



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 2000

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: *[Signature]* ROBERT J. COSTA *[Signature]*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
GARY HOFMEISTER FOR CONGRESS COMMITTEE

Attached please find a copy of the final audit report and related documents on Gary Hofmeister for Congress Committee which was approved by the Commission on October 19, 2000.

Informational copies of the report have been received by all parties involved and the report may be released to the public on October 30, 2000.

Attachment as stated

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

07 025 237

22.07.025.2030

REPORT OF THE AUDIT DIVISION
ON
GARY HOFMEISTER FOR
CONGRESS COMMITTEE

Approved October 19, 2000



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

TABLE OF CONTENTS

GARY HOFMEISTER FOR CONGRESS COMMITTEE

	Page
Executive Summary	1
Final Audit Report	3
Background	3
Findings	5
Transmittal to Committee	17
Chronology	19

22.07.025.2339

0402 530 20 22



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A99-05

GARY HOFMEISTER FOR CONGRESS COMMITTEE

EXECUTIVE SUMMARY

Gary Hofmeister for Congress Committee (the Committee) registered with the Federal Election Commission on January 24, 1997 as the principal campaign committee for Gary A. Hofmeister (the Candidate), Republican Candidate for the U.S. House of Representatives from the state of Indiana for the Tenth District. The Committee maintained its headquarters in Indianapolis, Indiana.

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 from this audit were presented to the Committee at an exit conference held subsequent to the completion of fieldwork on June 22, 1999, and later in an interim audit report. The Committee's response to the findings are included in this final audit report.

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

CANDIDATE LOAN TO CAMPAIGN – POSSIBLE CORPORATE CONTRIBUTION AND REPORTING OMISSIONS – 2 U.S.C. §§ 431(8)(A) and 441b(a) and 11 CFR §§ 100.7(b)(11), 100.8(b)(12), 102.7(d), 104.3(a)(4)(iv) & (d)(1), 104.11(a), and 110.10(a) & (b)(1).

In December 1997, the Candidate made the first of eight installments of what was to be a loan to his campaign totaling \$132,628. In June 1998, the Committee revealed to the FEC Reports Analysis Division that the Candidate had received a personal loan of \$150,000 on March 31, 1998. Subsequently, the Committee reported the personal loan on a Schedule C-1 on April 15, 1999. This personal loan was secured by real property solely owned by the Candidate. After reviewing the Candidate's bank records and other information obtained via subpoena, the Audit staff identified three loan installments totaling \$31,712 whose source may have been impermissible corporate funds. Additionally, the Audit staff requested that the Committee, for the portion of the Candidate's personal loan related to the amounts he used to make loans to his campaign,

22 07 025 2044

provide evidence that permissible funds [either of the Candidate or the Committee] had been used to make the repayment of the personal loan. In its response to the interim audit report, the Committee provided no additional information relative to the issues raised.

On the April Quarterly and Pre-Primary Reports filed with the FEC in 1998, the Committee failed to continuously disclose the Candidate's loans to his principal campaign committee. Amended reports for these periods filed June 15, 1999 corrected this omission.

DISBURSEMENTS – OMISSION OF DISCLOSURE INFORMATION, ITEMIZATION OF DISBURSEMENTS – 2 U.S.C § 434(b)(5)(A).

The Audit staff reviewed itemized disbursements and found that the Committee had materially failed to provide adequate vendor address information. Additionally, the Committee failed to itemize disbursements of approximately \$187,000 on the Post-General and Year-End reports. The disclosure and itemization deficiencies were corrected by amended reports for 1998 which the Committee filed on June 15, 1999.

FORTY-EIGHT HOUR NOTICES – 2 U.S.C. 434(a)(6)(A).

The Committee failed to file properly forty-eight hour notices for contributions in the amount of \$43,713. Notice of receipt of a \$30,000 loan from the Candidate was filed late and no forty-eight hour notices were filed for contributions totaling \$13,713. In response to the interim audit report, the Committee stated that it was its policy to comply fully with the law.

MISSTATEMENT OF FINANCIAL ACTIVITY – 2 U.S.C. § 434(b)(1), (2) and (4).

