



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

August 2, 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
ABRAHAM FOR SENATE

Attached please find a copy of the final audit report and related documents on Abraham for Senate which was approved by the Commission on August 1, 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
Abraham for Senate

Approved August 1, 1996



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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**FINAL AUDIT REPORT
ON
ABRAHAM FOR SENATE
EXECUTIVE SUMMARY**

Abraham for Senate (the Committee) registered with the Secretary of the Senate on June 14, 1993 as the principal campaign committee for E. Spencer Abraham (the Candidate), Republican candidate for the U.S. Senate from the state of Michigan.

The audit was conducted pursuant to 2 U.S.C. Section 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 subsequent to the completion of fieldwork on June 29, 1995 and later in an interim audit report. The Committee's response to those findings are included in this final audit report.

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

RECEIPT OF EXCESSIVE CONTRIBUTIONS — 2 U.S.C. Section 441a(a)(1)(A). Contributions received from two political committees exceeded their limitation by \$6,000. In one instance, the excessive portion (\$2,000) was not refunded timely; and, in the other instance, the excessive portion (\$4,000) had not yet been refunded.

In response to the interim audit report, the Committee provided a photocopy of the front and back of the canceled refund check and noted that Committee staff were unaware of the distinction between a registered committee and a qualified committee.

DISCLOSURE OF DISBURSEMENTS AND DEBTS AND OBLIGATIONS — 2 U.S.C. Sections 434(b)(5) and (8). Disbursements for payroll services totaling \$721,739 were not disclosed as required. Finally, debts and obligations amounting to \$46,931 had not been disclosed as required.

In response to the interim audit report, the Committee amended its disclosure reports to materially correct the public record.

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LOAN FROM THE CANDIDATE — 2 U.S.C. Section 431(8)(A)(i) and 11 CFR Sections 110.10(a) and (b). The Candidate made an \$8,000 loan to the Committee on a joint personal checking maintained by the Candidate and his spouse at a Michigan bank. The Committee indicated the source of the funds used for this loan were moneys transferred from an account maintained by the Candidate at another bank. No documentation was provided to establish the source of the funds used to make this loan.

In response to the interim audit report, the Committee failed to provide bank statements, check registers and a description of the source of deposits on and around the date of the loan, as requested for the two bank accounts. Further, the Committee failed to address how an August transfer of moneys could fund a loan made July 20, 1994.

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**REPORT OF THE AUDIT DIVISION
ON
ABRAHAM FOR SENATE**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Abraham for Senate (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with 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.

B. AUDIT COVERAGE

The audit covered the period from June 4, 1993, the date of the Committee's first bank transaction, through December 31, 1994. The Committee reported a beginning cash balance -\$0-; total receipts for the audit period of \$4,477,334; total disbursements for the audit period of \$4,453,654; and an ending cash balance of \$20,271 on December 31, 1994.¹

C. COMMITTEE ORGANIZATION

The Committee registered with the Secretary of the Senate on June 14, 1993 and maintains its headquarters in Southfield, Michigan. The Committee served as the principal campaign committee for E. Spencer Abraham (the Candidate), Republican candidate for the U.S. Senate from the state of Michigan. The Treasurers of record during the period covered by the audit were Mark Pischea from inception to January 31, 1994 and

¹ The figures cited in this report were rounded to the nearest dollar. These reported amounts do not foot as the result of mathematical errors.

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Patrick Harrington from February 1, 1994 to February 6, 1995. The current Treasurer is Mark Larson.

To manage its financial activity, the Committee maintained one bank account and four investment accounts. From these accounts, the Committee made approximately 1360 disbursements. More than 17,000 contributions (\$3,624,362) from individuals were received. In addition, the Committee received about 420 contributions (\$671,174) from other political committees, two Candidate loans (\$23,000), one bank loan (\$18,000), offsets to operating expenditures and other receipts (\$7,250), as well as four transfers (\$164,000) from a joint fundraising committee.

