



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 1985

MEMORANDUM

TO: FRED EILAND
PRESS OFFICER

FROM: ROBERT J. COSTA *RJC*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
JOHN GLENN PRESIDENTIAL COMMITTEE, INC.

Attached please find a copy of the final audit report of the John Glenn Presidential Committee, Inc. which was approved by the Commission on August 14, 1985.

Informational copies of the report have been received by all parties involved and the audit report may be released to the public.

Attachment as stated

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON THE
JOHN GLENN PRESIDENTIAL COMMITTEE INC.

I. Background

A. Overview

This report is based on an audit of the John Glenn Presidential Committee 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") and the Presidential Primary Matching Payment Account Act. The audit was conducted pursuant to 26 U.S.C. § 9038(a) 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, 26 U.S.C. § 9039(b) and 11 C.F.R. § 9038.1 (a) (2) state, 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 13, 1983 as the principal campaign committee of Senator John Glenn.^{1/} In addition, the Committee conducted activities of an exploratory nature commencing October 1, 1982. The related receipts and disbursements were included in the first report filed after registration. The Committee maintains its headquarters in Washington, D.C.

The audit covered the period October 1, 1982, through April 30, 1984, the final coverage date of the most recent report filed with the Commission at the time of the audit. In addition, certain activity was reviewed through June 29, 1984 for the

^{1/} On October 9, 1984, the Candidate authorized The Democratic Unity Committee, a joint fundraising committee. However, the Audit staff was informed that this committee had no receipts or disbursements during the period of audit.

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Statement of Net Outstanding Campaign Obligations and through August 31, 1984 for allocation to State limitations. The Committee reported an opening cash balance of \$-0-, total receipts of \$13,365,239.41, total disbursements of \$12,982,821.96, and a closing cash balance of \$383,575.99.^{2/}

The Committee has continued to receive contributions and make disbursements. In addition, revised statements of Net Outstanding Campaign Obligations have been submitted with each matching fund submission as required by 11 C.F.R. § 9034.5(d). Under 11 C.F.R. § 9038.1(b)(3) and (e)(4) additional fieldwork will be conducted and addenda to this report issued as necessary.

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 Treasurers of the Committee during the period audited were:

Mr. Robert A. Farmer	Inception - 4/19/84
Mr. William R. White	4/19/84 - Present

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. Findings and Recommendations Related to Title 2 of the United States Code

Matters Referred to the Office of General Counsel

Certain matters noted during the audit were referred to the Office of General Counsel for further action.

^{2/} The totals do not foot due to math discrepancies.

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III. Findings and Recommendations Related to Title 26
of the United States Code

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 an 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 was 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:

Total Matching Funds Certified Through Date of Ineligibility (3/16/84)	-
<hr/> Numerator + Private Contributions Received through 3/16/84	
 \$2,797,848.40	- .302288
<hr/> \$2,797,848.40 + \$6,457,736.61	

Thus, the repayment ratio for non-qualified campaign expenses is 30.2288%.

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B. Use of Funds for Non-Qualified Campaign Expenses-
Allocation of Disbursements to States

Section 9038.2(b)(2)(i)(A) of Title 11 of the Code of Federal Regulations provides, in part, that the Commission may determine that amount(s) of any payments made to a candidate from the matching payment account, or contributions received by the candidate, were used for purposes other than qualified campaign expenses. Further, 11 C.F.R. § 9038.2(b)(2)(ii)(A) provides, in part, that an example of a Commission repayment determination under paragraph (b)(2) of this section includes determinations that a candidate, a candidate's authorized committee(s), or agents have made expenditures in excess of the limitations set forth in 11 C.F.R. § 9035.

Section 9035(a) of Title 26 of the United States Code states, in part, that no candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441a(b)(1)(A) of Title 2.

Sections 441a(b)(1)(A) and 441a(c) of Title 2 of the United States Code provide, in part, that no candidate for the office of President of the United States who is eligible under Section 9033 of Title 26 to receive payments from the Secretary of the Treasury may make expenditures in any one State aggregating in excess of the greater of 16 cents multiplied by the voting age population of the State, or \$200,000, as adjusted by the changes in the Consumer Price Index.

Section 106.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid.

The Committee maintains its accounting system on an accrual, rather than a cash, basis. The system includes an automated general ledger and accounts payable system which are divided by cost centers representing the various national headquarters departments. The cost centers are subdivided by accounts which describe the nature of the expenses. Further, a cost center and the associated sub-accounts are maintained for each State. Certain of the general ledger accounts are defined by the Committee as subject to a 10% exemption from overall and state limitations for both fundraising and for compliance.

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Since the Reports of Receipts and Disbursements must be prepared on a cash basis, the expenses recorded in the accounts payable system are subtracted from the expenses contained on the general ledger to arrive at reportable expenditures. Therefore, (unpaid) expenses which are recognized as allocable to States in the Committee's general ledger are not disclosed on FEC Report Form 3P, page 3 until the debts are paid.

The Audit staff's review of FEC Form 3P, Page 3 filed for the period ending August 31, 1984 revealed that the Committee allocated expenditures totaling \$703,124.62 to the Iowa limitation of \$684,537.50 and allocated \$468,841.70 to the New Hampshire limitation of \$404,000. As a result of statistical sampling and other review procedures performed during the fieldwork and the analysis of the Committee response to the interim audit report, the Audit staff noted the areas discussed at sections 1. through 3. below requiring adjustments to the above totals.

The amounts shown below as adjustments to Committee's allocations represent only amounts paid as of August 31, 1984. In addition, accounts payable relating to Iowa and New Hampshire totaling \$77,281.72 and \$40,516.94, respectively, were identified. The interim report noted that absent a showing that the limitation had not been exceeded, the Audit staff intended to recommend that a repayment be calculated based on both amounts paid and payable.

In the February 19, 1985 response to the interim audit report, the Committee stated that it:

"challenges the inclusion of debts incurred but unpaid as non-qualified campaign expenses, for which the Committee must repay a pro rata portion to the government. Although section 9035 of Title 26 of the United States Code imposes a limitation on expenditures incurred in excess of the state expenditure limitation, section 9038.2(b)(2) imposes a repayment obligation only where matching payments are used for purposes other than those set forth in that section. (Emphasis added). As pointed out in the Audit Report, an example of a Commission repayment determination under that section includes determination that a candidate's authorized committee has made expenditures in excess of the limitations set forth in 11 C.F.R. Section 9035. Therefore, the Committee

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believes that if any of the debt and obligations exceed the state expenditure limitations, a pro rata portion should be repaid to the government only when the Committee actually uses matching funds to pay these debts."

The Commission has considered the Committee's argument and concluded that only those amounts in excess of the limitations which have been paid will be subject to repayment. However, it should be noted that any amount which relates to either Iowa or New Hampshire and was paid between September 1, 1984 and the disbursement of the Committee's final matching fund payment will require an additional repayment determination. (The Committee's final Matching Fund Payment was certified by the Commission on March 20, 1985).

Copies of the Audit staff's working papers detailing the findings in Sections 2-3 were presented to the Committee prior to the exit conference with Committee officials. Workpapers containing the Audit staff's analysis of the adjustments in Section 1 were presented to the Committee when the work was completed.

1. Procedural Error in the Committee Allocation Calculations

In the February 19, 1985 response to the interim audit report, the Committee indicated that while reviewing its accounting records to prepare its response to one of the adjustments to State allocations recommended in the interim report, a procedural error in the Committee's original allocation calculations was discovered.

The Committee's method for determining amounts allocable to the state expenditure limitations was as follows:

For each report, a worksheet was prepared to calculate expenditures subject to the state limitation. The process began with a cumulative general ledger amount for expenses coded to each state from the automated general ledger. From this figure, accounts payable were subtracted to convert from an accrual to a cash basis figure. Then, fundraising and compliance deductions for state office overhead and for salaries related to the states were manually calculated, posted to the worksheet, and subtracted, resulting in an election-to-date allocation to the State. To determine the charge for the reporting period, the election-to-date allocation total from the preceding report was subtracted.

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The procedural error resulted from the Committee's failure to post the manually calculated compliance and fundraising deductions to the automated general ledger. Since the starting point for a given report's state allocation calculations was an unadjusted cumulative general ledger figure, the deductions for compliance and fundraising calculated for all previous reports were negated. Therefore, the allocation of expenditures to states was consistently overstated by the amount of these unrecorded exemptions.

Since the interim audit report had used the August 31, 1984 reported allocations as the starting point for the calculation of an audited amount allocable to Iowa and New Hampshire (\$703,124.62 and \$468,841.70, respectively), the Committee response contained a reduction to the August 31, 1984 reported figure. The amount of the reductions calculated by the Committee was \$116,641.88 for Iowa and \$84,893.87 for New Hampshire, leaving \$586,482.74 allocated to Iowa and \$383,947.84 to New Hampshire.

However, the Committee's calculations contained a number of errors. The Committee did not use the most recent revision to the general ledger in all cases and accounts payable at December 31, 1983 were not treated properly. In addition, the Committee's general ledger generates two summary totals each month providing different information. The Committee did not consistently use the same total. Adjustments were made to correct this inconsistency and to include all appropriate amounts at August 31, 1984. ^{3/}

Considering this information, the Audit staff determined that, prior to the application of the adjustments described below, the FEC Form 3P, Page 3 filed for the period ending August 31, 1984 should have contained expenditures allocated to Iowa and New Hampshire totaling \$595,240.69 and \$394,593.05, respectively. Therefore, appropriate adjustments were made to the recap of allocable expenditures on page 25 of this report.

2. Specific Allocation Methods

Section 106.2(b)(2) of Title 11 of the Code of Federal Regulations states that expenditures that fall within the categories listed below shall be allocated based on the following methods. The method used to allocate a category of expenditures shall be based on consistent data for each State to which an allocation is made.

^{3/} Includes the August 31, 1984 balance in the asset accounts "Refundable Deposits", "Furniture and Fixtures", and "Office Equipment" contained in the General Ledger's Iowa and New Hampshire cost centers.

a. Media Expenditures

Section 106.2(b)(2)(i)(B) of Title 11 of the Code of Federal Regulations requires that expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, including any commission charged for the purchase of broadcast media, shall be made using industry market data.

The Committee retained the services of a media firm located in New York. The allocation of radio and television broadcasts was based upon total household estimates contained in A. C. Nielsen Company's U.S. Television Household Estimates. The Audit staff analyzed the firm's media time charge allocations and determined that the amounts allocable to Iowa and New Hampshire were reasonable. However, the Audit staff noted that the Committee overstated media expenditures subject to Iowa allocation by \$24,758.13 and understated media expenditures subject to New Hampshire allocation by \$24,193.19. These misstatements resulted from the Committee's use of the media firm's preliminary allocations and its failure to make appropriate corrections when final figures were received.

In the February 19, 1985 response to the interim audit report, the Committee agreed that it did overstate media expenditures allocable to Iowa, but disagreed that it understated media expenditures allocable to New Hampshire by \$24,193.19.

The Committee stated that:

"The Audit staff allocated 100% of the media costs incurred for advertisements shown on WMUR-TV, Manchester, New Hampshire to New Hampshire. The Nielson ratings which were used by Sawyer to allocate other expenditures to states should be used for the WMUR-TV expenditures as well. The Nielson ratings show that 14.6 percent of the New Hampshire audience is reached by Boston/Manchester stations. Therefore, only \$5,102.02 should be allocated to New Hampshire."

