



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON
HOLLINGS FOR PRESIDENT, INC.

I. Background

A. Overview

This report is based on an audit of Hollings for President, Inc. ("the Committee") to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9038(a) of Title 26 of the United States Code which states that "after each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037."

In addition, Section 9039(b) of Title 26 of the United States Code and Section 9038.1(a)(2) of Title 11 of the Code of Federal Regulations states, in relevant part, that the Commission may conduct other examinations and audits from time to time as it deems necessary.

The Committee registered with the Federal Election Commission on January 14, 1983. In addition, disclosure reports were filed covering all activity, including exploratory activity, on April 19, 1983. The Committee maintains its headquarters in Charleston, South Carolina.

The audit covered the period August 17, 1982, through March 31, 1984, the last day covered by the most recent report filed with the Commission at the time of the audit. During the period covered by this report, the Committee reported an opening cash balance of \$-0-, total receipts of \$2,592,139.41, total disbursements of \$2,543,248.43 and a closing cash balance of \$48,890.98. However, it is anticipated that the Committee will continue to receive contributions and make disbursements. In addition, revised statements of Net Outstanding Campaign Obligations will be submitted with each matching fund submission as required by 11 CFR § 9034.5(d). Under 11 CFR § 9038.1(c)(4) additional audit work may be conducted and addenda to this report issued as necessary.

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This report is based upon documents and working papers which support each of the 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 Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the Committee is Mr. Rene Debacker.

C. Scope

The audit included such tests as verification of total reported receipts, disbursements and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; review of contribution and expenditure limitations; and such other audit procedures as deemed necessary under the circumstances.

II. Finding Related to Title 2 of the United States Code

Matter Referred to the Office of General Counsel

A matter noted during the audit was referred to the Office of General Counsel.

III. Finding Related to Title 26 of the United States Code

Determination of Net Outstanding Campaign Obligations

Section 9034.5(a), Title 11, Code of Federal Regulations requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO) which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of the necessary winding down costs within 15 days of the candidate's date of ineligibility.

On March 1, 1984, Senator Ernest Hollings announced that he had withdrawn from the race for the Democratic nomination for President of the United States. Pursuant to Commission regulations at 11 CFR § 9033.5(a), that is the date that Senator Hollings' candidacy terminated for the purpose of incurring qualified campaign expenses.

The Committee filed a NOCO on March 19, 1984 and subsequently filed an updated NOCO detailing the Committee's financial position as of April 14, 1984. Shown below is the Committee's financial position (NOCO) as of April 14, 1984, as determined by the Audit staff and agreed to by the Committee.

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Hollings for President, Inc.
Statement of Net Outstanding Campaign Obligations

April 14, 1984

Assets:

Cash in Banks	\$ 75,885.30	
Accrued Income	24,896.38	
Deposits and Advances	<u>22,266.10</u>	
Total Assets	<u>\$123,047.78</u>	\$123,047.78

Obligations:

Accounts Payable	\$152,232.98	
Winding Down Costs (through 6/1/84)	<u>21,417.14</u>	
Total Obligations	<u>\$173,650.12</u>	<u>\$173,650.12</u>

Net Outstanding Campaign Obligations (Deficit) as of 4/14/84		<u>(\$ 50,602.34)</u>
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Shown below is an adjustment for private contributions received during the period of 4/15/84 to 5/2/84, the most current Committee financial information at the close of fieldwork:

Net Outstanding Campaign Obligations (Deficit) as of 4/14/84		(\$ 50,602.34)
Private Contributions (4/15/84-5/2/84)		18,710.00
Remaining Entitlement as of 5/2/84		<u>(\$ 31,892.34)</u>

Conclusion

The Committee's remaining entitlement pursuant to 11 CFR § 9034.1(b), as of 5/2/84 is \$31,892.34. However, it should be noted that estimates were used in computing the Committee's deficit position as of 4/14/84, the Audit staff will review the Committee's reports and records to compare the actual figures with the estimates and prepare adjustments as necessary.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

February 24, 1986

MEMORANDUM

TO: FRED EILAND
PRESS OFFICER

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

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
HOLLINGS FOR PRESIDENT, INC.

Attached please find a copy of the final audit report for Hollings for President, Inc. which was approved by the Commission on February 19, 1986.

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: FEC Library
Public Record
RAD
Office of General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C. 20463

ADDENDUM TO THE
FINAL REPORT OF THE AUDIT DIVISION
ON THE
HOLLINGS FOR PRESIDENT, INC.