For Year-End 1998, beginning cash and ending cash at December 31, 1998 was overstated by \$132,769. The Committee corrected the misstatement when it filed amended reports for 1998 on June 15, 1999.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

A99-05

REPORT OF THE AUDIT DIVISION

ON

GARY HOFMEISTER FOR CONGRESS COMMITTEE

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of Gary Hofmeister for Congress Committee (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.

B. AUDIT COVERAGE

The audit covered the period from the inception of bank activity on February 7, 1997, through December 31, 1998. The Committee reported¹ a beginning cash balance of \$0; total receipts for the audit period of \$779,172; total disbursements for

¹ The figures cited in this report are rounded to the nearest dollar. The amounts reported do not foot. The financial activity for the audit period as reflected in amended reports for 1998, filed in June of 1999 by the Committee, was beginning cash of \$0; total receipts of \$785,279, total disbursements of \$771,500; and an ending cash balance of \$13,779 at December 31, 1998.

the audit period of \$773,594; and an ending cash balance of \$138,346 on December 31, 1998.

C CAMPAIGN ORGANIZATION

The Committee registered with the Federal Election Commission on January 24, 1997 as the principal campaign committee for Gary A. Hofmeister (the Candidate), Republican Candidate for the U.S. House of Representatives from the state of Indiana for the Tenth District.

The treasurer of the Committee at the beginning of the audit period was Dennis Kenley. On July 1, 1998, Curtis L. Coonrod formally notified the Commission that he had been appointed to succeed Mr. Kenley as treasurer on June 12th. Mr. Coonrod continues to serve as treasurer. The Committee maintained its headquarters in Indianapolis, Indiana.

To manage its financial activity, the Committee maintained two bank accounts. From these accounts, the Committee made approximately 610 disbursements. Into these accounts the Committee deposited approximately 2,300 contributions totaling \$783,378.

D. AUDIT SCOPE AND PROCEDURES

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; [see Finding II.A.]
3. proper disclosure of receipts 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; [see Finding II.C.]
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.B.]
5. proper disclosure of campaign debts and obligations; [see Finding II.A.]

02 07 025 2044

6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records; [see Finding II.D.]
7. adequate recordkeeping for campaign transactions; and
8. other audit procedures that were deemed necessary in the situation.

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. 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.

During fieldwork, neither the Committee nor Candidate were able to provide full documentation of the Candidate's personal loan or of the source of all funds used by the Candidate to make advances to his principal campaign committee as requested by the Audit staff. Subpoenas were issued to the Committee, the Candidate, the Candidate's business and two banks at which the Candidate was known to hold accounts requesting materials necessary to establish whether the Candidate had used permissible funds to make loans to his campaign. Materials provided under subpoena indicate that some funds were transferred from a previously unidentified account. The source of the funds in this account remains unknown.

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. CANDIDATE LOAN TO CAMPAIGN – POSSIBLE CORPORATE CONTRIBUTION AND REPORTING OMISSIONS

Section 431(8)(A) of Title 2 of the United States Code states, in part, that the term "contribution" includes any loan made by any person for the purpose of influencing any election for Federal office.

Section 441b(a) of Title 2 of the United States Code states, in part, that is unlawful for any corporation to make a contribution or expenditure in connection with any election to political office or in connection with any election at which a Representative in Congress is to be voted for or in connection with any primary election held to select candidates for the foregoing office, and for any candidate, political committee or other person to knowingly accept or receive any contribution prohibited by this section.

Section 100.7(b)(11) of Title 11 of the Code of Federal Regulations states, in part, that a loan of money by a federally chartered depository institution is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: Bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he agreed to be liable in a written agreement. A loan shall be considered made on a basis which assures repayment if it is obtained as follows: The lending institution making the loan has perfected a security interest in collateral owned by the candidate receiving the loan, the fair market value of the collateral is equal to or greater than the loan amount and any senior liens as determined on the date of the loan and the candidate provides documentation to show that the lending institution has a perfected security interest in the collateral.