First, it is noted that the Audit staff did not allocate the media costs. Rather, as noted above and in the interim audit report, the Audit staff analyzed the time charge allocations determined by the media firm retained by the Committee. Secondly, with the consent of the Committee, the Audit staff discussed the allocation of WMUR-TV with a representative of the media firm. The representative informed the Audit staff that due to the limited range of WMUR-TV, the broadcasts should be totally allocated to New Hampshire.

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However, in light of the argument presented in the Committee's response, the Audit staff contacted the A.C. Neilson Company in order to determine how WMUR should be allocated. It was learned that for some purposes Manchester, New Hampshire is considered a separate market with separate market data. However, it is included in the Boston, Manchester Designated Market Area in the U.S. Television Household Estimates used by the Committee for allocation purposes. Therefore, the amount by which the New Hampshire media allocation was understated has been reduced from the \$24,193.19 contained in the interim audit report to \$5,102.02, or a reduction of \$19,091.17 (Total WMUR Media Buys - [Total WMUR media buys x New Hampshire percentage] or \$22,355.00 - [\$22,355.00 x 14.6%] = \$19,091.17).

b. Salaries, Employer FICA, and Consultant Fees

Section 106.2(b)(2)(ii) of Title 11 of the Code of Federal Regulations requires that except for expenditures exempted under paragraph (c) of this section (relating to compliance costs and fundraising expenditures), salaries paid to persons working in a particular State for five consecutive days or more, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that State during a payroll period.

The Audit staff's review revealed persons incurring expenditures in one State for five or more consecutive days. Their names were traced to payroll records to determine whether the salaries, employer FICA, or consultant fees had been allocated to the State in which the expenditures were incurred.

Based upon this review, the Audit staff determined that additional amounts had been paid for salaries, employer FICA, and consultant fees totaling \$8,881.80 that should be allocated to Iowa and \$1,231.27 to New Hampshire. (These amounts are net of the 10% exclusion for exempt fundraising and compliance.) It appeared that for the most part these persons were assigned to the national headquarters, but were temporarily working within Iowa and New Hampshire.

In the February 19, 1985 response to the interim audit report, the Committee expressed its disagreement with the finding because, "approximately \$3,000 of salary paid to Jerry Vento was allocated to Iowa after he was named National Campaign Manager and returned to Washington." Further, the Committee disagreed with the Audit staff's allocations because they're based on the assumption that "if an advance staff member reserved hotel rooms or executed automobile leases for five or

more days in a state the particular person was actually working in that state for five or more days. That assumption is incorrect because it was common practice for staff members to base themselves in one state and work from there in other states."

With regard to Jerry Vento, the Audit staff reviewed the documentation and determined that the salary allocation should be reduced by \$2,486.64. This represents Mr. Vento's salary for the period less exemptions for compliance and fundraising which had been allowed. Therefore, a reduction of \$2,486.64 has been made in the amount shown on page 25.

With regard to the other allocations, documentary evidence indicated that the person was in the State to which the allocation adjustments were made for five or more days. Absent further demonstration that the persons were not where the documentation indicates, the adjustment to the totals will remain unchanged.

c. Intra-State Travel and Subsistence Expenditures

Section 106.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states that travel and subsistence expenditures for persons working in a State for five consecutive days or more shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intra-state travel and subsistence expenditures of the candidate and his family or the candidate's representatives.

The Audit staff's review of supporting documentation revealed that expenditures for subsistence and intra-state travel had been incurred by persons ordinarily assigned to the Committee's national headquarters, but who were temporarily assigned within Iowa or New Hampshire for 5 or more consecutive days. This review revealed that, in several instances, the expenditures incurred in Iowa and New Hampshire by these persons were applied to national operations and not allocated to these States.

Based upon the review, the Audit staff determined that additional intra-state travel and subsistence payments totaling \$1,081.71 should be allocated to Iowa and \$32,951.95 to New Hampshire.

The Committee's position presented in response to this finding and the Audit staff's comments regarding that position are the same as those discussed in Finding III.B.2.b. above. No adjustments to the allocations presented above have been made.

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d. Compliance Costs and Fundraising Expenditures

Section 106.2(b)(2)(iv) of Title 11 of the Code of Federal Regulations requires that, except for expenditures exempted under paragraph (c) of this section (relating to national campaign salaries and overhead), overhead expenditures of offices located in a particular State shall be allocated to that State. For purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges.

Section 106.2(c)(5) of Title 11 of the Code of Federal Regulations provides, in part, that an amount equal to 10% of overhead expenditures in a particular State may be excluded from allocation to that State as an exempt compliance cost and an additional amount equal to 10% of overhead expenditures may be excluded as exempt fundraising expenditures, but this latter exemption shall not apply within 28 calendar days of the primary election.

The Audit staff determined that it was the Committee's practice to apply compliance and fundraising exemptions to certain categories of expenditures that were classified as overhead expenditures, as well as to some non-overhead items. The documentation associated with these expenditures was reviewed to determine whether: (1) certain of these categories were properly classified as overhead and (2) the non-overhead items could reasonably be allocated using the overhead percentages. This review revealed the following:

(i) Media

Media time totaling \$37,405.54 was excluded from the Iowa limitation and \$28,403.74 from the New Hampshire limitation. One half of each of these amounts was applied to exempt compliance and the remainder to exempt fundraising, reducing expenditures subject to the respective State's limitation accordingly.

In support of this practice, the Committee presented a memorandum from an accounting firm dated June 5, 1984, which contained the rationale for including certain costs in the overhead pool.

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stated:

"The media advertisements that the campaign ran were compliance, fundraising and political in nature. They were compliance related in that they contained a contribution limitation message, and they were fundraising related in that they advised where contributions could be sent. The political nature of the media advertisements is obvious. These costs were allocated to the various cost centers by means of the overhead pool to avoid a judgmental allocation that would be difficult to support and justify."

(ii) Polling

Employing the practice noted in (i) above, the Committee excluded \$2,333.68 from the Iowa limitation and \$8,432.02 from the New Hampshire limitation. The memorandum from the accounting firm mentioned in (i) above stated:

"The polling costs that the Committee incurred were compliance, fundraising and political in nature. They were compliance related in that a portion of the pollsters' charge was related to the level of detail they were required to disclose to the Committee to support the state allocations required for reporting to the Federal Election Commission. Polling costs were of a fundraising nature in that the result (sic) of polling were used to shape issues, speeches, etc., which, in turn, provided a benefit to the fundraising effort. Again, these costs were allocated to the various cost centers by means of the overhead pool to avoid a judgmental allocation that would be difficult to support and justify."

The interim audit report, approved by the Commission January 15, 1985, stated that the Audit staff does not feel that the rationale stated in the memorandum merits the exclusion of the above noted expenditures from State allocation. Although the accounting firm did not specifically identify these expenditures as overhead, the memorandum indicated that the purpose of allocating by means of the overhead pool was to avoid a judgmental allocation difficult to support and justify; however, these costs by their very nature are not overhead and should not be treated as such. To apply a 20% exclusion across

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the board for these expenditures, with no support other than that it would be difficult to support and justify a judgemental allocation, is not a reasonable basis for excluding any portion of such costs from State limitations.

The interim audit report also noted that the provisions of Title 11 of the Code of Federal Regulations other than 11 C.F.R. § 106.2(c)(1) and (2) (concerning national advertising, nationwide polls, and media production costs) are completely silent with respect to exempting any percentage of media and polling from allocation. However, the Audit staff does recognize that it is possible that a certain percentage of such expenditures could be applicable to fundraising and compliance. The Audit staff recommended that in order to exempt any portion from State limitations, the Committee should perform an in-depth analysis of all media and polling expenditures allocable to Iowa and New Hampshire, and prepare detailed records supporting the percentage exempt from these State allocations. This analysis should entail a review of each advertisement placed and each poll conducted to determine what percentage of the content was fundraising and/or compliance in nature. Further, the Committee must consider the 28 day rule on fundraising as referenced at 11 C.F.R. § 106.2(c)(5) in the analysis. Finally, copies of the working papers supporting the analysis should be presented to the Audit Division for review within 30 days of receipt of the interim report.

In the February 19, 1985 response to the media portion of this finding the Committee stated:

"In light of the fact that the regulations allow a 20% allocation of overhead expenditures for fundraising and compliance costs due to the commonly and officially recognized difficulty of allocating such expenditures with any degree of precision, the Committee believes that a 20% exclusion (10% for fundraising and 10% for compliance) for media costs is a reasonable percentage that should be allowed without requiring further supporting documentation."

As explained above, the Audit staff disagrees that these non-overhead expenditures can be allocated using the percentages provided for overhead in 11 C.F.R. § 106.2(c)(5) simply because of the difficulty in determining any other reasonable method. This conclusion is further buttressed by the specific guidance on the allocation of media in 11 C.F.R. § 106.2(b)(2)(i).

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However, the Committee did provide specific information concerning an October 1983, 30 minute broadcast in Iowa. The response stated that in the opinion of their media firm "that advertisement was produced and aired exclusively for fundraising purposes." In support of this statement, the Committee notes a more than 300% increase in contributions from Iowa, when comparing activity in the period August 12 to October 12, 1983 with October 13 to December 13, 1983. However, the Audit staff believes such a comparison is affected by factors in addition to a single television broadcast, including proximity to the caucus date and overall increases in campaign fundraising efforts.

The Committee also submitted the following description of the broadcast provided by their media firm:

"Five times during the program the following appears on the screen:

Join the Glenn Campaign
1-800-237-1984

At the end of the show the following appears:

Join the Glenn Campaign
1-800-237-1984

or write

John Glenn
507 10th Street
Suite 510
Des Moines, Iowa 50309

Paid for and authorized by the John Glenn
Presidential Committee, Inc.
Robert A. Farmer, Treasurer.

The following voice over is heard:

'John Glenn is taking his campaign to the people and he needs your help. Your organizational help, your financial help and he needs it now. Please call 1-800-237-1984, that's (number) or write (address). You can help America believe in the future again. Become a part of the Glenn Campaign. Call (number) that's (number). Join the John Glenn Campaign today. Call (number) That's (number).'

Based on a review of this material, it appears that the broadcast was for both fundraising and organizational purposes. Therefore, a reduction in the amount of media cost attributed to the Iowa expenditure limitation has been made. The amount is \$9,281.10 or 50% of the portion of the cost originally charged to the Iowa limitation.^{4/}

With regard to the polling portion of this finding, the Committee's February 19, 1985 response commented "for the reasons stated above regarding the difficulty, if not impossibility, of quantifying such costs for media expenditures and overhead costs, the Committee believes that a 20% exclusion is a reasonable amount that should be allowed without further supporting documentation."

The Audit staff notes that, synonymous with the comments noted above, there also is no provision which routinely permits a 20% exclusion of polling costs for exempt fundraising and compliance purposes. Moreover, 11 C.F.R. § 106.2(b)(2)(vi) prescribes a specific method of allocating public opinion polling. Therefore, the amounts requiring allocation remain unchanged.

(iii) Telephone

The interim audit report contained the Audit staff's comments that the Committee originally applied the full amounts of expenditures for total telephone service, including interstate service related to Iowa and New Hampshire, to the Iowa and New Hampshire limitations. The Committee also applied to these limitations reimbursements to persons for the use of personal and coin-operated telephones and certain expenditures to non-telephone company vendors in conjunction with major mail and telephone programs.

Twenty percent of these expenditures associated with Iowa and 20% associated with New Hampshire were excluded from the respective State limitations based upon the interpretation of the provisions concerning exempt compliance and fundraising.