D. AUDIT SCOPE AND PROCEDURES

The audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Findings II.A., B. and C.);
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 or other 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 (see Finding II.D.);
5. proper disclosure of Committee debts and obligations, to include loans (see Finding II. E.);
6. accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records;
7. adequate recordkeeping for Committee transactions; and
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 further any of the matters discussed in this report in an enforcement action.

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II. AUDIT FINDINGS AND RECOMMENDATIONS

A. APPARENT EXCESSIVE CONTRIBUTION RESULTING FROM STAFF ADVANCES

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

Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, that the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 CFR 100.7(b)(8). If the payment is not exempted, it shall be considered a contribution by the individual unless it is for the individual's transportation expenses while traveling on behalf of a candidate or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business such as food or lodging.

During our review of Committee disbursements, the Audit staff noted a number of reimbursements to Committee staff for campaign expenditures such as office equipment, supplies, telephone, postage, event expenses and printing. As part of the Audit staff's analysis of such reimbursements, contributions resulting from the untimely reimbursement of expenses incurred by individuals were added to their direct contributions. Our review indicated that one individual (Sandy Baxter) made an apparent excessive contribution.

The Audit staff determined that the largest amount in excess for this individual was \$10,254, on October 27, 1994. Additionally, during the period September 28 through December 4, 1994, the excessive amount averaged about \$5,855. Much of the excessive amount occurred as a result of the individual making advances for event expenses. At the conclusion of fieldwork, there were no expense reimbursements outstanding.

This matter was discussed with Committee representatives during the exit conference. The Audit staff provided Committee representatives with a schedule of excessive amounts and a cover sheet explaining symbols and methodology used by the Audit staff.

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Subsequent to the exit conference, the Committee submitted a statement addressing the reimbursements to Ms. Baxter which states,

"The payments involving Sandy Baxter concern a staff member paying for necessary expenses, and then being promptly (sic) reimbursed by the Committee. While some of the instances may have involved expenses of greater than \$1,000, all expenses by Ms. Baxter were submitted in a timely fashioned (sic) and Ms. Baxter was reimbursed by the Committee promptly.

While this may not conform with the Commission's strict interpretation of the Federal Election Campaign Act and its Regulations, Ms. Baxter made these payments as matter of convenience and practicality. In the heat of the campaign and the pressure of putting on events, it was not always possible to have the Committee pay directly for all the expenses.

As a mitigating circumstance, the expenses were always promptly repaid to Ms. Baxter and, as the Audit staff has noted, direct payments by a paid staffer occurred (sic) only in the case of Ms. Baxter. In sum, there is no pattern and practice of violations; merely a paid staffer trying to insure that events for a candidate went smoothly."

The interim audit report recommended that the Committee submit any other comments or documentation that may be relevant to this matter.

In response to the interim audit report, the Committee noted that with respect to the apparent excessive contributions attributed to Sandy Baxter, the largest amount in excess was \$10,254 on October 27, 1994; however, by October 31, 1994 this amount was reduced to \$4,095. Further, for the period September 28 through December 4, 1994, when the majority of expenditures were incurred by Ms. Baxter, the average period from the time an expense was incurred until the time it was reimbursed was only 29 days. The response argues that "[e]ven if such expenditures are technically classified as contributions, such excess contributions were promptly refunded. The regulations permit 60 days for the redesignation or reattribution of excessive contributions. 11 CFR §103.3(b)(3) "

The Committee's response also included an affidavit from Sandy Baxter which attests that the use of her credit card was never intended to constitute a contribution and that "...constant traveling and being in a different place almost every day made it practically impossible to obtain checks in advance of every event from the campaign." Further, the affidavit notes that she was promptly paid when expenses were submitted for reimbursement and that all expenses were ordinary and necessary expenses of the campaign. In many instances these expenses were incurred without going through the formal disbursement approval process and as such the campaign was unaware a

contribution was being made. Her affidavit concludes that she "...was merely acting as most independent fund-raisers operate."

