




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 23, 1999

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
McCORMICK FOR CONGRESS

Attached please find a copy of the final audit report and related documents on McCormick for Congress which was approved by the Commission on November 15, 1999.

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

22.07.025.3288

REPORT OF THE AUDIT DIVISION
ON
McCormick for Congress

Approved November 15, 1999



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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION
ON
McCORMICK FOR CONGRESS**

EXECUTIVE SUMMARY

McCormick for Congress (MFC) registered with the Commission on October 6, 1997, as the principal campaign committee for Joseph F. McCormick (the Candidate), Republican candidate for the U.S. House of Representatives from the State of Georgia, 2nd District.

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

The findings of the audit were presented to MFC at the completion of fieldwork on July 1, 1999 and later in the interim audit report. MFC's response to those findings is contained in the audit report.

The following is an overview of the findings contained in the audit report. The Audit staff's testing of contributions was limited because MFC could not produce a computerized file or other listing of all contributions received during the audit period.

RECEIPT OF EXCESSIVE CONTRIBUTIONS FROM INDIVIDUALS — 2 U.S.C. §441a(a)(1). The Audit staff identified 16 apparent excessive contributions from 14 individuals totaling \$8,800. No evidence was found that MFC attempted to contract these contributors for the purpose of obtaining reattributions or redesignations.

MFC's response notes its confusion over contribution limitations and acknowledges that some of these excessive contributions resulted from the absence of a spouse's signature on the check or accompanying letter. The response notes that funds are not currently available to make the necessary refunds and they will be carried by MFC as debt.

ITEMIZATION OF RECEIPTS FROM POLITICAL ORGANIZATIONS AND JOINT FUNDRAISING COMMITTEE — 2 U.S.C. §434(B)(3)(A); 11 CFR §102.17(C)(8). Receipts from party committees, other political committees and an authorized joint fundraising committee, totaling \$28,894, were not disclosed on Schedule A as required. In addition, MFC

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failed to file the memo Schedules A to accompany two transfers, totaling \$5,070, from the New Conservative Leadership Fund, a joint fundraising committee. The identification of the contributors and the gross amount of their contributions was not contained in MFC records.

MFC filed the necessary Schedules A to amend its disclosure reports.

REPORTING OF DISBURSEMENTS — 2 U.S.C. §434(b)(5). During the review of MFC disbursements, the Audit staff identified 194 payments totaling \$202,806 which were not disclosed on Schedule B as required. A subsequent amended report filed July 12, 1999, failed to correct 33 of the disbursements (the sum of those disbursements is \$97,649). MFC indicated that the appropriate amended reports would be filed to disclose the remaining 33 disbursements. Additionally, 40 payments, totaling \$34,455, were not adequately disclosed on Schedule B. Most of the errors resulted from an inadequately disclosed purpose, or no purpose being disclosed.

MFC filed the necessary Schedules B to amend its disclosure reports.

REPORTING OF DEBTS AND OBLIGATIONS — 2 U.S.C. §434(b)(8). Based on available invoices and related payments, it was determined that outstanding debts and obligations to 12 vendors, totaling \$84,333, were not disclosed on Schedule D as required. These errors occurred during 1998.

MFC filed the necessary Schedules D to amend its disclosure reports.

MISSTATEMENT OF FINANCIAL ACTIVITY — 2 U.S.C. §434(b)(1), (2) and (4). A reconciliation of MFC's reported activity to its bank activity revealed that material misstatements occurred with respect to reports filed for the period from the inception of financial activity, July 1, 1997, through December 31, 1998.

MFC filed amended disclosure reports to materially correct the misstatements.

C. COMMITTEE ORGANIZATION

MFC registered with the Commission on October 6, 1997, as the principal campaign committee of Joseph F. McCormick (the Candidate), Republican candidate for the U.S. House of Representatives from the State of Georgia, 2nd District. MFC had two Treasurers during the period covered by the audit. Mr. Will Geer was Treasurer from inception through August 4, 1998. On, August 5, 1998, Mr. Kent Sole became Treasurer and held the position until January 22, 1999. Currently the Candidate is serving as Treasurer. MFC maintains its headquarters in Albany, Georgia.