^{4/} The cost of the broadcast was \$33,275.59. According to the estimates contained in the A. C. Nielson Company's U.S. TV Household Estimates, \$18,562.20 is allocable to Iowa. Fifty percent of that amount is \$9,281.10.

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After realizing that only base charges and long distance telephone calls within a State (rather than gross charges) required allocation to States, the Committee analyzed invoices associated with telephone companies in Iowa and New Hampshire and reallocated the expenditures. However, the Committee failed to adjust the corresponding amounts charged to exempt categories. The Committee's analysis and reallocation did not encompass the reimbursements to persons for telephone calls or expenditures to non-telephone vendors in conjunction with the major mail and telephone programs.

In view of this situation, the Audit staff analyzed expenditures for telephone service focusing on base charges and determined that an additional amount totaling \$12,848.68 is allocable to Iowa and \$7,655.31 to New Hampshire.

In the February 19, 1985 response, the Committee stated that it has been unable to complete its analysis of the proposed adjustments to telephone expenditures because of limited time and resources, and that relevant factual materials will be submitted when it becomes available.

Since the Committee has not submitted any material to demonstrate that this adjustment should not be applied to State limitations, the dollar amount of the adjustment remains unchanged.

(iv) Fundraising Expenditures - 28 Day Rule

In addition to the expenditures addressed above, the Audit staff reviewed other expenditures included in the overhead pool for which the Committee excluded 10% of the dollar amount from the Iowa and New Hampshire limitations and applied the resulting amount to exempt fundraising. The purpose of the review was to determine whether any expenditures incurred within 28 days of the Iowa and New Hampshire primaries had been improperly excluded from State limitations.

Based upon this review, the Audit staff determined that an additional amount totaling \$5,635.11 should be allocated to Iowa and \$4,448.62 to New Hampshire.

In the February 19, 1985 response the Committee stated that also due to limited time and resources it has been unable to complete its analysis of the proposed adjustments to the exempt overhead fundraising costs, and that relevant factual material will be submitted when it becomes available.

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Since the Committee has not submitted any material to demonstrate that this adjustment should not be applied to State limitations, the total dollar amount of this adjustment remains unchanged.

e. Public Opinion Polling Expenditures

Section 106.2(b)(2)(vi) of Title 11 of the Code of Federal Regulations states that expenditures incurred for the taking of a public opinion poll covering only one State shall be allocated to that State. Except for expenditures incurred in conducting a nationwide poll, expenditures incurred for the taking of a public opinion poll covering two or more States shall be allocated to those States, based on the number of people interviewed in each State.

Section 106.2(c)(1)(iii) of Title 11 of the Code of Federal Regulations states that expenditures incurred for the taking of a public opinion poll which is conducted on a nationwide basis need not be allocated to any State.

The Committee engaged a Maryland vendor who conducted public opinion polls. Several documents from the vendor contained statements that certain of these polls were national surveys. However, these same documents listed a limited number of States or counties in which the surveys were conducted, thereby indicating that the polls were not conducted on a nationwide basis. Further, in several instances, the documentation did not list the number of people interviewed in each State, thus the Committee did not allocate these particular surveys based upon the number of people interviewed in each State.

The following are specific instances in which payments for non-nationwide polls, relating exclusively, or in part, to Iowa and New Hampshire were either not allocated or were misallocated with respect to the Iowa and New Hampshire limitations:

- Invoice #2-0002 dated July 28, 1983 contained a statement that the poll was a "National Survey" although the invoice listed Iowa, New Hampshire, Alabama, and "Midwest Counties" as the areas in which the survey was conducted. The invoice listed the total fee for the survey (\$40,150) and the total number of people (1,318). An insertion made on the invoice indicated that the survey was conducted in six States. Therefore, the Committee allocated one-sixth (\$6,691.66) to Iowa and one-sixth to New Hampshire.

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On October 24, 1984, the Committee presented a memorandum to the Audit Division which contained a listing of the number of interviewees in each of the six States. It appears that the memorandum was prepared by the Committee after obtaining the information orally from the polling firm.

Based upon the number of people interviewed in Iowa and New Hampshire, as listed in the memorandum, the Audit staff has identified additional polling expenses allocable to Iowa totaling \$2,447.19 [$\$40,150 \times (300/1318)$] - [$\$40,150 \times (1/6)$] and to New Hampshire totaling \$2,599.50 [$\$40,150 \times (305/1318)$] - [$\$40,150 \times (1/6)$].

- Invoice #2-0005 dated December 13, 1983 also contained a statement that the poll was a "National Survey" although the invoice listed Iowa, New Hampshire, Georgia, Alabama and Florida as the States in which the survey was conducted. The invoice listed one total fee for the survey and one total for the number of people interviewed. Therefore, the Committee allocated one-fifth (\$11,668.40) to Iowa and one-fifth to New Hampshire.

The Committee's memorandum noted above contained a listing of the number of interviewees in each of the five States.

Based upon the number of people interviewed in Iowa and New Hampshire as listed in the memorandum, the Audit staff has determined that the Committee overallocated these polling expenses to Iowa in the amount of \$2,368.94 [$\$62,370 \times (307/2059)$] - [$\$58,342 \times (1/5)$] ^{5/} and to New Hampshire in the amount of \$1,036.12 [$\$62,370 \times (351/2059)$] - [$\$58,342 \times (1/5)$].

- Invoice #2-0006 for \$5,000 dated December 13, 1983 for a survey conducted in four States contained the number of interviewees in each State as follows:

New Hampshire	150
Florida	100
Alabama	75
Georgia	<u>75</u>
Total	<u>400</u>

5/ The Committee failed to allocate a portion of this invoice totaling \$4,028.00.

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The Committee did not allocate any portion of this survey to New Hampshire, although the regulations require that \$1,875 [$\$5,000 \times (150/400)$] be allocated to New Hampshire.

- Invoice #2-00010 dated March 12, 1984 totaling \$36,957.50 contained a statement that the service performed was "For National Research, Inc." The invoice also contained a statement that the fee was for "New Hampshire Voter ID and GOTV (February 6 - February 28, 1984)".

The Committee did not allocate any of the amount to New Hampshire.

- Invoice #2-0008 dated February 20, 1984 contained expenditures allocable to New Hampshire totaling \$13,450 for opinion surveys dated February 12, 19, and 21, 1984. This amount has not been allocated to New Hampshire.

- Invoice #2-0009 dated March 12, 1984 contained expenditures allocable to New Hampshire totaling \$11,020 for opinion surveys dated February 22, 24, and 26, 1984. The Committee has paid \$5,438.68 of this amount. This amount also has not been allocated to New Hampshire.

<u>Maryland Vendor Recap</u>	<u>New Hampshire</u>
Invoice #2-0002	\$ 2,599.50
Invoice #2-0005	(1,036.12)
Invoice #2-0006	1,875.00
Invoice #2-00010	36,957.50
Invoice #2-0008	13,450.00
Invoice #2-0009	<u>5,438.68</u>
Total	<u>\$59,284.56</u>

Based upon the review of the above noted invoices, and the memorandum received October 24, 1984, the Audit staff has determined that the Committee underallocated polling expenses to Iowa totaling \$78.25 (Invoice 2-0002 \$2,447.19 - Invoice 2-0005 \$2,368.94) and underallocated polling expenses to New Hampshire totaling \$59,284.56.

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A New York vendor provided what it termed "Focus Group Surveys" totaling \$20,553.62 to evaluate media placed in Iowa, New Hampshire and Massachusetts. The original documentation supporting these expenditures was deficient for determining the amount required to be allocated to each State in that it did not contain either the number of people interviewed or the dollar amount incurred in each State. The Committee applied the total amount (\$20,553.62) to national headquarters expenditures, and did not allocate any portion of the amount to Iowa or New Hampshire.^{6/} The Committee has paid \$10,000 of this amount.

On October 24, 1984, the Committee presented additional documentation to the Audit Division from the vendor. This documentation contained the number of "Respondents Interviewed by State".

Since the documentation showed that one fourth of the interviewees were in Iowa and one half were in New Hampshire, the Committee should have allocated \$5,138.41 [$\$20,553.62 \times (20/80)$] to Iowa and \$10,276.81 [$\$20,553.62 \times (40/80)$] to New Hampshire. The \$10,000 partial payment noted above has been applied using these allocation ratios.

The interim audit report contained the Audit staff's recommendation that the Committee should obtain documentation from the vendor to support the information contained in the memorandum presented to the Audit Division regarding invoices #2-0002 and #2-0005 and present copies of this documentation to the Audit Division within 30 days of receipt of the interim report.

In the February 19, 1985 response, the Committee presented the vendor documentation supporting the information contained in their October 24, 1984 memorandum. The Committee also expressed its disagreement with the Audit staff's finding with respect to polls referenced on invoices #2-0002, #2-0005, #2-0006 and the "Focus Group Surveys".

The Committee argues that "those polls are nationwide polls (and so viewed by the polling organization), the costs of which are not allocated to any State under 11 C.F.R. § 106.2(c)(1)(iii). Each poll questioned persons in the several states and areas covered (with the exception of Florida in the poll referenced on invoice number 2-0005) at the same time using the same question. The purpose of those polls was to arrive at a national consensus of early decision makers for planning the national campaign."

^{6/} Notwithstanding the amounts of the above noted public opinion polls either not allocated or mis-allocated, the Committee deducted 20% of the amount that was allocated to Iowa and New Hampshire from these respective State limitations as exempt compliance and fundraising. See Finding III.B.2.d.

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The regulatory provisions noted above state that polls covering two or more States are to be allocated to those States based on the number of people interviewed in each state, while polls conducted on a nationwide basis need not be allocated to any State. Given that these polls were all conducted in 6 or fewer States, two of the three were originally allocated by the Committee in some fashion, and that in each case the polls covered one or more early primary States, no adjustment in the interim report allocations have been made for Invoices 2-0002, 0005, and 0006. Further, no adjustment to amounts allocated for the "Focus Group Surveys" has been made.

The Committee also expressed its disagreement that costs incurred for services performed by National Research, Inc. referenced on invoice number 2-00010 are allocable to New Hampshire. The Committee contends that since those costs were incurred for a phone bank that was set up in Maryland, those costs are not allocable to any State under 11 C.F.R. § 106.2(c)(1)(iii).^{2/}

As noted above, 11 C.F.R. § 106.2(a)(1) states that expenditures incurred by a candidate's authorized committee for the purpose of influencing the nomination of the candidate with respect to a particular State shall be allocated to that State, and that an expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid. In addition, 11 C.F.R. § 106.2(b)(2)(v)(B) states that expenditures for telephone calls between two States need not be allocated to any State.

The Committee appears to be arguing that since the vendor who was paid to provide the New Hampshire voter identification and get-out-the-vote surveys was in Maryland, the interstate telephone exemption should apply to the vendor's telephone expenses. The interstate telephone call exemption applies to expenditures made for telephone calls between two States. This language indicates that the exemption applies to Committee telephone service, in that the expenditures are made by the Committee for telephone calls. In this case, the vendor incurred expenses for telephone service and, presumably, other operating expenses, while providing service to a client. The

^{2/} It is assumed that the Committee intended to cite 11 C.F.R. § 106.2(b)(2)(v) (the interstate telephone service exemption) rather than 11 C.F.R. § 106.2(c)(1)(iii) (the nationwide polling exclusion). This assumption is made given the nature of the charges and the arguments contained in the response. Should this assumption be incorrect, it should be noted that 11 C.F.R. § 106.2(c)(1)(iii) excludes nationwide polls from allocation. This survey was conducted in only one state and is allocable under 11 C.F.R. § 106.2(b)(2)(vi). Therefore, 11 C.F.R. § 106.2(c)(1)(iii) is not applicable.