In the Audit staff's opinion, the 60 day period provided under 11 CFR 103.3(b)(3) for reattribution or redesignation of excessive contributions is not applicable in this situation. Permissible advances and their timely reimbursements are addressed at 11 CFR 116.5 as cited above.

B. RECEIPT OF EXCESSIVE CONTRIBUTIONS

Section 441a(a)(1)(A) 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 431(11) of Title 2 of the United States Code states, in relevant part, that the term "person" includes an individual, partnership, committee, association or any other organization or group of persons.

Section 441a(f) of Title 2 of the United States Code states that no candidate or political committee shall knowingly accept any contribution in violation of the provisions of this section.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitations may be deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b). If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states that any contribution which appears to be illegal under 11 CFR 103.3(b)(3), and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

The Audit staff's review of contributions received from political committees indicated that two such committees exceeded their limitation by \$6,000.

In one instance, a \$5,000 contribution was received from Posthumous Victory Fund-U.S.A., a committee registered with the Commission which had not qualified

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as a multicandidate political committee at the time of the contribution.² Therefore, this committee exceeded its limitation by \$4,000.

The second excessive contribution resulted from the receipt of \$3,000 from Michigan Independent Political Action Committee (MIPAC). The contributor's check was dated May 31, 1994; MIPAC did not become a qualified, multicandidate committee until October 11, 1994. Although, the Committee obtained a letter, dated September 9, 1994, redesignating the \$2,000 excessive amount to the general election, it was not timely pursuant to 11 CFR §103.3(b)(3). On November 2, 1994, the Committee refunded \$1,000 to MIPAC.

The Audit staff discussed this matter with Committee representatives at an interim conference. At the exit conference, Committee representatives provided the Audit staff with a photocopy of a \$4,000 check issued to "Posthumus Victory Fund".

The interim audit report recommended that the Committee provide a photocopy of the front and back of the negotiated refund check issued to Posthumus Victory Fund-U.S.A. and provide any other comments or documentation that may be relevant to this matter.

In response to the interim audit report, the Committee submitted a photocopy of the front and back of the negotiated refund check. The response states that the Posthumus Victory Fund-U.S.A. told the Committee it was a multicandidate committee. Committee staff called the FEC to confirm its status and were told that it was registered as a multicandidate committee. Committee staff were "unaware of the distinction between 'registered' and 'qualified' status." The response concludes that the Committee relied in good faith on the representations of the Posthumus Victory Fund-U.S.A. and acceptance of the excessive contribution was inadvertent.

C. LOAN FROM THE CANDIDATE

Section 431(8)(A)(i) of Title 2 of the United States Code defines the term "contribution" to include any 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.

Section 110.10(a) of Title 11 of the Code of Federal Regulations states that candidates for Federal office may make unlimited expenditures from personal funds.

² Under 2 U.S.C. §441a(a)(2), a committee which has qualified as a multicandidate committee is entitled to make contributions with respect to elections for Federal office which do not exceed \$5,000.

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Section 110.10(b) of Title 11 of the Code of Federal Regulations defines "personal funds" as any assets which, under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either legal and rightful title or an equitable interest.

Section 100.5(a) of Title 11 of the Code of Federal Regulations defines a political committee as any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 or which makes expenditures aggregating in excess of \$1,000 during a calendar year.

During fieldwork, the Audit staff reviewed two loans made by the Candidate to the Committee, one in the amount of \$15,000 and another in the amount of \$8,000. Based on the records available, in support of the \$15,000 loan, the Audit staff had no indication that the source of the funds used to make the loan were anything other than the personal funds of the candidate. However, the documentation for the \$8,000 loan indicated that the loan had been drawn on a joint personal checking account maintained by the Candidate and his spouse at the Michigan National Bank (the joint account). The check, dated July 20, 1994 and signed only by the Candidate, was reported by the Committee as having been received on July 30, 1994.