To manage its financial activity, MFC maintained one bank account. From this account, MFC made approximately 600 disbursements. Receipts were composed of contributions from individuals (approximately \$359,301); contributions from other political committees and organizations (\$112,278); and, in-kind loans and contributions received from the candidate in the amount of \$43,253.³

D. AUDIT SCOPE AND PROCEDURES

The testing of the proper disclosure of both debts and obligations (see Finding II.D.) and disbursements (see Finding II.C.) was limited. Although MFC met the minimum recordkeeping requirements of 2 U.S.C. §432, externally generated documentation, such as invoices, statements, or receipted bills, was not maintained for about 35% of the dollar amount of the disbursements. Thus, obligations requiring disclosure as debts owed by MFC could not be identified for these disbursements, and the adequate disclosure for these disbursements could not be evaluated.

The audit included testing of the following general categories:

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

³ These categories of receipts total \$514,832, or about \$49,233 more than the amount reported (See Finding II.E.).

the information disclosed (see Finding II.C.);

5. proper disclosure of MFC debts and obligations (see Finding II.D.);
6. the accuracy of total reported receipts, disbursements and cash balances as compared to MFC bank records (see Finding II.E.);
7. adequate recordkeeping for MFC transactions; and
8. other audit procedures that were deemed necessary in the situation.

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

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. RECEIPT OF EXCESSIVE CONTRIBUTIONS FROM INDIVIDUALS

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. Subsection (b) of 11 CFR §110.1 explains that *with respect to any election* means that if the contribution is not designated in writing by the contributor for a particular election then the contribution applies to the next election for that Federal office after the contribution is made. A contribution is considered made when the contributor relinquishes control over the contribution by delivering the contribution to the Candidate, the political committee, or an agent of the committee. A contribution mailed is considered made on the date of the postmark.

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 either 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) or 110.1(k). 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.

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 60 days from the date of the treasurer's receipt of the contribution, the contributors provide 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.

Section 110.1(b)(5) of Title 11 of the Code of Federal Regulations states, in relevant part, that the treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if the contribution exceeds the limitation on contributions set forth in 11 CFR 110.1(b)(1). A contribution shall be considered to be redesignated for another election if the treasurer of the recipient authorized committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request a refund of the contribution and within 60 days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a signed redesignation of the contribution for another election.

Section 110.1(1)(5) of Title 11 of the Code of Federal Regulations states, in part, that if a political committee does not retain the written records concerning redesignations or reattributions, the redesignation or reattribution shall not be effective and the original designation or attribution shall control.

The Audit staff's review of contributions identified 16 apparent excessive contributions totaling \$8,800 from 14 individuals. No evidence was found that MFC attempted to contact these contributors for the purpose of obtaining reattributions or redesignations. Although MFC did not deposit these excessive contributions into a separate account it did maintain sufficient funds during most of the audit period to refund the contributions. The cash on hand balance at December 31, 1998, however, was only \$6,001 (see Finding II.E.).

At the exit conference, the Audit staff provided the MFC's representative with a schedule detailing the apparent excessive contributions. During a subsequent telephone conversation, the Candidate indicated that refunds would be made, but sufficient funds may not be immediately available.

The interim audit report recommended that MFC provide evidence that demonstrated the contributions noted above were not in excess of the limitation. Absent such evidence, it was recommended that MFC refund these contributions and provide evidence of such refunds. If funds were not immediately available to make the necessary refunds, those contributions requiring refunds were to be disclosed as debts on Schedule D (Debts and Obligations) until such time that funds become available to make the refunds.

In its response to the interim audit report, the Candidate notes that \$1,400 of the excessive contributions were made following the completion of the election in an attempt to retire the debt. MFC was under the mistaken belief that these funds would not be counted toward the donor's \$1,000 limit. An additional \$4,000 were excessive because the spouse of a donor had not signed the check or accompanying letter to properly attribute the contribution to each spouse. The Candidate states that funds are not currently available to make the refunds and that these excessive contributions will be carried as debt by MFC. Schedules D, which disclose the debt resulting from these excessive contributions, were included with the latest report filed by MFC.