Committee, on the other hand, made an expenditure for voter identification and get-out-the-vote surveys, not for telephone calls. Therefore, since the location of the vendor is not relevant to the allocation of an expenditure to influence the candidate's nomination in a particular state, and since the exemption for interstate telephone calls does not apply to the vendor's expenses, no adjustment to the allocation in the interim audit report has been made.

The remaining invoices 2-0008 and 2-0009 were not addressed in the Committee's response.

3. Other Expenditures Requiring Allocation

a. Telephone and Mail Programs

The Audit staff's review of documentation supporting expenditures in Iowa and New Hampshire revealed that the Committee engaged the services of two Washington, D.C. area vendors who conducted telephone and mail programs in Iowa and New Hampshire as follows:

Iowa

According to available documentation the Committee engaged one of the vendors to provide printing and telephone banks related to Iowa totaling \$140,000. The documentation from this firm contained notations that the billings were for time fees and other charges. Other documentation on file contained notations that the services were for an Iowa phone and mail program. The \$140,000 was paid in four installments. The first payment was \$20,000. A copy of this check contained a notation that the payment was for "Iowa Communication". This payment was allocated to Iowa. The remaining three payments were \$40,000 each. One of the \$40,000 checks contained a notation that it was for a "phone bank" and another of the checks indicated that it was for "phone". The Committee applied these three payments to its national headquarters telephone expenditures and did not allocate any portion of the \$120,000 to Iowa.

In the February 19, 1985 response to the interim audit report the Committee stated that:

"The Committee disagrees that the entire \$140,000 paid to Communications Management, Inc. for telephone and mail programs is allocable to Iowa...Of that amount, the cost of the telephone calls, which were made from Kansas City, Missouri and associated supervision and overhead are excludible interstate telephone calls pursuant to 11 C.F.R. Section 106.2(b) (2) (v)...The

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cost incurred for computer and fee time charges are properly chargeable to headquarters overhead pursuant to 11 C.F.R. Section 106.2(c)(1)(i). Only the charges relating to the mail program are allocable to Iowa."

The interstate telephone call exemption (11 C.F.R. § 106.2(b)(2)(v)(B)) was designed to eliminate the problems of trying to allocate telephone calls between offices of a campaign committee. As noted in 2.e. above, this regulation does not cover telephone expenses of third party vendors.

The Audit staff also notes that the overhead regulation (11 C.F.R. § 106.2(c)(1)(i)) cited in the response was designed to alleviate the allocation of overhead expenditures incurred by a campaign committee at the national headquarters. This regulation cannot logically be extended to cover vendor overhead expenses. If such an interpretation were followed to its logical conclusion, almost any bill from any vendor could have a portion allocated to Committee overhead.

The allocations in the interim audit report for this expenditure are unchanged.

New Hampshire

The Committee made an expenditure to the same vendor totaling \$10,000 for what the invoice termed "Consulting and Printing New Hampshire". The Committee applied this payment to its national headquarters telephone expenditures and did not allocate any portion of the \$10,000 to New Hampshire.

Documentation from the other Washington, D.C. concern indicated that it printed, prepared, and mailed "letters, self mailers and leader kits" to New Hampshire Independents. The total cost of this service was \$19,628.09. The Committee paid \$7,078.09 toward the total costs and allocated this amount to New Hampshire. A notation on the check indicated that the service was for "New Hampshire Phone Bank-Interstate". However, when the Committee paid the \$12,600 balance, it was applied to its national headquarters telephone expenditures. No portion of this amount was allocated to New Hampshire.

In addition to the expenditures allocable to New Hampshire noted in the two preceding paragraphs, supporting documentation revealed that a Maryland mailing firm prepared and mailed 50,446 letters to persons in New Hampshire. The total expenditure (\$11,347.25) was applied to national political operations, and no portion of this amount was allocated to New Hampshire.

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In the February 19, 1985 response to the interim audit report, the Committee provided a copy of additional documentation generated by the vendor which showed that costs totaling \$5,500 for "Consulting and Printing New Hampshire" were actually devoted to New Hampshire. The remaining costs (\$4,500) were devoted to other States. However, the Committee stated that it "has not been able to obtain a breakdown of the total charges for the two other mail programs, but will submit additional factual material as it becomes available".

Based upon the documentation submitted by the Committee, the Audit staff has reduced the amount of expenditures allocable to New Hampshire set forth in the recap on page 25 of this report by \$4,500.

b. Political Buttons and Bumper Stickers

The Committee engaged the services of a North Carolina vendor to manufacture and ship political buttons and bumper stickers to several states. The Committee applied the entire cost of these items to its national headquarters expenditures. However, the Audit staff determined based upon the number of these items shipped to Iowa and New Hampshire that \$6,415.72 should have been allocated to Iowa and \$814.78 to New Hampshire.

In the February 19, 1985 response, the Committee stated that "since many of those items were picked up from Iowa and New Hampshire and carried south for distribution, the Committee believes that only one-third of those costs should be allocated to their respective States".

The Audit staff notes that the documentary evidence reviewed in conjunction with this finding indicated that these items were routinely shipped from the manufacturer to several States. The Committee has not provided any additional factual evidence that many of these items were picked up from Iowa and New Hampshire and carried south for distribution or that one third of the cost is a reasonable estimate of Iowa and New Hampshire usage. Therefore, the amounts allocated to Iowa (\$6,415.72) and New Hampshire (\$814.78) remain unchanged.

c. Miscellaneous Expenditure

The Audit staff noted a \$795.60 payment for video rental equipment in Iowa which was not allocated to Iowa. This item was not addressed in the Committee's response.

The following is a recap of payments allocable to Iowa and New Hampshire as delineated in Finding III.A.

	<u>Iowa</u>	<u>New Hampshire</u>
Amount Allocated by the Committee as of August 1984 See II.A.1	\$595,240.69	\$394,593.05
<u>Adjustments to Above Reported Totals:</u>		
II.B.2. a. Media Expenditures	(24,758.13)	5,102.02
II.B.2. b. Salaries, Employer FICA, and Consultant Fees	8,881.80	1,231.27
II.B.2. c. Intra-State Travel and Subsistence	1,081.71	32,951.95
II.B.2. d. (i) Compliance Costs and Fundraising Expenditures- Media	28,124.44	28,403.74
II.B.2. d. (ii) Compliance Costs and Fundraising Expenditures- Polling	2,333.68	8,432.02
II.B.2. d. (iii) Compliance Costs and Fundraising Expenditures - Telephone	12,848.68	7,655.31
II.B.2. d. (iv) Fundraising Expendi- tures - 28 day rule	5,635.11	4,448.62
II.B.2. e. Public Opinion Polling Expenditures	2,578.25	64,284.56
II.B.3. a. Telephone and Mail Programs	120,000.00	29,447.25
II.B.3. b. Political Buttons and Bumper Stickers	6,415.72	814.78
II.B.3. c. Miscellaneous Expenditures	795.60	-0-
	<hr/>	<hr/>
Total Amount Allocable Paid as of 8/31/84	\$759,177.55	\$577,364.57
Less 26 U.S.C. § 9035(a) State Spending Limitation	(<u>684,537.50</u>)	(<u>404,000.00</u>)
Final Amounts Paid In Excess of State Limitations	<u>\$ 74,640.05</u>	<u>\$173,364.57</u>

The interim audit report contained the Audit staff's recommendation that within 30 days of receipt of the report, the Committee show that it had not exceeded the limitations. Further, absent a showing to the contrary, it was recommended that the Committee adjust its accounting records to reflect the expenditures allocable to Iowa and New Hampshire as delineated in the report and, where necessary, file amendments which reflect the correct amounts allocable to these two States.

In the February 19, 1985 response to the interim audit report, the Committee stated that the correct allocation to Iowa is \$586,482.74 and \$383,947.84 to New Hampshire. These amounts are within the statutory state spending limitations. No amendments were filed with the response to reflect changes in the reported allocations.

In addition to the matters discussed above, Appendix I of the Committee's February 19, 1985 response contained a "constitutional argument" which suggests that the state expenditure limitations are an unconstitutional limitation of the Committee's "First Amendment rights of freedom of speech and Fifth Amendment equal protection principles."

The Commission has reviewed the constitutional argument and notes that it lacks authority to rule on the merits of a constitutional challenge.

Conclusion

On August 14, 1985, the Commission made an initial determination that the amounts paid in excess of the state expenditure limitations are non-qualified campaign expenses. Further, the Commission determined that the pro-rata portion, \$74,968.82 (\$74,640.05 in Iowa plus \$173,364.57 in New Hampshire = \$248,004.62 x .302288) must be repaid to the U.S. Treasury within 90 calendar days of receipt of this report 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 report, the initial determination will be considered final.

Repayment Amount: \$74,968.82

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C. Determination of Net Outstanding Campaign Obligations

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO Statement) which discloses, 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 16, 1984, Senator John Glenn announced that he had withdrawn from the race for the Democratic nomination for President of the United States. Pursuant to 11 C.F.R. § 9033.5(a), that is the date Senator Glenn's candidacy terminated for the purpose of incurring qualified campaign expenses.

The Committee submitted their original NOCO Statement on April 2, 1984 and has continued to submit revised NOCO Statements on a monthly basis with each matching fund submission.

The Audit staff reviewed the NOCO Statement dated June 29, 1984 which was the most recent revision available at the time of the review. This review was limited to the verification of cash on hand, bank loans payable, and certain of the larger accounts payable. The bank loans and verified accounts payable represent in excess of \$2.3 million of the Committee's total obligations. Should the Committee's financial position change substantially, additional fieldwork may be required to assess the impact of the change on the NOCO deficit and to verify additional components of the NOCO statement.

Presented below is the June 29, 1984 NOCO Statement setting forth the Committee's financial position at that time.

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John Glenn Presidential Committee Inc.

Revised Statement of Net Outstanding Campaign Obligations

June 29, 1984 as Amended August 2, 1984

Assets

Petty Cash	\$	200.00	
Cash		150,487.16	
Accounts Receivable		11,370.31	
Refundable Deposits		2,000.00	
Accrued Interest Receivable		900.00	
Capital Assets		<u>17,144.24</u>	
Total Assets	\$	<u>182,101.71</u>	\$ 182,101.71

Obligations

Accounts Payable for Qualified Campaign Expenses		(974,153.39)	
Accrued Payroll		(137,344.01)	
Estimated Phone/Xerox Expenses		(6,658.50)	
Loan Payable		(2,000,000.00)	
Estimated Winding Down Costs 3/16/84 to 3/15/85			
Salaries, Consulting	(\$207,799.08)		
Rent	(29,987.16)		
Phone	(36,755.36)		
Supplies, Postage, Xerox, Equip. Repair	(11,854.28)		
Data Processing	(68,186.42)		
Interest Loan	(113,111.16)		
Fundraising Costs	(184,167.78)		
Travel Expense	(9,026.90)		
Bank Service Charges	(4,607.00)		
Transportation	(2,644.90)		
Legal	(10,000.00)		
Storage/Files	(18,000.00)		
	(\$696,140.04)	(<u>96,140.04</u>)	
Total Obligations		(\$3,814,295.94)	<u>(3,814,295.94)</u>
Net Outstanding Campaign Obligations- Deficit			<u>(\$3,632,194.23)</u>

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Conclusion

Between June 29, 1984 and December 31, 1984, the Committee has reported receiving individual contributions totaling \$335,136.47 and matching fund payments totaling \$148,899.34. Therefore, the Committee has not received matching fund payments in excess of its entitlement.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

April 15, 1988

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

FROM: ROBERT J. COSTA *RJC*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF ADDENDUM TO THE
FINAL AUDIT REPORT - THE JOHN GLENN PRESIDENTIAL
COMMITTEE, INC.