I. Background

A. Overview

On September 10, 1984, the Federal Election Commission ("the Commission") released the final audit report on Hollings for President, Inc. ("the Committee"). That report was based on an audit of the Committee pursuant to 26 U.S.C. § 9038(a). The audit covered the period August 17, 1982 through March 31, 1984.

This addendum is based on follow-up audit fieldwork and a review of Committee filings. The follow-up fieldwork was conducted pursuant to 11 C.F.R. § 9038.1(b)(3) which states that the Commission may conduct additional fieldwork after completion of the fieldwork conducted pursuant to paragraph (b)(1) and (2) of this section.

In addition, 11 C.F.R. § 9038.1(e)(4) states, in part, that addenda to the audit report may be issued from time to time as circumstances warrant and additional information becomes available. Such addenda may be based, in part, on follow-up fieldwork conducted under paragraph (b)(3) of this section.

The follow-up fieldwork covered the period April 1, 1984 through August 30, 1984. In addition, documentation submitted by the Committee as well as reports filed through September 30, 1985 were reviewed.

This addendum is based upon documents and working papers 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 addendum and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the Committee during the period reviewed was Mr. Rene Debacker.

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C. Scope

The fieldwork included an examination of required supporting documentation for receipts and disbursements, analysis of Committee debts and obligations (including winding down costs) and such other procedures as deemed necessary to determine whether the Committee received any matching fund payments in excess of the amount to which it was entitled and whether any amount of any payment made from the matching payment account was used for any purpose other than to defray the qualified campaign expenses of the Committee.

II. Findings and Recommendations

A. Calculation of Repayment Ratio

Section 9038(b)(2) of Title 26 of the United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for purposes other than to defray qualified campaign expenses or to repay loans the proceeds of which were used to defray qualified campaign expenses, it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

The Commission, in a Notice of Proposed Rulemaking published in the Federal Register on June 28, 1984, set forth a pro-rata formula which would base repayments for non-qualified campaign expenses on the proportion of federal funds to total funds received by the candidate. Further, the final version and the Explanation and Justification were published in the Federal Register on August 22, 1984 and transmitted to Congress.

On March 5, 1985 the revised regulations were resubmitted for publication. The proposed regulations were before the Congress for 30 legislative days as of May 20, 1985, and were approved by the Commission for publication in final form on June 11, 1985.

Section 9038.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations, as revised, states that the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds as of the candidate's date of ineligibility.

The formula and its application with respect to the Committee's receipt activity is as follows:

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Total Matching Funds Certified Through Date of Ineligibility (3/1/84)	
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Numerator + Private Contributions Received through 3/1/84	
\$739,131.72	.336665
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\$739,131.72 + \$1,456,321.90	

Thus, the repayment ratio for non-qualified campaign expenses is 33.6665%.

B. Determination of Net Outstanding Campaign Obligations (NOCO)

Section 9034.5(a) of Title 11, Code of Federal Regulations, requires that the candidate submit a Statement of Net Outstanding Campaign Obligations ("NOCO") which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs, within 15 days of the candidate's date of ineligibility.

Further, 11 C.F.R. § 9034.5(d) requires that a candidate submit a revised Statement of Net Outstanding Campaign Obligations with each submission for matching fund payments filed after the candidate's date of ineligibility, reflecting the financial status of the campaign as of the close of business on the last business day preceding the date of submission for matching funds.

Finding III. of the final audit report addressed the Committee's financial position with respect to the Candidate's entitlement to matching funds. The Audit staff verified the Committee's April 14, 1984 NOCO Statement and determined that the Committee had net outstanding campaign obligations of \$50,602.34 on that date.

The Audit staff reviewed the Committee's financial activity through September 30, 1985 and updated the Committee's April 14, 1984 NOCO statement using actual expenses paid in lieu of the estimated winding down costs presented in the final audit report. This NOCO statement as amended appears below.

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HOLLINGS FOR PRESIDENT, INC.
STATEMENT OF NET OUTSTANDING CAMPAIGN OBLIGATIONS
AT APRIL 14, 1984
AS DETERMINED ON SEPTEMBER 30, 1985

Assets

Cash on Hand and In Bank <u>a/</u>	\$ 76,489.85	
Refunds and Rebates Receivable	9,796.30	
		<hr/>
Total Assets		86,286.15

Liabilities

Payables for Qualified Campaign Expenses	125,529.96	
Contribution Refunds Payable	3,110.00	
Fundraising Costs	2,866.34	
Winding Down Costs <u>b/</u>	41,760.15	
		<hr/>
Total Liabilities		173,266.45
Net Outstanding Campaign Obligations		<hr/> <u>86,980.30</u>

a/ Includes 587.24 in stale dated O/S checks

b/ Excludes \$17,638.66 in apparent Convention related expenses
(see Finding III.D. below)

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C. Matching Fund Payments in Excess of Entitlement

Section 9038(b)(1) of Title 26, United States Code, states that if the Commission determines that any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under section 9034, it shall notify the candidate, and the candidate shall pay to the Secretary, an amount equal to the amount of the excess payment.