In response to the Audit staff's request for additional documentation establishing that this loan was made using the Candidate's personal funds, the Committee stated that the source of the funds for this loan was money which had been transferred from an account the Candidate maintained at Crestar Bank in Washington, DC (the Crestar account).

The Committee later provided a copy of a bank statement for the joint account which showed that a wire transfer in the amount of \$8,711 had been credited on August 11, 1994, as well as a letter from the Michigan National Bank indicating that the source of these funds was the Crestar account. However, this statement did not show the balance for the joint account at the time the loan was made.

At the exit conference, the Audit staff requested that the Committee provide additional documentation demonstrating that the source of the moneys transferred from the Crestar account represented the personal funds of the Candidate.

Subsequent to the exit conference, the Committee provided the Audit staff with an affidavit from the Candidate's spouse which indicated that none of the moneys associated with the Crestar account represented her funds.

The documentation made available to the Audit staff by the Committee at the time of the interim audit report did not establish the source of the funds used to make this loan. Further, the transfer from the Crestar account was made approximately three weeks after the date of the check issued from the joint account.

The interim audit report recommended that the Committee provide documentation to demonstrate that the loan was made using the Candidate's personal funds. The documentation was to include but not be limited to:

- from the joint account: account statement(s), check register(s) and a description of the source of the deposits on and around July 20, 1994; and
- from the Crestar account: account statement(s) and a description of the source of deposits on and around August 11, 1994; as well as an explanation clarifying how the August wire transfer from Crestar could be the source of funds for the Candidate loan made July 20, 1994 from the joint account.

In response to the interim audit report, the Committee states that the documents previously submitted:

"...demonstrate that all the assets in the \$8,000 candidate loan were the property of Spencer Abraham."

In any event, the amount involved in this loan, which was repaid within 60 days, is minuscule in a \$4 million campaign. Due to the passage of time (the original bank where the funds were deposited has since closed down and merged with another bank), the Committee is unable to obtain any additional documentation. Even in a "worst case scenario", the Candidate's spouse could not be attributed more than one-half (50 percent) of the loan, or \$4,000. Given that she may make a \$2,000 (sic), this loan would represent at the most an excessive contribution of \$2,000, which was subsequently repaid."

The Committee's response failed to provide the documentation and explanation needed to determine the source of the funds used to make the loan. Therefore, in order to obtain the necessary documentation, subpoenas were issued to the Michigan National Bank and to Crestar Bank requiring the production of relevant records for the months of July and August 1994.

In response to the Commission's subpoena, Crestar Bank stated that it had located no records that were responsive to the subpoena which requested documents relating to accounts in the name of E. Spencer or Jane L. Abraham.

The records provided by Michigan National Bank indicated that on July 28, 1994, two days before the Committee reported receiving the loan from the Candidate, an \$8,000 deposit was credited to the joint checking account of E. Spencer and Jane L. Abraham. This deposit resulted in a balance of \$10,359 in the account and consisted of a

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single check signed by and made payable to Jane Abraham. The check was written on the account of the Leadership Fund (the Fund) maintained at the City National Bank of Washington DC. Initially, this check was the source of the loan to the Committee. The preprinted address on the Fund's check was 1911 Crisland Cove, Falls Church, Va. That address had been crossed-out and replaced by the Candidate's residential address in Auburn Hills, Michigan. The Fund is not registered with the Commission or with the equivalent agencies in Virginia or Michigan. Further, there is no telephone listing in the Auburn Hills area of Michigan for the Fund.

On Friday, July 29, 1994, the check effecting the loan to the Committee was debited from the joint checking account leaving a balance of \$2,070. However, five days later, on Wednesday August 3, 1994, the joint checking account was debited \$8,000 for a returned item, the Fund check. This resulted in a balance of -\$6,230³. The records obtained do not indicate any overdraft protection on this account. The following day, August 4, 1994, the Fund check was redeposited and once again credited to the joint checking account, resulting in an account balance of \$1,770.