Attached please find a copy of the Addendum to the Final Audit Report on The John Glenn Presidential Committee, Inc., which was approved by the Commission on April 7, 1988.

Informational copies of the Addendum have been received by all parties involved and the Addendum 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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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

ADDENDUM TO THE
REPORT OF THE AUDIT DIVISION
ON THE
JOHN GLENN PRESIDENTIAL COMMITTEE, INC.

I. Background

A. Overview

On August 19, 1985, the Federal Election Commission ("the Commission") released the final audit report on the John Glenn Presidential Committee, Inc. ("the Committee"). That report was based on an audit of the Committee conducted pursuant to 26 U.S.C. § 9038(a) and included the Commission's initial determination regarding repayment to the U.S. Treasury. The audit covered the period October 1, 1982 through April 30, 1984. In addition, certain activity was reviewed through June 29, 1984 for the Statement of Net Outstanding Campaign Obligations and through August 31, 1984 for allocation to State limitations.

This Addendum is based on the follow-up fieldwork of the Committee conducted pursuant to 11 C.F.R. § 9038.1(b)(3) which states, in part, that the Commission staff may conduct additional fieldwork after completion of the fieldwork conducted pursuant to paragraph (b)(1) and (2) of the section.

Also included are findings and recommendations relating to the Committee as the result of an audit of the John Glenn Committee ^{1/} (the Joint Fundraising Committee). The Joint Fundraising Committee organized fundraising events between the Committee and the Sloan for Congress Committee, Americans with Hart, Inc., and the Senator John Glenn Committee.

Section 9038.1(e)(4) of Title 11 of the Code of Federal Regulations 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.

^{1/} The John Glenn Committee (formerly the Democratic Unity Committee) was established to act as the fundraising representative pursuant to 11 C.F.R. § 9034.8(b).

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The follow-up fieldwork covered the period July 1, 1984 through December 31, 1985.

The audit of the Joint Fundraising Committee covered the period April 26, 1984 through December 31, 1985.

This Addendum is based on 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 and the Joint Fundraising Committee during the period reviewed was Mr. William White.

C. Scope

The fieldwork included a review of receipts and disbursements, analysis of Committee debts and obligations (including winding down costs) and such other procedures as deemed necessary under the circumstances 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.

In addition, the work performed included an examination of the Joint Fundraising Committee's receipts and disbursements; and a review of selected matching fund submissions with respect to certain contributions received and submitted by the Committee.

II. Findings and Recommendations Related to Title 2 of the United States Code

A. Stale-Dated Outstanding Committee Checks Added Back to Cash

Sections 441b(a) and (b) (2) of Title 2 of the United States Code, state, in relevant part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election held to select candidates for any political office. The term "contribution or expenditure" shall include any direct or indirect payment, or any services, or anything of value provided to any candidate, campaign committee, or political party or organization in connection with any election to any of the offices referred to in this section.

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Section 100.7(a)(1)(E)(iii) of Title 11 of the Code of Federal Regulations provides, in part, that the term "anything of value" includes all in-kind contributions. The provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution.

Section 104.13(a)(1) of Title 11 of the Code of Federal Regulations states that the amount of an in-kind contribution shall be equal to the usual and normal value on the date received. Each in-kind contribution shall be reported as a contribution in accordance with 11 C.F.R. § 104.3(a).

During the Audit staff's follow-up fieldwork it was noted that the Committee reported a deduction in disbursements totaling \$18,039.32 identified as "Outstanding checks added to cash due to stale date and reconciliation to bank account."

The Committee provided the Audit staff a detailed list of 69 outstanding checks to support the deduction to disbursements. This list totaled \$17,114.85, a difference of \$924.47 from the reported amount. Committee officials stated that they were not able to reconcile the reported figure with the list. The list includes 2 checks totaling \$2,013.40 which were written within 6 months of the date that \$18,039.32 was added back to cash and therefore did not appear to have been stale-dated.

The records provided by the Committee indicated that most of the checks were issued to individuals in 1983 and 1984. Forty of these checks, totaling \$1,926.60, were for amounts not exceeding \$200.00 and were not identified by the Committee as contribution refunds.

The Audit staff included in the interim addendum to the audit report ("Interim Addendum") the \$17,114.85 itemized list of outstanding checks provided by the Committee. In addition the Audit staff included a list identifying the 40 checks totaling \$1,926.60 which were issued for amounts not aggregating in excess of \$200.00 and were not identified by the Committee as contribution refunds.

In the Interim Addendum the Audit staff recommended that the Committee provide the following information relevant to the outstanding checks added back to cash.

1. Reconciliation of the amounts reported (\$18,039.32) and the amounts itemized on the outstanding check list (\$17,114.85).

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2. Except for contribution refunds, the outstanding checks that aggregate \$200.00 or less to a single payee could be reported as in-kind contributions. Since the Committee's cash balance had been previously adjusted, the in-kind contributions should be reported as a memo entry to receipts and disbursements.
3. Determine whether those checks greater than \$200 and all contribution refunds are actually outstanding. For those checks which represent a remaining liability of the Committee, report an in-kind contribution if permissible, or take steps to effect payment. Alternatively, the funds representing the remaining outstanding checks could be either contributed to a tax exempt charitable organization, or voluntarily paid to the U.S. Treasury.
4. Amend the reports to disclose the proper disposition of the outstanding checks and any other necessary adjustments to the reports based on the Committee's actions.

The Committee responded to the Interim Addendum by stating that: (1) certain checks totaling \$2,827.23 would be treated as in-kind contributions; (2) \$10,212.09, representing the total checks for payments to corporations and refunds of excessive contributions, would be contributed to a tax-exempt organization; and (3) stop payment orders would be issued on the remaining 5 checks totaling \$5,000 which the Committee asserts do not reflect obligations of the Committee.

The Committee included an annotated list which indicated the specific disposition, as outlined above, for each stale-dated check. The Audit staff analyzed the contributions designated for in-kind contributions and determined that the \$2,827.23 total to be reported as in-kinds is materially correct. The Committee explained that the 5 checks totaling \$5,000 do not reflect outstanding liabilities of the Committee: one contribution was apparently not accepted by an organization; one payment was made in error and later refunded; one check was written to the U.S. Postmaster for postage; and two payments were apparently rejected by the payees in settlement of an indeterminate obligation. Finally, the Committee provided copies of five checks totaling \$10,212.09 made payable to tax exempt charitable organizations for the balance of the deduction in disbursements added back to cash ($\$18,039.32 - \$2,827.23 - \$5,000 = \$10,212.09$).

The Audit staff notes that the Committee did not reconcile the amounts reported ($\$18,039.32$) to the amounts itemized on the outstanding check list ($\$17,114.85$). However, the total explained disposition of funds equals the reported total amount.

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The Audit staff accepts the Committee's explanation for the disposition of the funds related to the stale-dated checks added back to cash.

Recommendation #1

The Audit staff recommends no further action in this matter.

B. VISA Payments Made on Behalf of the Senator
John Glenn Committee

Section 441a(a) of Title 2 of the United States Code provides, 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. Person is defined at 2 U.S.C. § 431(11), in relevant part, as a committee. In addition, 2 U.S.C. § 441a(f) states that no candidate shall knowingly accept any contribution in violation of the limits on contributions.

Sections 434(b)(4) and (5) of Title 2 of the United States Code state, in part, that each report shall disclose the total amount of all disbursements along with 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 committee operating expense, together with the date, amount, and purpose of such operating expenditure. The Act, at 2 U.S.C. § 434(b)(8), requires that each report shall disclose the amount and nature of outstanding debts and obligations owed by or to such political committee.

On August 15, 1985 and September 17, 1985 the Committee received \$11,125.00 and \$23,885.04 respectively from the Senate Committee. The Committee's October 15 Quarterly Report for 1985 indicates that the payments were for "Reimbursement of VISA."

Committee officials explained that early in 1983 the Senate Committee was insolvent and the John Glenn Presidential Committee made payments to VISA on behalf of the Senate Committee. Once financially able, the Senate Committee would reimburse the Committee for all payments. The activity, including debts and obligations, reported by the Senate Committee during the period of these VISA payments is scheduled on Attachment I.

In support of the explanation, Committee officials provided the Audit staff with copies of some VISA statements for six credit cards issued to the Senate Committee.

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The statements dated 9/23/82, 10/25/82, 1/25/83, 7/25/83, and 4/24/84 were presented in support of the \$23,885.04 payment to the Committee. These statements indicated that \$24,331.04 in payments had been credited against the outstanding balances: \$10,657.04 credited to the 1/25/83 statements on 1/03/83; \$3,674 credited to the 7/25/83 statements on 7/12/83; and \$10,000 credited to the 4/24/84 statements on 3/29/84. (See Attachment II.)

Neither the Senate Committee nor the Presidential Committee reported any expenditures to VISA corresponding to the credits (totaling \$10,657.04) shown on the 1/25/83 statements during the period 1/01/82 to 3/31/83. In addition, neither committee reported the debt owed to VISA which corresponds to these amounts on their reports covering the period 1/01/82 to 3/31/83. Further, the Senate Committee did not report any obligation owed to the Committee.

The \$3,674 payment was credited to the 7/25/83 VISA statements on 7/12/83. This expenditure did not appear to have been reported by either the Presidential Committee or the Senate Committee. The Senate Committee did not report any obligation to VISA or the Committee between 1/01/82 and 12/31/84. Although the 7/25/83 statements indicated an ending balance of \$30,262.34, neither the Senate Committee nor the Presidential Committee reported any obligation to VISA at the close of the reporting period 7/01/83 to 9/30/83.

The 4/24/84 statements indicated that \$10,000 was credited to the statements on 3/29/84. The Audit staff verified that the \$10,000 credit was actually paid by wire transfer with Committee funds. The expenditure to VISA was reported by the Committee on the transaction date shown on the VISA statements. However, neither the Senate Committee nor the Presidential Committee disclosed the amounts owed to VISA on any report between 1/01/84 to 6/30/84. (See Attachment III.)

To support the \$11,125.00 payment to the Committee, the Audit staff was provided with a listing of 14 check numbers and amounts from a Committee account. The checks, dated May 16, 1984 through June 18, 1985, represent payments to VISA in the amount of \$11,125.00. See Attachment IV. The Committee reported payments to VISA in the amounts and on the dates itemized on the Committee's listing. Senate Committee VISA statements dated May 23, 1984 indicate that payments totaling \$1,804.00 were made against the outstanding balances. This amount is the same as Check #5652 dated May 16, 1984 which appears on the Committee's listing of 14 checks. The Committee did not provide VISA statements subsequent to May 16, 1984 to verify that the remaining \$9,321.00 in payments (\$11,125.00 less \$1,804.00) made by the Committee were credited to the Senate Committee VISA accounts.

