff reviewed disbursements to determine if the Committee correctly reported debts and obligations owed to vendors. The review identified obligations totaling \$30,493 which the Committee did not disclose when incurred. These obligations, owed to a direct marketing consulting firm, were incurred between July 29, 1994 and December 31, 1994. At December 31, 1994 \$15,359 remained unpaid.

Furthermore, beginning with the July 15 Quarterly Report through the January 31 Year End Report it appears that the Committee combined entries for Schedule D (Debts and Obligations Excluding Loans) and Schedule C (Loans) on a single Schedule C and did not disclose the nature or purpose for any of these entries.

At the exit conference, the Committee was provided with schedules detailing the issues discussed above. The Committee agreed to file amended reports to disclose the information.

In the interim audit report, the Audit staff recommended that the Committee:

- ° File amended Schedules D beginning with the October 15 Quarterly Report through January 31 Year End Report to correctly disclose the amounts owed to the direct marketing consulting firm;

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- ° file separate Schedules D (Debts and Obligations Excluding Loans) beginning with the July 15 Quarterly Report through January 31 Year End Report to disclose only debts owed; and to disclose each debt's nature or purpose; and
- ° file separate Schedule C (Loans) report pages beginning with the July 15 Quarterly Report through January 31 Year End Report to disclose all loans entered into by the Committee.

In response to the interim audit report, the Committee filed amended Schedules D and C which materially corrected the discrepancies noted above.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

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January 19, 1996

Mr. Donald J. Griffin, Treasurer
Committee to Elect
Michael Patrick Flanagan
350 North LaSalle Street, Suite 800
Chicago, IL 60610

Dear Mr. Griffin:

Attached please find the Final Audit Report on The
Committee to Elect Michael Patrick Flanagan. The Commission
approved the report on January 5, 1996.

The Commission approved Final Audit Report will be placed
on the public record on January 26, 1996. Should you have any
questions regarding the public release of the report, please
contact the Commission's Press Office at (202) 219-4155. Any
questions you have related to matters covered during the audit
or in the report should be directed to Tom Hunter or Rick Halter
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

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CHRONOLOGY

THE COMMITTEE TO ELECT MICHAEL PATRICK FLANAGAN

Audit Fieldwork	6/1/95 - 6/16/95
Interim Audit Report to the Committee	9/21/95
Response Received to the Interim Audit Report	10/24/95
Final Audit Report Approved	1/5/96

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