Section 100.8(b)(12) of Title 11 of the Code of Federal Regulations states, in part, that a loan of money by a federally chartered depository institution is not an expenditure by the lending institution if the loan is made as outlined above in 11 CFR 100.7(b)(11).

Section 102.7(d) of Title 11 of the Code of Federal Regulations states, in part, that any candidate who obtains any loan in connection with his or her campaign shall be considered as having obtained the loan as an agent of such authorized committee.

Section 104.3(a)(4)(iv) of Title 11 of the Code of Federal Regulations states, in part, that the itemization of receipts for authorized committees will include the identification of each contributor and the aggregate year-to-date total for each person who makes a loan to the reporting committee or to the candidate acting as an agent of the committee, during the reporting period, together with the identification of any endorser or guarantor of such loan, the date such loan was made and the amount or value of such loan.

Section 104.3(d)(1) of Title 11 of the Code of Federal Regulations states, in part, when a candidate or political committee obtains a loan from, or establishes a line of credit at, a lending institution as described in 11 CFR 100.7(b)(11) and 100.8(b)(12), it shall disclose in the next report due the following information on schedule C-1: the date; amount of loan; interest rate and repayment schedule; types and value of collateral to secure the loan or explanation of basis upon which the loan was established; and a certification from the lending institution of the accuracy of the borrower's statements.

Section 104.11(a) of Title 11 of the Code of Federal Regulations states, in part, that debts and obligations owed by a political committee which remain outstanding shall be continuously reported until exhausted.

Section 110.10(a) of Title 11 of the Code of Federal Regulations states that except as provided in 11 CFR parts 9001, *et seq.* and 9031, *et seq.*, candidates for Federal office may make unlimited expenditures from personal funds.

Sections 110.10(b)(1) and (2) of Title 11 of the Code of Federal Regulations state, in part, that for purposes of this section, *personal funds* means 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. Also included as personal funds are salary and other earned income from bona fide employment and dividends and proceeds from the sale of the candidate's stock or other investments.

1. Background

Over the course of six months beginning in late December 1997, the Candidate loaned his campaign \$132,628. The loan was reported in eight installments. During fieldwork, neither the Candidate nor the Committee was able to provide sufficiently detailed documentation which would establish that the source of the funds loaned to the campaign were from the Candidate's personal funds.

Loan Schedule			
	Amount	Date	Description
1	\$ 25,000	12/31/97	Advance by Candidate
2	20,000	04/09/98	Advance by Candidate
3	30,000	04/17/98	Advance by Candidate
4	4,000	04/22/98	Payment to BT Productions.
5	20,000 *	04/30/98	Advance by Candidate
6	19,500	04/24/98	Payment to Perkins Nichols
7	3,712	04/28/98	Payment to Perkins Nichols
8	10,416 *	06/30/98	Travel Advances made between 5/97 and 6/98
	<u>\$ 132,628</u>		

* Installment made by Candidate using permissible funds.

Among the eight installments were four advances to the campaign of \$25,000, \$20,000, \$30,000 and \$20,000 made respectively on December 31, 1997, April 9, 17 and 30, 1998. Payments to various vendors of \$4,000, \$19,500 and \$3,712 on April 22, 24 and 28, 1998 respectively were also reported by the Committee as loans made by the Candidate to the campaign. Lastly, the Committee reported a final loan amount of \$10,416 which was documented as a series of advances for travel expenses made by the Candidate on behalf of his campaign beginning in May of 1997 and running

through June 1998. The Committee made two repayments to the Candidate in the amounts of \$10,000 and \$5,000 on November 5 and November 24, 1998 respectively.

Beginning in June 1998, FEC Reports Analysis Division (RAD) made requests for additional information from the Committee regarding the Candidate's loans to the campaign. Questions had arisen out of RAD's routine review of the Committee's disclosure reports. In two Committee communications dated September 1998, the treasurer stated that the Candidate had, in addition to making loans to the Committee, taken out a personal loan from a financial institution. Later discussions about this loan occurred in February and March of 1999 between RAD and the Committee's treasurer.