In the Interim Addendum it was noted that, if the Committee did in fact make \$35,010.04 (\$11,125.00 + \$23,885.04) in payments to VISA on behalf of the Senate Committee for expenses incurred in connection with the Candidate's Senate campaign, the following concerns were raised:

1. The amounts owed to VISA and to the Presidential Committee by the Senate Committee for VISA payments were not disclosed by the Senate Committee as required by 2 U.S.C. § 434(b)(8);
2. The amounts owed VISA, if the debt was in fact assumed by the Presidential Committee, were not disclosed on the Committee reports as required by 2 U.S.C. § 434(b)(8). Further, the amounts owed to the Committee by the Senate Committee were not reflected on the Committee's reports;
3. Of the payments totaling \$35,010.04 that the Committee states were made on behalf of the Senate Committee, \$13,885.04 in expenditures (\$35,010.04 - \$10,000 - \$11,125) were not disclosed as required by 2 U.S.C. § 434(b)(4);
4. Of the payments totaling \$35,010.04 that the Committee states were made on behalf of the Senate Committee, the Audit staff verified that \$11,804.00 (\$10,000 + \$1,804) were actually credited to VISA statements and paid from Committee funds.

In the Interim Addendum the Audit staff recommended that within 30 days of receipt of this report the Committee provide documentation and evidence on the following:

1. Debit memos or canceled checks demonstrating that the Committee paid \$10,657.04 to VISA on 1/25/83 and \$3,228 (\$3,674 less \$446) on 7/25/83. The Audit staff further recommended that the Committee demonstrate how the payments to VISA were disclosed as required by 2 U.S.C. § 434(b)(4) and how the balances owed VISA were disclosed as required by 2 U.S.C. § 434(b)(8);
2. Copies of VISA statements demonstrating that the reported payments totaling \$9,321 (\$11,125 - \$1,804) for the period June 11, 1984 through June 18, 1985 were credited to the VISA statements of the Senate Committee;

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3. Provide evidence that the \$35,010.04 payments were expenses of the Senate campaign and not the Presidential campaign.

With regard to 1. above, the Committee responded that the \$10,657.04 payment to VISA was made by 6 checks from the National Council on Public Policy ("NCPP"), a registered committee within Senator John Glenn's structure of organizations. The Committee states that these payments were for expenses incurred by Senator John Glenn while campaigning for other candidates during the 1982 general election campaign. The Committee further states that all expenditures were reported by NCPP, a portion as in-kind contributions allocable to the various candidates on whose behalf the trips were made. The Committee attributed the balance of these VISA charges to Senator Glenn's activities as a public figure. The Committee further explained that the \$10,657.04 amount was mistakenly paid by the Senate Committee to the Presidential Committee rather than to NCPP. The Committee stated that the Presidential Committee will refund the \$10,657.04 to the Senate Committee. The Audit staff reviewed the reports of the NCPP and noted that this committee reported \$10,657.13 in payments to VISA of which \$4,190.56 were reported as in-kind contributions on behalf of federal and non-federal candidates.

The Committee did not provide debit memos or canceled checks, as requested by the Audit staff, to support the \$3,228 (\$3,674 less \$446) payment to VISA by the Committee. Instead, the Committee referred the Audit staff to a reported payment by the Presidential Committee for \$3,787, and reconciled this amount to the \$3,674 amount by presenting a copy of a seventh VISA statement dated July 25, 1983 showing a credit for \$113 - the difference between \$3,787 and \$3,674. Thus the \$3,787 report total represents credits to 7 credit cards; the \$3,228 amount represents credits to 5 of these cards.

The Audit staff acknowledges that the reported payment by the Presidential Committee (\$3,787) will reconcile to the amount (\$3,228) claimed by the Committee. Although the Committee did not provide debit memos or canceled checks to demonstrate that the Committee paid the \$3,228, the Audit staff notes that the bank reconciliation to the reported figures for 1983 support the correctness of the reported disbursements.

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With regard to the disclosure of the \$10,657.04 and \$3,228 balances owed VISA, the Committee stated that the \$10,657.04 balance was not reported as an obligation because the entire amount was incurred and paid within the same reporting period; the Committee further contends that the amounts owed on the Senate Committee VISA statements (which includes the \$3,228 payment) were never formally assumed by the Presidential Committee and were never obligations of the Presidential Committee. The Committee acknowledges that the VISA balances should have been reported; the Committee stated that an amendment would be filed to show the balances as a debt of the Senate Committee. However, the Committee did not explain why the payments made by the Presidential Committee were not reported as receivables from the Senate Committee if, as contended, they were not Presidential expenses.

With regard to Recommendation 2. above, the Committee materially complied with the recommendation of the Audit staff by providing copies of VISA statements that materially supported the reported payments totaling \$9,321 for the period June 11, 1984 through June 18, 1985. These payments reported by the Presidential Committee were credited to the VISA statements of the Senate Committee.

In response to Recommendation 3. above, the Committee did not provide any evidence that the payments were expenses of the Senate campaign. The Committee contended only that the payments were not expenses of the Presidential campaign on the following basis:

- a) All charges comprising the \$35,010.04 amount were made prior to the formation of the Presidential Committee;
- b) Charges on the VISA accounts cannot be related to the Presidential campaign;
- c) An affidavit by the Executive Assistant to Senator Glenn stating that no charges on VISA are attributable to the Presidential campaign; and
- d) the John Glenn Exploratory Committee had VISA cards in its name in order to ensure that Senate Committee cards were not used.

The Audit staff reviewed the VISA statements with regard to the contentions summarized above and noted the following:

- 3 2 0 7 0 1 6 4 3 7 9
- (1) All charges, other than high balance fees, late payment fees, and finance charges, were incurred prior to 1983.
 - (2) Between September 23, 1982 and December 23, 1982 the charges incurred on the six credit cards totaled \$32,019.27;
 - (3) Four of the six cards, showing incurrences totaling \$23,006.93 for this same period, were in the names of persons who were either on the Presidential Committee payroll or were receiving reimbursement from the Presidential Committee for expenses during 1982. Two card holders were on the payroll of the Presidential Committee effective October 21, 1982 (including the Senator's Executive Assistant who provided the affidavit) and incurred charges totaling \$19,548.45 between September 23, 1982 and December 23, 1982. The charges incurred by the individuals receiving reimbursement for expenses totaled \$3,458.48. One of these individuals was salaried by the Presidential Committee in December, 1982. A fifth card was in the name of the candidate;
 - (4) The Presidential Committee commenced activity on October 1, 1982; and
 - (5) No one of the VISA card holders was salaried by the Senate Committee in 1982 after the inception of the Presidential Committee. Only one expense reimbursement payment (\$75.50) was reported to a VISA card holder by the Senate Committee after September 23, 1982.

It is the opinion of the Audit staff that the inception date of the Presidential campaign considered in conjunction with the fact that most of the VISA charges were made by employees and/or associates of the Presidential Committee does not support the Committee's contention that these charges were not related to the Presidential campaign.

The Audit staff also reviewed the reports of the Presidential Committee and reconstructed the following financial position of the Presidential Committee at the times the reimbursements from the Senate Committee were received:

Beginning cash on hand reported by the
Presidential Committee July 1, 1985:

\$10,674.54

Add: Reported receipts
July 1 - September 30, 1985
(\$45,721.86) net of
transfers from the Senate
Committee (\$35,010.04)

\$10,711.82

Adjusted available cash
(\$10,674.54 plus \$10,711.82)

\$21,386.36

The Audit staff notes that without the \$35,010.04 transfer-in from the Senate Committee the Presidential Committee would have been unable to make the interest payments totaling \$51,462.08 paid to four banks during the July 1 to September 30, 1985 reporting period. The \$11,125 portion of the transfer on 8/15/85 coincided with interest payments totaling \$12,690.88 made on 8/19/85. The \$23,885.04 portion transferred on 9/17/85 coincided with interest payments totaling \$17,656.92 made on 9/16/85. The interest payments totaling \$16,685.80 made on 7/15/85 were apparently made on a negative reported cash-on-hand position; the Committee adjusted the cash position on 9/30/85 by adding \$18,039.32 in stale dated checks to cash.

Conclusion

In the Commission's opinion, the Committee has failed to demonstrate that the 1982 charges on the Senate Committee's VISA cards were unrelated to the Presidential campaign. Many of the VISA charges were incurred by persons who were either salaried by or receiving reimbursements from the Presidential Committee. These charges were incurred two years after the 1980 Senate Election and four years prior to the 1986 Senate election, but at a time when the Presidential Exploratory Committee was beginning its activity. Further, at the time the VISA charges were incurred, the Senate Committee reported only one debt of \$5,000.00.

At the time of the transfers from the Senate Committee to the Presidential Committee, the Senate Committee's reports indicated that it had been solvent for at least a year. Also, at the time of the transfers, the Presidential Committee was in a cash poor position for meeting interest payments due on bank loans. These loans were the subject of a Commission compliance action at that time.

As acknowledged by the Committee, neither the Senate Committee nor the Presidential Committee reported any amount owed to or due from the other. Finally, the use of the Senate Committee's credit cards by the NCPP for a portion of the expense discussed above raise questions about the relationship between the NCPP, the Senate Committee and the Presidential Committee.

In Advisory Opinion 1987-4, the Commission permitted the Senate Committee to transfer excess campaign funds from the 1986 Senate Committee to the Presidential Committee to assist in debt retirement. Arguably, the transfers which occurred in 1985 could be similarly viewed. Given the Committee's acknowledgement of the reporting deficiencies discussed above and Advisory Opinion 1987-4, the Commission has decided to take no further action at this time.

III. Findings and Recommendations Related to Title 26 of the United States Code

A. Misallocation of Joint Fundraising Proceeds

Section 9038(b)(1) of Title 26 of the United States Code states, in part, 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, the candidate shall pay to the Secretary an amount equal to the amount of excess payments.

The Committee engaged in two separate joint fundraising events during the matching payment period. The Sloan For Congress Committee participated in the first event (October 12, 1984); Americans With Hart, Inc. participated in the second event (December 14, 1984). During the review of the Joint Fundraising Committee's records, the Audit staff noted that the proceeds relative to both events were not allocated in accordance with the agreements. During this review, the following matters were noted.

1. The Committee and the Sloan For Congress Committee ("the Sloan Committee")

The agreement entered into between the above named committees states that fundraising proceeds shall be allocated two-thirds to the Sloan Committee and one-third to the Committee, and related expenditures shall be allocated according to the same formula utilized for allocating fundraising proceeds.

The proceeds received as a result of the fundraising event, adjusted for contributions in excess of the limit as provided by 2 U.S.C. § 441a(a)(1)(A), totaled \$8,641, of which \$8,611 was distributed among the participants. The Joint Fundraising Committee allocated, on a 100% basis, 42 contributions totaling \$2,611 to the Committee.

The Committee submitted 31 of these contributions for matching funds in accordance with 11 C.F.R. § 9034.2(c)(7). These contributions were subsequently matched in the amount of \$1,736. According to the formula stated in the agreement, the Committee should have received one-third of the proceeds of each allocable contribution. It should be noted that 3 of the contributions, totaling \$100, were earmarked directly to the Sloan Committee and therefore not allocable one-third to the Presidential Committee. Hence, the correct matchable amount is \$545.33 [(\$1,736 - \$100) x .33333].

The Audit staff expressed the opinion in the Interim Addendum that the Committee received \$1,190.67 (\$1,736 - \$545.33) in matching funds in excess of the amount to which it was entitled. (See Attachment V.)