Further, 11 C.F.R. § 9034.1(b) states that if on the date of ineligibility a candidate has net outstanding campaign obligations, that candidate may continue to receive matching fund payments for matchable contributions received and deposited on or before December 31 of the Presidential Election year provided that, on the date of payment, there are remaining net outstanding campaign obligations.

As noted in III.B. above, it was determined that the Committee's Net Outstanding Campaign Obligations at April 14, 1984 totaled \$86,980.30. Therefore, as of April 14, 1984, that was the Candidate's maximum matching fund entitlement. That maximum entitlement was liquidated as follows:

Maximum Entitlement at 4/14/84	\$ 86,980.30
Less Contributions 4/15 to 4/25/84	(11,010.00)
Less Matching Fund Payment 4/27/84	(24,687.00)
Less Contributions 4/28 to 6/11/84	(33,114.50)
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Remaining Entitlement at 6/11/84	18,168.80
Matching Fund Payment 6/11/84	(27,844.91)
Matching Fund Overpayment	<u>(9,676.11)</u>

As can be seen in the above analysis, the June 11, 1984 matching fund payment includes \$9,676.11 in excess of the Candidate's entitlement.

In its January 22, 1986 response to the interim addendum, the Committee stated that "it has decided to accept the Report's recommendation in order to facilitate the termination of the Committee's activities."

Conclusion

On February 19, 1986, the Commission made an initial determination that \$9,676.11 in matching funds received by the Committee on June 11, 1984 represents matching funds received by the Candidate in excess of his entitlement and, therefore, an

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equal amount must be repaid to the U.S. Treasury within 90 days of receipt of this addendum in accordance with 26 U.S.C. § 9038(b)(1).

If the Candidate does not dispute this determination within 30 calendar days of the receipt of this addendum, the initial determination will be considered final.

D. Use of Funds for Non-Qualified Campaign Expenses

Section 9038(b)(2)(A) of Title 26, United States Code, states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

Section 9034.4(b)(3) of Title 11 of the Code of Federal Regulations states that any expenses incurred after a candidate's date of ineligibility are not qualified campaign expenses except for winding down costs associated with the termination of political activity or costs incurred before the candidate's date of ineligibility for which written arrangement or commitment was made on or before the candidate's date of ineligibility.

The Commission determined that March 1, 1984 was Senator Hollings' date of ineligibility. Beginning in May, 1984 the Committee incurred costs apparently associated with the Senator's and certain staff members' attendance at the Democratic National Convention in San Francisco. These disbursements were not in connection with the candidate's campaign for nomination, do not appear to have been made as a result of a written commitment made on or before the candidate's date of ineligibility and are not for the termination of political activity.

Apparent Convention related expenses paid prior to the disposition of the June 11, 1984 final matching fund payment, ^{1/} totaled \$17,612.41. These disbursements were primarily for deposits on rooms at the convention and for airline tickets.

^{1/} As noted in Finding C above, the Committee was entitled to a payment of \$18,168.80 on June 11, 1984. On a last-in, first-out (LIFO) basis, that amount was expended by June 22, 1984. Additional Convention expenses were paid after June 22, 1984 but these are presumed to have been paid with non-federal funds.

In its response to the interim addendum, the Committee stated that "...it has decided to accept the Report's recommendation in order to facilitate the termination of the Committee's activities."

Conclusion

On February 19, 1986, the Commission made an initial determination that \$17,612.41 in convention related disbursement made after the Candidate's date of ineligibility but prior to the Committee's disposition of its final matching fund payment, are non-qualified campaign expenses and that a pro rata portion, \$5,929.48, ($\$17,612.41 \times 33.6655\%$ (see II.A. above)) must be repaid to the U.S. Treasury within 90 calendar days of receipt of this addendum in accordance with 11 C.F.R. § 9038.2(d).

If the Candidate does not dispute this determination within 30 calendar days of the receipt of this addendum, the initial determination will be considered final.

E. Repayment Summary

Matching Funds Received in Excess of Entitlement (26 U.S.C. § 9038(b)(1))	\$ 9,676.11
Disbursements for Non-Qualified Campaign Expenses (26 U.S.C. § 9038(b)(2))	<u>5,929.48</u>
Total	<u>\$15,605.59</u>

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