On August 8, 1994, four days after its redeposit, the Fund check was again returned and the joint checking account was debited causing the account balance to fall to -\$6,432. The joint account remained overdrawn for three days until, on August 11, 1994, a wire transfer of \$8,711 was received from an account at Crestar Bank. Since the subpoena to Crestar Bank had produced no information about any account in the name of E. Spencer or Jane L. Abraham, the account number from the wire transfer credited to the joint account was used to prepare an additional subpoena to Crestar Bank. In response to that subpoena, Crestar provided copies of statements and associated documents for a business checking account held in the name of the Leadership Fund. The address on the statements is the Candidate's residence in Michigan. The statements cover the period March 1, 1994 to August 11, 1994, the date that the account closed. The only activity in the account, other than service charges, is the wire transfer to the joint checking account. No information about the source of the funds in this account is available.

Based on the above, the Audit staff concludes that the Committee received an excessive contribution from the Leadership Fund, an unregistered political committee, in the amount of \$7,000 (\$8,000-\$1,000 contribution limitation) and that the contribution was disclosed as a loan from the Candidate.

D. DISCLOSURE OF DISBURSEMENTS

Section 434(b)(5)(A) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the name and address of each person to whom

It is noted that the bank statements for the joint checking account also disclosed activity for a Money Market account. This activity consisted entirely of interest earned being credited. The Money Market account maintained a balance of approximately \$5,100 during the period that the loan transaction took place.

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 operating expense, together with the date, amount, and purpose of such operating expenditure.

Section 431(9)(A) of Title 2 of the United States Code states, in part, that the term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and a written contract, promise, or agreement to make an expenditure.

The Audit staff's review of Committee disbursements identified 50 expenditures, totaling \$721,739, made to American Staffing. American Staffing provided payroll services to include issuing payroll checks to Committee employees and making payments to taxing authorities.

These expenditures were disclosed as payments to American Staffing on Schedule B with the purpose noted as "employment services". However, the Committee did not disclose the payments made to individuals and taxing authorities.

At the exit conference, the Audit staff informed Committee representatives of this matter and recommended that the Committee file memo Schedules B to support the payments to American Staffing. Committee representatives agreed to file the requested Schedules B.

Subsequent to the exit conference, the Committee submitted memo Schedules B which materially corrected the disclosure of payments made to American Staffing.

The interim audit report recommended no further action.

E. DISCLOSURE OF DEBTS AND OBLIGATIONS

Section 434(b)(8) of Title 2 of the United States Code states, in part, that each report under this section shall disclose the amount and nature of outstanding debts and obligations owed by or to such 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. 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 regularly recurring administrative expense shall not be reported as a debt before the payment due date.

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The Audit staff reviewed Committee disbursement records to determine whether debts and obligations were properly reported. Based on our review, the Audit staff determined that the Committee should have disclosed debts and obligations totaling \$123,725 as of December 31, 1994. The Committee had disclosed debts and obligations totaling \$76,794. Therefore, the Committee failed to disclose debts and obligations totaling \$46,931.

The Audit staff discussed this matter with Committee representatives at the exit conference and provided them with workpapers detailing the debts and obligations. The Committee's representatives agreed to file amended Schedules D.

Subsequent to the exit conference, the Committee submitted amended Schedules D that materially corrected the disclosure of debts and obligations.

The interim audit report recommended no further action.