2. The Committee and Americans With Hart, Inc.
("the Hart Committee")

The agreement entered into between the above named committees states that total proceeds from the event will be divided between the committees in direct proportion to the percentage of the total proceeds raised by each committee. If a contributor gives an amount which, if allocated in accordance with the above formula, would cause that contributor to exceed the maximum that can be contributed to one of the committees, the excessive portion of that contribution will be allocated to the other committee. Furthermore, the agreement states "in the event that checks are received that are payable to either of the [Presidential candidate's] committees as a result of a solicitation authorized by this agreement, it is agreed and understood that such checks may be endorsed over to the Democratic Unity Committee and deposited in that committee's account the same as if they were originally written to the Democratic Unity Committee."

A joint fundraising event involving the two committees was held on December 14, 1984. The proceeds, as adjusted, received as a result of the fundraising event totaled \$56,100.2/ The Audit staff noted that the Joint Fundraising Committee reported receipts from the event totaling \$42,355. The difference represented the value of contributions made by checks payable to either candidate, in which case the Joint Fundraising Committee forwarded these checks directly to the participants.

^{2/} This figure is net of three contribution refunds totaling \$1,000.

The Joint Fundraising Committee allocated 87.7% of the gross proceeds to the Committee and 12.3% to the Hart Committee. However, based on our analysis of the Joint Fundraising Committee's records, only 65% of the contributions should have been allocated to the Committee and 35% to the Hart Committee.

The Audit staff determined that of the total misallocated contributions, 88 totaling \$16,829.92 were submitted for matching in two separate submissions. The amount of matching funds received by the Committee relative to the 88 contributions submitted totaled \$16,822.78.

Based on our review of the matching fund submissions and application of the allocation formula per the joint fundraising agreement, the Audit staff noted that for the 88 contributions submitted and matched, the Committee should have received only \$12,856.45 in matching funds.

The Interim Addendum stated that it was the opinion of the Audit staff that the Committee received \$3,966.33 (\$16,822.78 - \$12,856.45) in matching funds in excess of the amount to which it was entitled. ^{3/}

Recap: Overpayment of Matching Funds
Joint Fundraising Events

John Glenn Presidential Committee, Inc./ Sloan for Congress Committee (Finding III.A.1.)	\$1,190.67 ^{4/}
John Glenn Presidential Committee, Inc./ Americans With Hart, Inc. (Finding III.A.2.)	<u>3,966.33</u> ^{4/}
Total Amount of 26 U.S.C. § 9038(b)(1) Repayment	<u>\$5,157.00</u>

^{3/} The amount calculated is based on the difference between the amount(s) submitted and matched versus the amount(s) that should have been matched.

^{4/} This amount was contained in the Interim Audit Report of the Joint Fundraising Committee.

In the Interim Addendum the Audit staff included the comments made by the Joint Fundraising Committee in response to the interim audit report on that committee concerning this same issue.

Concerning the application of the allocation formula which resulted in the overpayment determination of \$1,190.67, in response to an interim audit report, the Joint Fundraising Committee stated that the committee intended to apply the allocation formula of the joint fundraising agreement to the total amount raised by the event, not to each and every contribution on an individual basis. The Audit staff noted that the solicitation material sent to the contributors specifically stated that the proceeds would be distributed two-thirds to the Sloan Committee and one-third to the Committee. The solicitation also informed the contributor that he could designate his contribution to a particular candidate, and advised the contributor that the allocation may change if a contribution is received that would exceed the amount a contributor may give to any participant. In addition, the Audit staff noted that an internal memorandum found in the Joint Fundraising Committee files summarized a communication with an Audit Division staff member. The Joint Fundraising Committee was advised that, in the opinion of the staff member, they were bound by the information printed on the contribution card, rather than distributing the checks as the committee intended. The Audit staff expressed the opinion that the regulations and advisory opinions advocate the individual allocation of contributions. Furthermore, in this case the contributors were 1) informed of the allocation formula, 2) given notice that they may designate their contribution, and 3) advised that the allocation formula may change if a contribution would exceed the amount a contributor may give to any participant. These notices appear to suggest to the contributor a contribution-by-contribution allocation.

With regard to the application of the allocation formula which resulted in the overpayment determination of \$3,966.33, the Joint Fundraising Committee responded to the Interim Audit Report of that committee that certain checks written to the candidates were unrelated to the joint fundraising event, were not received as a result of the solicitation, and were delivered inadvertently to the fundraising representative. The committee further contended that these checks should not be included in the allocation operation "merely because the checks were sent to the joint fundraising representative." The Audit staff reviewed the dates on the checks relative to both the date of the joint fundraising event and the solicitation period and expressed the opinion in the Interim Addendum that, absent some further documentation, the committee had not demonstrated that these checks are unrelated to the joint fundraising event and are not a result of the solicitation for this event.

The Audit staff recommended in the Interim Addendum that, absent a showing to the contrary within 30 days of the receipt of that addendum, the Commission make an initial determination that the Committee repay \$5,157.00 to the U.S. Treasury pursuant to 26 U.S.C. § 9038(b)(1).

The Audit staff notes that in the Final Audit Report of the Joint Fundraising Committee, the Commission approved the Audit staff recommendation of no further action in the matter of the misallocation of proceeds from the Committee/Hart Committee event which gave rise to the receipt of matching funds in excess of the amount to which it was entitled. This recommendation was made in view of 1) the relatively small amount of misallocation involved, 2) the indeterminate allocation formula within the joint fundraising agreement, and 3) the various possible interpretations of that agreement.

With respect to the \$1,190.67 (\$5,157.00 less \$3,966.33) resulting from the misallocation of proceeds from the Committee/Sloan Committee event, the Committee responded to the Interim Addendum by reasserting that it intended to allocate the total proceeds from the Committee/Sloan Committee event in a one-time calculation. The Committee argues that the notices included in the fundraising notice (notice to contributors that they could designate their contributions and notice to contributors that the allocation formula could change) "are required by 11 C.F.R. § 9034.8(c)(3)." The Committee concludes from this requirement that "The Committee had no choice with respect to their inclusion in the fundraising notice, and thus those notices are not evidence of what either the Glenn Committee or the Sloan Committee intended."

The Committee contends that the written notice required under the provisions of 11 C.F.R. § 9034.8(c)(3) "should not be used to impose requirements on the formula contained in the written [fundraising] agreement under 11 C.F.R. § 9034.8(c)(1). The Committee also argues that "that [fundraising] agreement refers to 'proceeds from the event' and not 'individual contributions'."

In response to the advice from an Audit Division staff member which was summarized in an internal memorandum of the Joint Fundraising Committee (discussed above), the Committee contends that the conversation "occurred after the written [fundraising] agreement was entered into, [and] cannot retroactively affect the intent of the parties."

The Audit staff is of the opinion that the Committee has failed to demonstrate that the Committee did not receive \$1,190.67 in matching funds in excess of the amount to which it was entitled.

Recommendation #2

The Audit staff recommends that the Commission make an initial determination that the Committee repay \$1,190.67 to the U.S. Treasury pursuant to 26 U.S.C. § 9038(b)(1).

B. Determination of Net Outstanding Campaign Obligations

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO Statement) which discloses, 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 16, 1984, Senator John Glenn announced that he had withdrawn from the race for the Democratic nomination for President of the United States. Pursuant to 11 C.F.R. § 9033.5(a), March 16, 1984 is the date Senator Glenn's candidacy terminated for the purpose of incurring qualified campaign expenses.

The Committee submitted their original NOCO Statement on April 2, 1984 and continued to submit revised NOCO Statements on a monthly basis with each matching fund submission through February 28, 1985.

During the initial audit fieldwork, the Audit staff reviewed the NOCO Statement dated June 29, 1984. This review was limited to the verification of cash on hand, bank loans payable, and certain of the larger accounts payable. The bank loans and verified accounts payable represent in excess of \$2.3 million of the Committee's total obligations. During the follow-up fieldwork, the Audit staff determined that there was no material change to the Committee's financial position and therefore no material change to the NOCO deficit.

Presented below is the June 29, 1984 NOCO Statement setting forth the Committee's financial position at that time.

John Glenn Presidential Committee, Inc.
 Revised Statement of Net Outstanding Campaign Obligations
 June 29, 1984 as Amended August 2, 1984

Assets

Petty Cash	\$	200.00	
Cash		150,487.16	
Accounts Receivable		11,370.31	
Refundable Deposits		2,000.00	
Accrued Interest Receivable		900.00	
Capital Assets		<u>17,144.24</u>	
Total Assets	\$	<u>182,101.71</u>	\$ 182,101.71

Obligations

Accounts Payable for Qualified Campaign Expenses		(974,153.39)	
Accrued Payroll		(137,344.01)	
Estimated Phone/Xerox Expenses		(6,658.50)	
Loan Payable		(2,000,000.00)	
Estimated Winding Down Costs 3/16/84 to 3/15/85			
Salaries, Consulting	(\$207,799.08)		
Rent	(29,987.16)		
Phone	(36,755.36)		
Supplies, Postage, Xerox, Equip. Repair	(11,854.28)		
Data Processing	(68,186.42)		
Interest Loan	(113,111.16)		
Fundraising Costs	(184,167.78)		
Travel Expense	(9,026.90)		
Bank Service Charges	(4,607.00)		
Transportation	(2,644.90)		
Legal	(10,000.00)		
Storage/Files	(18,000.00)		
	(\$696,140.04)	(696,140.04)	
Total Obligations		(\$3,814,295.94)	(3,814,295.94)
Net Outstanding Campaign Obligations- Deficit			<u>(\$3,632,194.23)</u>

Conclusion

Between June 29, 1984 and December 31, 1985, the Committee has reported receiving contributions totaling \$443,894.42 and matching fund payments totaling \$323,431.66. Therefore, the Committee has not received matching fund payments in excess of its entitlement.

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Reported Activity
Senator John Glenn Committee 1/

Report Period	Beginning Cash	Receipts	Disbursements	Ending Cash	Debts <u>2/</u> & Obligations
1/1/80 to 12/31/80 (Amendment)	\$ 80,319.80	\$830,279.94	\$774,888.51	\$135,711.23	\$5,000
1/1/81 to 12/31/81 (Amendment)	135,711.23	21,941.06	88,254.89	69,397.40	5,000
1/1/82 to 12/31/82 (Amendment)	69,397.40	18,399.25	87,326.23	470.42	5,000
1/1/83 to 12/31/83	470.42	2,550.00	887.51	2,132.91	5,000
7/1/83 to 12/31/83	2,132.91	1,020.00	817.22	2,335.69	5,000
1/1/84 to 6/30/84 (Amendment)	4,824.65 <u>3/</u>	1,000.00	1,059.53	4,765.12	5,000
7/1/84 to 12/31/84	4,765.12	58,743.00	13,760.45	49,747.67	5,000

1/ The Audit staff could not determine whether the activity reported from 1/01/81 to 12/31/84 was for the 1980 Senate Campaign, the 1986 Senate Campaign, or for some other purpose.

2/ All reported amounts represent loan from Candidate.

3/ As amended.