Following these discussions and a specific request, the Committee on April 15, 1999 reported the personal loan on a Schedule C-1. By the time this loan was reported, it had apparently been repaid. On the form filed by the Committee disclosing the terms of the loan, an interest rate of 8.5% per year was listed. According to the information submitted by the Committee, the Candidate had applied for and received a line of credit from National City Bank in Indianapolis on March 31, 1998. The Candidate made two draws on this line of credit, the first in the amount of \$100,000 on April 3, 1998 and the second, thirteen days later on April 16, in the amount of \$50,000. These draws were deposited into the Candidate's personal checking account at National City Bank. From this account, a total of \$130,000 was transferred to a second personal checking account at Bank One, also in Indianapolis. The \$150,000 personal loan was secured by real property owned solely by the Candidate; and thus, proceeds from this loan could be used to make permissible loans to the campaign. However, when a Candidate secures a personal loan in order to loan a portion of the proceeds to his campaign, he must repay the relevant portion of the personal loan with permissible funds. Permissible funds are limited to the Candidate's personal funds or funds of his principal campaign committee. Evidence was not provided to establish that repayment of this portion of the candidate's personal loan was made with permissible funds.

2. Possible Corporate Contributions Resulting from Candidate Loans to the Campaign

The Candidate owns Hofmeister Personal Jewelers (HPJ), a business incorporated in Indiana. The Act prohibits a Candidate from using funds in connection with his campaign for federal office which were advanced or loaned to him by a corporation. Initial concern that such an event may have occurred in this campaign arose, when, during fieldwork the Audit staff found that the April 30th advance of \$20,000 was effected via a qualified endorsement by the Candidate of a \$20,000 check made payable to him and written on an account of HPJ. The Committee and the Candidate were requested to provide documentation to show that the funds used to make this advance and the other advances were the personal funds of the Candidate. Failure to provide the requested documentation during fieldwork resulted in subpoenas being issued to the Committee, the Candidate, HPJ and two banks at which the Candidate was known

to hold accounts. Specific information was requested, which, if provided, would enable the Audit staff to ascertain whether the funds transferred were the personal funds of the Candidate.

Based on our review of materials obtained via subpoena, the April 30th advance was deemed to be an acceptable advance, the source of which was the Candidate's personal funds. The check endorsed over to the campaign was among the checks listed by HPJ, in response to a subpoena, as payments made to the Candidate and was included in the amount of income reported on his Federal Tax Form 1099 for 1998. The last installment, \$10,416 in travel advances made between May 1997 and June 1998 and reported on June 30, 1998, also appears to have been paid over time by the Candidate using his personal funds.² Our review raised the following questions about the six remaining installments of the Candidate's loan to the Committee.

Dreamtech, Inc. Check

Before making the December 31, 1997 advance of \$25,000 from his personal account at Bank One, an equal amount was deposited on December 30th. Without this deposit, the account balance (being approximately \$4,700) was insufficient to fund the advance to the Committee. The source of the of the December 30th deposit was a \$25,000 check written on the account of HPJ and made out to Dreamtech. Dreamtech's full name is Dreamtech, Inc., a business owned by the Candidate's son which provides computer related services. The address of record for Dreamtech, Inc. is the same as that of HPJ. The Candidate deposited the check to his personal account. The endorsements on this check executed by the Candidate were:

*"Dreamtech, Inc."
"Gary A. Hofmeister"
"Pay to the order of
acct # 69-50530"*

Based on the documentation currently available, it appears that the funds used to make the \$25,000 advance to the Committee were not the Candidate's personal funds. Rather, the check appears to be a payment to Dreamtech, Inc. made by HPJ which was then deposited by the Candidate into his personal account.