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20542

July 15, 1996

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

BY: Kim Bright-Coleman *KBC*
Associate General Counsel

Rhonda J. Vosdingh *RJ*
Assistant General Counsel

Matthew J. Tanielian *MT*
Attorney

SUBJECT: Proposed Final Audit Report on Abraham for Senate (LRA #483)

The Office of General Counsel has reviewed the proposed Final Audit Report on Abraham for Senate ("Committee") submitted to this Office on July 2, 1996.¹ The following memorandum summarizes our comments on the proposed report. This Office concurs with the findings of the proposed report not discussed separately in the following memorandum. If you have any questions concerning our comments, please contact Matthew Tanielian, the attorney assigned to this matter.

Reported Loan from the Candidate (II.C.)

On October 19, 1995, the Audit Division requested this Office prepare subpoenas for the purpose of determining the source of funds used by the candidate, E. Spencer Abraham, to make

¹ Since the proposed Final Audit Report does not include matters exempt from public disclosure under 11 C.F.R. § 24, we recommend the Commission's discussion of this document be conducted in open session

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an \$8,000 loan to the Committee. On December 21, 1995, the Commission issued subpoenas to Michigan National Bank and Crestar Bank, Washington, D.C. On January 10, 1996, Crestar Bank responded by indicating that it had no accounts in the name of E. Spencer Abraham or Jane Abraham, the candidate's spouse. On February 5, 1996, Michigan National Bank responded with documents indicating that the source of the funds was a wire transfer from a Crestar Bank account. After analysis of the bank documents, the Audit Division requested this Office seek follow-up information from Michigan National Bank concerning the identity the Crestar Bank account. On March 28, 1996, Michigan National Bank provided the wire transfer documentation identifying the account number of the Crestar Bank account.

On April 24, 1996, the Commission issued a subpoena to Crestar Bank, Washington, D.C., seeking information on the identified account. On June 11, 1996, Crestar Bank responded to the subpoena, providing documents identifying the account by the name "Leadership Fund." The documents established that the Leadership Fund held a business checking account and the address of the account was the candidate's Michigan residence. The Leadership Fund is not a registered federal or state political committee. Neither this Office nor the Audit Division has information establishing the source of the money in the Leadership Fund account. The proposed Final Audit Report concludes, based on the information uncovered by the subpoenas, that the transactions in question resulted in the Committee accepting an excessive contribution from the Leadership Fund, an unregistered political committee.

The Audit Division's conclusion amends the prior proposed audit report attached to the October 19, 1995 subpoena request, and thus, legal review of this report is appropriate. The Office of General Counsel concurs with the proposed report's conclusion. Because there is no evidence indicating the source of the money in the Leadership Fund, it is reasonable to conclude the money received by the Committee was the result of a contribution from the Leadership Fund. This Office recommends, however, that the report include statutory support for the conclusion that an excessive contribution occurred. Because the Leadership Fund was not registered as a political committee, it was an entity subject to the contribution limitations of 2 U.S.C. § 441a(a)(1). Therefore, the report should include a reference to 2 U.S.C. § 441a(a)(1)(A), which states no person shall make contributions to a candidate or a candidate's campaign committee which exceed \$1,000 per election, and 2 U.S.C. § 431(1), which provides that the definition of "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. The proposed report also should include a reference to 11 C.F.R. § 102.1(d), which requires an entity to file a statement of organization within 10 days of becoming a political committee within the meaning of 11 C.F.R. § 100.5(a).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1996

Mr. Mark Larson, Treasurer
Abraham for Senate
c/o Dykema Gossett
400 Renaissance Center
Detroit, MI 48243

Dear Mr. Larson:

Attached please find the Final Audit Report on Abraham for Senate. The Commission approved the report on August 1, 1996.

The Commission approved Final Audit Report will be placed on the public record on August 2, 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 Melinda Madsen or Alex Boniewicz 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

cc: Benjamin L. Ginsberg, Esq.

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CHRONOLOGY

ABRAHAM FOR SENATE

Audit Fieldwork	05/15/95 - 06/08/95
Interim Audit Report to the Committee	08/08/95
Response Received to the Interim Audit Report	09/11/95
Final Audit Report Approved	08/01/96

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