Schedule of Credits Made to VISA Statements
Which Committee Presented in Support of
\$23,885.04 Reimbursable Payment

<u>Date of Statements</u>	<u>Amount Credited on Statement</u>	<u>Transaction Date</u>	<u>Posting Date</u>	<u>Amount Reported by Committee</u>
January 25, 1983	\$ 2,508.62 126.78 361.66 888.05 481.89 <u>6,290.04</u>			
Subtotal	\$ <u>10,657.04</u>	12/31/82	1/03/83	\$ -0-
July 25, 1983	\$ 174.00 392.00 722.00 446.00 <u>1/</u> 822.00 <u>1,118.00</u>			
Subtotal	\$ <u>3,674.00</u>	7/12/83	7/12/83	\$ -0-
April 24, 1984	\$ 191.00 368.00 2,089.00 1,292.00 2,715.00 <u>3,345.00</u>			
Subtotal	\$ <u>10,000.00</u> <u>2/</u>	3/29/84	3/29/84	\$ <u>10,000</u>
Total	\$ <u>24,331.04</u>			\$ <u>10,000</u>

1/ Credit represents difference between the \$24,331.04 total and the amount (\$23,885.04) presented by Committee as reimbursable.

2/ Payment verified by Audit staff.

Schedule of Obligations to VISA Reported by
John Glenn Presidential Committee and
Senator John Glenn Committee

<u>Report Dates</u>	<u>Beginning Balance</u>	<u>Incurrence</u>	<u>Payment</u>	<u>Balance Outstanding</u>
1) <u>John Glenn Presidential Committee</u>				
Inception to				
March 31, 1983	\$ -0-	\$ 8,973.99	\$ -0-	\$ 8,973.99
April 1, 1983 to				
June 30, 1983	8,973.99 ^{1/}	23,825.09	19,134.42 ^{2/}	13,664.66
July 1, 1983 to September 30, 1983				
	13,664.66	12,960.63	26,625.29 ^{3/}	-0-
October 1, 1983 to December 31, 1985 ^{4/}				
	No obligations reported to VISA			
2) <u>Senator John Glenn Committee</u>				
January 1, 1982 to December 31, 1984 ^{5/}				
	No obligations reported to VISA			

- 1/ Paid 4/01/83.
- 2/ Payments on beginning balance (total) and incurrences made on or after 4/01/83.
- 3/ All payments were for incurrences reported on or after 4/01/83.
- 4/ Includes following report periods: October 1-December 31, 1983, January 1984, February 1984, March 1984, April 1984, May 1984, June 1984, July 1984, August 1984, September 1984, October 1984, November 1984, December 1984, 1/01/85-3/31/85, 4/01/85-6/30/85, 7/01/85-9/30/85, 10/01/85-12/31/85.
- 5/ Includes following reports: 1/01/82-12/31/82 (amendment), 1/01/83-6/30/83, 7/01/83-12/31/83, 1/01/84-6/30/84 (amendment), 7/01/84-12/31/84.

Attachment IV

Schedule of Payments Reported by John Glenn
 Presidential Committee and Stated to be
 Reimbursable by the Senator John Glenn Committee

<u>Date of VISA Payment per Committee</u>	<u>Payment Amount</u>	<u>Amount Reported</u>	<u>Purpose per Report</u>
May 16, 1984	\$ 1,804 <u>1/</u>	\$ 1,804	Travel and subsistence
June 11, 1984	764	764	VISA payment
July 12, 1984	546	546	Travel and subsistence
August 17, 1984	965	965	Travel and subsistence
September 14, 1984	739	739	Travel and subsistence
October 17, 1984	751	751	Travel and subsistence
November 12, 1984	720	720	Travel and subsistence
December 14, 1984	710	710	Travel and subsistence
January 16, 1985	703	703	Travel and subsistence
February 27, 1985	693	693	Travel and subsistence
March 15, 1985	706	706	Travel and subsistence
April 16, 1985	698	698	Travel and subsistence
May 13, 1985	666	666	Travel and subsistence
June 18, 1985	<u>660</u>	<u>660</u>	Travel and subsistence
Total	<u>\$11,125</u>	<u>\$11,125</u>	

1/ Payment to VISA verified by Audit staff.

Schedule of Non-Matchable Joint Fundraising
Contributions Submitted for Matching Funds
John Glenn Presidential Committee, Inc./Sloan For Congress Committee

(1) Name of Contributor	(2) Amount Submitted	(3) Amount Matched	(4) Correct Matchable Amount	(5) Non-Matchable Amount (Col.3-Col.4)
1. Blair, Jeanne M.	\$ 100.00	\$ 100.00	\$ 33.33	\$ 66.67
2. Torp- Petersen, Janis	50.00	50.00	16.67	33.33
3. Light, Timothy	100.00	100.00	33.33	66.67
4. Enright, Amy Baker	50.00	50.00	16.67	33.33
5. Hughes, John W.	50.00	50.00	16.67	33.33
6. Self, Jon M.	100.00	100.00	33.33	66.67
7. Hall, Anne Luken	50.00	50.00	16.67	33.33
8. Hall, Anne Luken	50.00	50.00	16.67	33.33
9. Taggart, Thomas M.	100.00	100.00	33.33	66.67
10. White, Pamela L.	50.00	50.00	16.67	33.33
11. Woodyard, David O.	50.00	50.00	16.67	33.33
12. Webb, Graydon D.	150.00	150.00	50.00	100.00
13. Schmarr, John M.	35.00	35.00	11.67	23.33
Flaherty, William J.	25.00	25.00	-0-	25.00

Schedule of Non-Matchable Joint Fundraising
Contributions Submitted for Matching Funds
John Glenn Presidential Committee, Inc./Sloan For Congress Committee

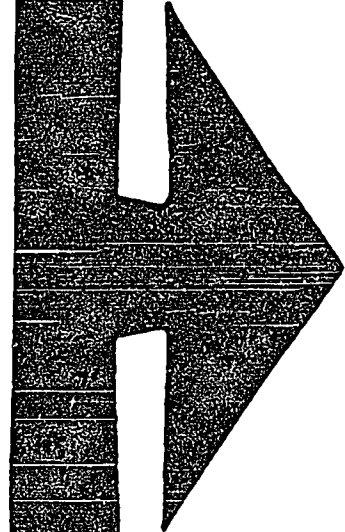
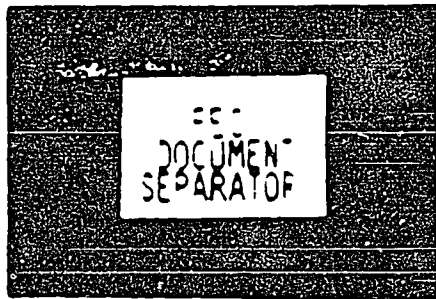
(1) <u>Name of Contributor</u>	(2) <u>Amount Submitted</u>	(3) <u>Amount Matched</u>	(4) <u>Correct Matchable Amount</u>	(5) <u>Non-Matchable Amount (Col.3-Col.4)</u>
15. Smith, Robert L.	\$ 50.00	\$ 50.00	\$ -0-	\$ 50.00
16. Maybruck, P. J.	25.00	25.00	8.33	16.67
17. McDermott, Cindy J.	100.00	100.00	33.33	66.67
18. Juniper, Linda S.	50.00	50.00	16.67	33.33
19. Vanbuskirk, Joann S.	50.00	50.00	16.67	33.33
20. Luft, Carole A.	100.00	100.00	33.33	66.67
21. Martin, James L.	15.00	15.00	5.00	10.00
22. Hughes, Ann Farrell	25.00	25.00	8.33	16.67
23. Patterson, Jr., Charles F.,	25.00	25.00	-0-	25.00
24. Potter, Sylvia V.	25.00	25.00	8.33	16.67
25. Chessman, G. Wallace	21.00	21.00	7.00	14.00
26. Brown, Robert Clarke	50.00	50.00	16.67	33.33
27. Young, Thomas A.	100.00	100.00	33.33	66.67
28. Held, Francis B.	15.00	15.00	5.00	10.00

Schedule of Non-Matchable Joint Fundraising
Contributions Submitted for Matching Funds
John Glenn Presidential Committee, Inc./Sloan For Congress Committee

(1) Name of Contributor	(2) Amount Submitted	(3) Amount Matched	(4) Correct Matchable Amount	(5) Non-Matchable Amount (Col.3-Col.4)
29. Maynard, Jr., John,	\$ 10.00	\$ 10.00	\$ 3.33	\$ 6.67
30. Robertson, Michael B.	100.00	100.00	33.33	66.67
31. Ackley, Eleanor	15.00	15.00	5.00	10.00
Total	<u>\$1,736.00</u>	<u>\$1,736.00</u>	<u>\$545.33</u>	<u>\$1,190.67</u>

3717306539

3 7 7 0 1 6 4 3 9 0



Admin

FEDERAL ELECTION COMMISSION

JG#4/093198B 10 PM 4:31



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

July 19, 1988

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA *Robert J. Costa*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: ADDENDUM TO FINAL AUDIT REPORT -
JOHN GLENN PRESIDENTIAL COMMITTEE, INC. -
REPAYMENT RECEIVED

Attached please find a copy of a letter from William R. White, Treasurer, John Glenn Presidential Committee, Inc, and a copy of the receipt from the U.S. Treasury relative to a 26 U.S.C. § 9038(b) (1) repayment contained in the Addendum to the Final Audit Report.

Attachments as stated

89070164417

RECEIVED
FEDERAL ELECTION COMMISSION

88 JUL 19 AM 8:37

Law Office

Kaplan, Russin & Vecchi

1215 Seventeenth Street, N.W. Washington, D.C. 20036

TELEPHONE: (202) 867-6333
CABLE: KAPRUS WASHINGTON
TELEX: 348413 KAPRUS
TELEFAX: (202) 867-6460

205 BELON ROAD, BANGKOK
CARRERA 7, NO. 17-61 BOGOTA
PASO DE LA CASTELLANA, 136, MADRID 28046
28 WEST 44th STREET, NEW YORK 10018
280 CALIFORNIA STREET, SAN FRANCISCO 94104
EDIFICIO LA CUBERA, SANTO DOMINGO
285 TUN HWA N. ROAD, TAIPEI

July 15, 1988

Mr. Joseph Stoltz
Audit Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Joe:

Pursuant to our conversation today, I am enclosing the committee's check with respect to its repayment obligation arising out of the interim addendum to the final audit report.

Sincerely,



William R. White

WRW/id

Enclosure

89070164413



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

JG#4/071988

Received from the Federal Election Commission on July 19, 1988,
a check #6544 drawn on the account of Bank One, Columbus, Ohio,
in the amount of \$1,190.67 from the John Glenn Presidential
Committee, Inc., for repayment pursuant to 26 U.S.C. § 9038(b)(1)
resulting from the Addendum to the Final Audit Report on John
Glenn Presidential Committee, Inc. This repayment is to be
deposited into the Presidential Primary Matching Payment Account
in accordance with 26 U.S.C. § 9038(d).

Andre J. Olson

for the
Federal Election Commission

Gladys Worthington

for the
U. S. Treasury

9 9 0 7 0 1 6 4 4 1 9



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

JG#4/071988

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deposited into the Presidential Primary Matching Payment Account
in accordance with 26 U.S.C. § 9038(d).

Amelia J. Glick

for the
Federal Election Commission

Gladys Workman

for the
U. S. Treasury

9070164420

**JOHN GLENN
PRESIDENTIAL COMMITTEE INC.**
444 NORTH CAPITOL ST., NW., SUITE 407
WASHINGTON, D. C. 20001

6544

July 15 1988

25-3/440

PAY TO THE ORDER OF U.S. Treasury, Bureau of Government Financial Operations \$1,190.67

One Thousand One Hundred Ninety and 67/100 DOLLARS

BANK ONE.
BANK ONE, COLUMBUS, NA
Columbus, OHIO 43271

William P. White

⑆00006544⑆ ⑆044000037⑆ 10⑈08020⑈

8907016421