Source of Funds Bank One Account Check \$59,980

Funds available and used by the Candidate to make the April 22nd and 28th payments of \$4,000 and \$3,712 were traced to an April 15th deposit into his personal account at Bank One. This deposit of \$63,526, consisted of two checks, one

² The Audit staff notes that these advances should have been reported as debts owed to the candidate as they were incurred and as such were not timely reported.

from HPJ in the amount of \$3,546³ and the other from an account at Bank One⁴, in the amount of \$59,980. The Candidate wrote and signed this check and subsequently endorsed it for deposit into his identified personal account at Bank One. On April 19, 2000 the Audit staff became aware of this additional account of the Candidate at Bank One based on our review of subpoenaed bank materials. Lacking any information as to the source of the funds in this newly identified account, the Audit staff notes that these payments may not have been made with permissible funds.

Source of Funds Used to Repay Candidate's Personal Loan

Funds used by the Candidate to make three of the loan installments (see chart, page 5) were traced to proceeds from his personal loan noted above. Using the subpoenaed bank records, the Audit staff traced the loan proceeds to the advances of April 9th and 17th for \$20,000 and \$30,000 and the payment of April 24th for media services of \$19,500. The Candidate made the advances by writing checks in the respective amounts on his personal account at Bank One. The payment for media was made from his personal account at National City Bank from the balance (\$20,000) of the personal loan which remained in that account. Based on our review, these loan installments were deemed to have been made with permissible funds. The Audit staff notes that the funds used to make repayments of loans whose proceeds were used in connection with a federal election must be from permissible sources. Examples of funds from permissible sources are the Candidate's personal funds or funds of his principal campaign committee. The source of the funds used by the Candidate to repay the line of credit drawn at National City Bank, the proceeds from which he made loans to his principal campaign committee, is not known. At this time, evidence to establish that the repayment of that portion of the line of credit loaned to the campaign was correctly paid, has not been provided.

Summary

When the Interim Audit Report (IAR) was prepared, it was the opinion of the Audit staff that the evidence, received through that time, strongly suggested that the December 31, 1997 loan installment was made with corporate funds.

Also, evidence, received through that time, raised questions about the payments of \$4,000 and \$3,712 made by the Candidate on April 22 and April 28, 1998. The payments used funds traced to the April 15, 1998 deposit which included the \$59,979 check from the previously undisclosed Bank One account and whose permissibility could not be verified.

³ The Audit staff identified this deposit amount as being personal funds of the Candidate.

⁴ This check was written on Bank One Account #620956748. The check was not numbered and had no account name imprinted on it.

And with respect to the three installments of April 9, 17 and 24 for \$20,000, \$30,000 and \$19,500 which were funded using proceeds of the Candidate's personal loan, evidence to demonstrate that all repayments on his personal loan (related to these amounts loaned to his campaign) had been made using permissible funds was not provided during audit fieldwork.

In the IAR, the Audit staff recommended that the Committee submit evidence:

- a) obtained from HPJ such as but not limited to invoices, statements of accounts, written agreements which establish the purpose for the payment by Hofmeister Personal Jewelers to Dreamtech, Inc. and tax forms (1040's, W-2's, 1099's), general ledger entries which record a return of capital, or any other related documentation which demonstrates that the check from HPJ to Dreamtech and deposited by the Candidate into his personal account at Bank One represented his personal funds;
- b) obtained from Dreamtech, Inc. such as the invoice, billing and related documents which support the \$25,000 payment from HPJ and show the purpose/reason for the \$25,000 "payment" from Dreamtech to the Candidate;
- c) that other funds were the source of the December 31st advance to the campaign, absent such documentation, the \$25,000 transaction appears to be an impermissible corporate contribution from HPJ and/or Dreamtech, Inc.;
- d) such as but not limited to loan documentation from National City Bank showing all payments made on the loan, copies of any checks written or documents supporting wire transfers made to make payments on the loan and the paid/canceled loan note, which demonstrates that all payments made on the Candidate's personal loan, including those applied to interest and principal, were made with the Candidate's personal funds or funds from a permissible source;
- e) such as but not limited to bank statements, related enclosures, deposit slips and copies of checks deposited from January 1998 through April 1998, to demonstrate that the recently identified bank account at Bank One is a personal account of the Candidate, and that the source of the funds transferred were permissible.

In its response the IAR, the Committee provided no additional information relative to the issues raised in this finding and requested in the recommendation. The Committee did take the opportunity to make clear its position with respect to the Audit staff request in the Interim Audit Report.