B. ITEMIZATION OF RECEIPTS FROM POLITICAL ORGANIZATIONS AND JOINT FUNDRAISING COMMITTEE

Section 434(b)(3)(A) of Title 2 of the United States Code requires, in part, a political committee to report the identification of each person who makes a contribution to the committee in an aggregate amount or value in excess of \$200 per calendar year together with the date and amount of any such contribution.

Section 434(b)(3)(B) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

Section 431(13) of Title 2 of the United States Code states that the term "identification" means: 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; and in the case of any other person, the full name and address of such person.

If contributions from political organizations are received through a joint fundraising representative, Section 102.17(c)(8) of Title 11 of the Code of Federal Regulations requires that each participating political committee shall report its share of

net proceeds received as a transfer-in from the fundraising representative and shall file a memo Schedule A itemizing its share of gross receipts as contributions from original contributors.

The Audit staff reviewed documentation relating to receipts from party committees, other political committees and an authorized joint fundraising committee. Of these, 27 contributions totaling \$28,894 were not disclosed on Schedule A as required. Also, MFC failed to file the memo Schedules A to accompany two transfers, totaling \$5,070, from the New Conservative Leadership Fund, a joint fundraising committee. The identification of the contributors and the gross amount of their contributions was not contained in MFC records.

At the exit conference, MFC representatives were provided a schedule detailing these items. They agreed to file necessary amended disclosure reports.

The interim audit report recommended that MFC file amended Schedules A (by reporting period) disclosing the contributions.

In response to the interim audit report, MFC filed the requested amended Schedules to disclose those contributions from party committees and other political committees noted above.

C. REPORTING OF DISBURSEMENTS

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

During the review of MFC disbursements, the Audit staff identified 194 payments totaling \$202,806 which were not disclosed on Schedule B (Itemized Disbursements) as required. Most of these errors resulted from an incomplete, electronic filing of MFC's 1998 October 15th Quarterly disclosure report. A subsequent amended report filed July 12, 1999, failed to correct 33 of the disbursements (the sum of those disbursements is \$97,649). MFC indicated that the appropriate amended reports would be filed to correct the remaining 33 disclosure problems.

Additionally, 40 payments, totaling \$34,455, were not adequately disclosed. Most of the errors resulted from an inadequately disclosed purpose, or no purpose being disclosed.

At the conference held at the conclusion of fieldwork, MFC representatives were advised of these matters and were provided schedules detailing the omissions. MFC representatives presented the Audit staff with Schedules B amending its

the 1998 October 15th Quarterly disclosure report. However, these schedules listed the same disbursements that were on the July 12, 1999 amended report noted above.

The interim audit report recommended that MFC file amended Schedules B (by reporting period) itemizing the remaining 33 disbursements and correcting the 40 payments that were not adequately disclosed.

In response to the interim audit report, MFC filed amended disclosure reports which materially corrected the record.

D. REPORTING OF DEBTS AND OBLIGATIONS

Section 434(b)(8) of Title 2 of the United States Code states that each report shall disclose the amount and nature of outstanding debts and obligations owed by a political committee.

Section 104.11 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 extinguished. In addition, a debt, obligation, or written agreement to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time the payment is made or no later than 60 days after such obligation is incurred, whichever comes first. Any 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.

The Audit staff's review of all disbursements determined that MFC did not disclose any of its debts and obligations on Schedules D. Based on available invoices⁴ and related payments, it was determined that outstanding debts and obligations to 12 vendors, totaling \$84,333, were not disclosed on Schedule D as required. These errors occurred in 1998.

MFC representatives were informed of the unreported debt at the exit conference and agreed to amend its reports, as necessary.

The interim audit report recommended that MFC file Schedules D (by reporting period) to disclose the debts and obligations addressed above.

In response to the interim audit report, MFC filed amended Schedules D as recommended.

⁴ As noted in the Scope section above, significant numbers of invoices were not available. Without such records, total reportable debts and obligations can not be accurately determined.

E. 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 all disbursements for the reporting period and calendar year.

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

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 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(13) of Title 2 of the United States Code states the term "identification" means, 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; and, in the case of any other person, the full name and address of such person.