"The recommendation is that we somehow obtain further documents from corporations with which the Committee has no relationship and over which the Committee has no control. Also, certain personal records of the former candidate are requested. None of these documents are required to be maintained by a political committee, nor would there be any reason for

us to do so. Accordingly, we do not have these documents, and we cannot provide them to you.”

The Audit staff, however, notes that the regulations at 11 CFR 103.3 provide, in part, that the treasurer shall be responsible for examining all contributions received for evidence of illegality, and the treasurer shall make his or her best efforts to determine the legality of contributions that present genuine questions as to whether they were made by corporations. See 11 CFR 103.3(b). Additionally, a candidate, when contributing to his campaign, should be able to demonstrate that he used personal funds to make his contribution. See 11 CFR 110.10

Thus, the questions raised in the IAR remain unanswered. In the opinion of the Audit staff, the Candidate failed to establish that personal funds were used to advance his principal campaign committee as much as \$32,712 (the installments of December 31, 1997 for \$25,000 and the payments of April 22, 1998 for \$4,000 and April 28, 1998 for \$3,712) or that permissible funds were used to make repayments on his personal loan relative to the amounts loaned to his campaign from this loan.

3. Failure to Continuously Disclose Candidate’s Loans to Principal Campaign Committee

On the first quarter report for 1998, the Committee failed to disclose the amount of the loan on the Summary Page, line 10, and filed no Schedule C for the loan made by the Candidate in December 1997 of \$25,000. This amount was also omitted on the Pre-Primary report for 1998 although the Committee did report the April 9th installment of \$20,000. Beginning with the Committee’s report for the Second Quarter, all loan amounts received from the Candidate were correctly reported on the Summary Page, the Detailed Summary page, and Schedules A and C.

Amended reports for each reporting period of 1998 were filed by the Committee on June 15, 1999. These amendments materially corrected the reporting omissions identified on the first quarter and pre-primary reports as originally filed.

In the IAR, the Audit staff recommended no further action was necessary but allowed for the provision of any additional information or explanation deemed relevant by the Committee. The Committee declined to make any further comment.

B. DISBURSEMENTS

Section 434(b)(5)(A) of Title 2 of the United States Code states that each report filed 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 operating expense, together with the date, amount and purpose of such operating expenditure.

1. Omission of Disclosure Information

A sample review of disbursements itemized by the Committee indicated that a material number of the entries were inadequately disclosed. For the majority of the disclosure problems identified, the Committee failed to include either an address or a complete address for each vendor as required. This problem was addressed on June 15, 1999 when the Committee filed amended disclosure reports for 1998 which materially corrected the deficiencies identified in the review.

2. Itemization of Disbursements

Also identified by the same sample review was the Committee's failure to itemize a material number of the disbursements which required itemization. These irregularities occurred on the Post-General and Year End 1998 reports. In the Post-General period, the Committee disclosed operating expenditures of \$198,142 on the Detailed Summary Page, but on Schedule B itemized operating expenditures of only \$6,365. For the Year End 1998 report, the Committee disclosed operating expenditures of \$4,441 on the Detailed Summary Page, but itemized no expenditures.

This problem was also materially corrected by the amended reports for 1998 filed by the Committee on June 15, 1999.

C. FORTY-EIGHT HOUR NOTICES

Section 434(a)(6)(A) of Title 2 of the United States Code states that a principal campaign committee of a candidate shall notify 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 amount of the contribution.

The Audit staff identified eleven contributions totaling \$83,213 received between April 16, and May 2, 1998 for which the Committee should have filed forty-eight hour notices before the primary election. Of these, notices for four contributions,

totaling \$9,713, were never filed and a forty-eight hour notice for a loan of \$30,000 from the Candidate was filed eight days late.

Prior to the General election, forty-eight contributions totaling \$74,200 received between October 15, 1998 and October 31, 1998 were identified which required forty-eight hour notices. Of these, the Committee failed to file notices for four contributions which totaled \$4,000.