1. Inception through December 31, 1997

The Audit staff's reconciliation of bank activity to reports filed by MFC, indicated that receipts, disbursements and ending cash on hand had been misstated for 1997. MFC did not provide workpapers detailing how its reported amounts were calculated.

MFC reported receipts of \$70,163 for this period. MFC should have reported receipts of \$72,688, resulting in an understatement of \$2,525. The understatement was due to under reporting a loan by \$4,050, over reporting contributions from individuals by \$1,500 and a reconciling difference of \$25.

MFC reported disbursements of \$42,092. The correct amount was \$43,676 resulting in an understatement of \$1,584. The understatement was due to a \$1,500 payment made to an employee not reported and \$84 in bank fees not reported.

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MFC reported a cash on hand balance on December 31, 1997, of \$28,071. The correct cash balance was \$29,013. Therefore, the ending cash on hand balance was understated by \$942. This understatement resulted from the misstatements detailed above.

2. January 1, 1998 through December 31, 1998

MFC reported receipts of \$395,436 in 1998. The correct amount was determined to be \$442,143, resulting in an understatement of \$46,707. MFC receipt records consisted of loose copies of contributor checks, bank deposit receipts and deposit slips that did not itemized the contributions. Therefore contributor checks could not be associated with specific deposits. MFC representatives also indicated receipts may have, in some instances, been reported based on the date of the contributors' check, further complicating any analysis. Given that contribution date was not consistently defined, the amounts by which receipts were misstated could not be accurately calculated by reporting period to assist in locating the cause of the differences. Further, absent MFC workpapers detailing the source of its reported figures, the Audit staff was unable to explain this understatement. It is noted that the largest differences appear to have occurred in the pre and post election reporting periods.

MFC reported total disbursements of \$391,591 for 1998. The Audit staff determined the correct figure to be \$465,155, resulting in an understatement of \$73,564. This misstatement resulted in part from a failure to report three wire transfers totaling \$90,745. In addition, MFC overstated 13 disbursements by a net amount of \$14,978. However, absent documentation demonstrating the derivation of MFC's reported amounts, the remaining difference of \$2,203 could not be identified.

MFC's reported ending cash on hand balance was understated by \$34,899. This understatement resulted from the misstatement of ending cash on hand at December 31, 1997, as well as the misstatement of receipts and disbursements for 1998, as detailed above. The correct ending cash on hand should be \$6,001.

The Audit staff discussed these matters with MFC representatives at the exit conference. These representatives indicated a willingness to amend disclosure reports as required.

The interim audit report recommended that MFC file a comprehensive amended report for calendar year 1998, which included corrected Summary and Detailed Summary Pages, as well as, appropriate Schedules A and Schedules B by report period.

In response to the interim audit report, MFC filed amended Summary and Detailed Summary Pages for 1998, as well as, appropriate Schedules A and Schedules B as recommended.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

A99-14

November 16, 1999

Mr. Joseph McCormick, Treasurer
McCormick For Congress
P.O. Box 824
Albany, GA 31702

Dear Mr. McCormick:

Attached please find the Report of the Audit Division on McCormick for Congress. The Commission approved the report on November 15, 1999.

The Commission approved Final Audit Report will be placed on the public record on November 23, 1999. 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 Philomena Brooks or Alex Boniewicz 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

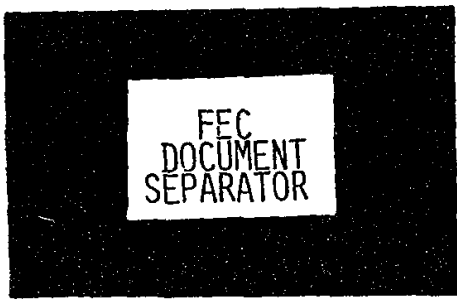
CHRONOLOGY

McCORMICK FOR CONGRESS

Audit Fieldwork	6/21/99-7/1/99
Interim Audit Report to the Committee	9/20/99
Response Received to the Interim Audit Report	10/25/99
Final Audit Report Approved	11/15/99

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