Thus, the Committee failed to file properly forty-eight hour notices for contributions totaling \$43,713. Of this amount, no forty-eight hour notices were filed for contributions totaling \$13,713.

This matter was discussed at the exit conference. The Committee said that any omissions were unintentional, having resulted from the inexperience of its staff. Also, they alluded to some confusion as to just when forty-eight hour notices were required to be filed.

In the IAR, it was recommended that the Committee submit evidence that all required forty-eight hour notices were filed or submit any written comment it feels relevant to the issue.

The Committee replied as follows to the IAR.

“With regard to notices related to the May primary election, the Committee has no further comment except to say it was the policy of the Committee to comply fully with the law.

“With regard to notices related to the general election, the Committee notes that we provided your auditors with documentary evidence that notices were timely filed. We provided our internal records regarding the notices as well as independent certification that the Indiana Election Commission received all of the notices on a timely basis. It was our policy and practice to send the notices as required, and it is our belief that we did so. There would have been no logical reason for us to omit some Federal notices, but not others, and yet file all the notices with the State. Accordingly, as we explained to your auditors, it appears to us some of the notices were misrouted or misfiled at the Federal level. That remains our belief.”

The Audit staff did consider the materials provided by the Committee related to the forty-eight hour notices and adjusted our preliminary figures accordingly in the Committee’s favor.

No evidence was provided to change our opinion as stated in the IAR - that the Committee failed to file properly forty-eight hour notices for contributions totaling \$43,713; of this amount no forty-eight hour notices were filed for contributions totaling \$13,713.

D. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that a political committee shall 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.

The Audit staff reconciled the Committee's reported financial activity to its bank activity for the period February 7, 1997 through December 31, 1998. The value of the total activity for receipts and disbursements was materially correct. However, for the Year End 1998 report beginning cash was overstated by \$132,769. Ending cash at December 31, 1998 was similarly overstated. Apparently, Committee staff failed to verify that the beginning cash amount for Year End 1998 coincided with the ending cash amount reported on the Post-General Report.

At the exit conference, Committee officials agreed the cash on hand was overstated. Committee officials stated that an error in the computer software used to prepare the report had caused the misstatement. On June 15, 1999, the Committee filed amended reports for 1998 which corrected the misstatement.

02.07.035.2856



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 2000

Mr. Curtis L. Coonrod, Treasurer
Gary Hofmeister for Congress Committee
P.O. Box 26247
Indianapolis, IN 46226

Dear Mr. Coonrod:

Attached please find the Final Audit Report on Gary Hofmeister for Congress Committee. The Commission approved the report on October 19, 2000.

The Commission approved Final Audit Report will be placed on the public record on October 31, 2000. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Marty Kuest or Wanda Thomas of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

02-07-025-2857

02.07.05.252

CHRONOLOGY

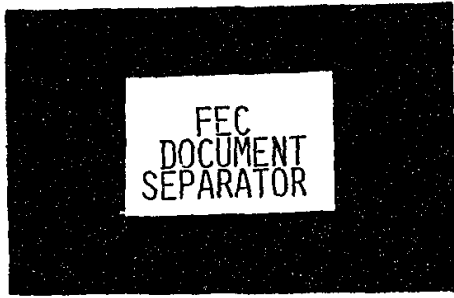
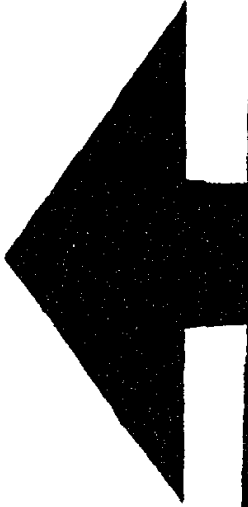
GARY HOFMEISTER FOR CONGRESS COMMITTEE

Audit Fieldwork	June 7 – 22, 1999
Interim Audit Report to the Committee	August 27, 2000
Response Received to the Interim Audit Report	September 28, 2000
Final Audit Report Approved	October 19, 2000

02-07-005-0000

02.07.025.2860

EE .07 .025 .2261



FEC
DOCUMENT
SEPARATOR

