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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

May 11, 1987

TO: FRED EILAND
CHEIF, PRESS OFFICE

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT
REAGAN-BUSH '84 GENERAL ELECTION COMMITTEE
REAGAN-BUSH '84 COMPLIANCE FUND

Attached please find a copy of the final report of Reagan-Bush '84 General Election Committee and Reagn-Bush '84 Compliance Fund which was approved by the Commission May 6, 1987.

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

Attachment as Stated

cc: FEC Library
RAD
Office of General Counsel
Public Disclosure

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

REPORT OF THE AUDIT DIVISION ON REAGAN-BUSH '84 GENERAL ELECTION COMMITTEE AND REAGAN-BUSH '84 COMPLIANCE FUND

I. Background

A. Overview

This report is based on an audit of the Reagan-Bush '84 General Election Committee ("the GEC") and the Reagan-Bush '84 Compliance Fund ("the Compliance Fund"), 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 Election Campaign Fund Act. The audit was conducted pursuant to 26 U.S.C. § 9007(a), which states that after each presidential election, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

In addition, 26 U.S.C. § 9009(b) states, in part, that the Commission may conduct other examinations and audits from time to time as it deems necessary to carry out the provisions of this subchapter.

The GEC registered with the Commission on June 19, 1984, while the Compliance Fund registered with the Commission on December 1, 1983. The committees maintain their headquarters in Washington, D.C.

The audit covered the period from the GEC and Compliance Fund's inception (June 19, 1984 for the GEC and December 1, 1983 for the Compliance Fund) through December 31, 1984, the last day covered by the most recent reports filed with the Commission at the time of the audits. In addition, certain financial activity was reviewed through April 25, 1985. The GEC reported an opening cash balance of -0-; total receipts of $42,851,801.97; total expenditures of $42,560,761.71; and a closing cash balance of $291,040.26. The Compliance Fund reported an opening cash balance of -0-; total receipts of $2,306,114.68; total expenditures of $1,035,061.58; and a closing cash balance of $1,271,053.10. Under 11 C.F.R. §§ 9007.1(b)(3) and 9007.1(e)(4) additional audit work may be conducted and addenda to this report issued as necessary.

This report is based upon documents and working papers which support each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the GEC and the Compliance Fund is Angela M. Buchanan Jackson.

C. Scope

The audit included such tests as verification of total reported receipts, disbursements and individual transactions; review of required supporting documentation; analyses of debts and obligations; review of contribution and expenditure limitations; and other audit procedures as deemed necessary under the circumstances except that: The records made available by the GEC relating to the number and amount of assets (furniture and equipment) recorded in its books of account were not sufficient to allow the Audit staff to verify (1) the total number and amount of assets purchased by the GEC, (2) the total number and amount of assets liquidated at the close of the campaign, and (3) the total number and fair market value of assets on hand on April 1, 1985.1/ See discussion of capital assets on page 27.

1/ The Audit staff made numerous requests of GEC personnel prior to the exit conference for documentation necessary to verify the amount of assets purchased, sold, and on hand, but the necessary information was not supplied. The Treasurer explained at the exit conference that the GEC's staff was still attempting to compile the requested information regarding assets. In the response to the interim report, the GEC for the first time supplied a brief description of their asset control procedures and a partial response to questions posed by the Audit staff regarding fixed assets. The response indicated however, that the documentation needed to support the GEC's contentions was not yet available. Therefore, we still cannot verify the total number and amount of assets purchased, liquidated, and on hand on 4/1/85. On May 2, 1986 (almost five months after the interim report response due date) the GEC supplied additional schedules relative to asset acquisition, depreciation, and disposition. Since additional testing must be performed to verify the accuracy of these schedules, follow-up fieldwork will be scheduled and addenda to this report will be issued as necessary in accordance with 11 C.F.R. §§ 9007.1(b)(3) and 9007.1(e)(4).

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

Reagan-Bush '84 Compliance Fund

A. Failure to Request and Disclose Occupation and Employer

The Act at 2 U.S.C. § 434(b)(3) requires a political committee required to file a report under this section to disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year. Identification is defined at 2 U.S.C. § 431(11) to mean in the case of an individual, the name, mailing address, and occupation of such individual as well as the name of his or her employer. In addition, 11 C.F.R. § 104.7 requires the treasurer of a political committee to show that best efforts have been used to obtain, maintain, and submit the information required by the Act. With regard to reporting identification defined at 11 C.F.R. § 100.12, of each person whose contribution(s) to the committee aggregates in excess of $200 in a calendar year (pursuant to 11 C.F.R. § 104.3(a)(4)), the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by a written request or by an oral request documented in writing to obtain such information from the contributor. For purposes of this section, such effort shall consist of a clear request for the information (i.e. name, mailing address, occupation, and name of employer) which request informs the contributor that reporting of such information is required by law.

The Audit staff reviewed records and documentation for contributions received by the Compliance Fund. Our review indicated that 368 contributions (each aggregating in excess of $200 per contributor) totaling $267,267.00 were received without any evidence of a Compliance Fund request for occupation and name of employer. These contributions were itemized on Compliance Fund disclosure reports without occupation and name of employer. At the exit conference, the Treasurer asserted that the Compliance Fund had exerted best efforts as evidenced by their instructions to the fundraising staff. These instructions were for the Primary Committee fundraising staff; however, the Treasurer said the instructions were not given to Compliance Fund fundraisers since the Compliance Fund fundraising staff was the same as for the Primary Committee.

It was the Audit staff's opinion that the Compliance Fund did not show that it exercised best efforts to obtain occupation and name of employer for the contributions discussed above.

In the interim report, the Audit staff recommended that the Compliance Fund request the occupation and name of employer from those itemizable contributors who were not previously requested to submit this information. In addition, the Compliance Fund was to submit evidence relating to its efforts and file amendments disclosing information received as a result.

In its response to the interim report, the Compliance Fund provided additional evidence and explanations regarding their efforts to obtain occupation and a name of employer from contributors. Specifically, they supplied copies of relevant portions of solicitation guidelines given to the Compliance Fund's fundraising staff. The response asserts that the fundraising staff was "repeatedly" informed of their obligation to obtain the required information although written records of the requests by the fundraisers were not supplied. The Compliance Fund did admit that at least 23.4% of their contributions were received without response devices but said that best efforts were used to obtain the required information.

The Compliance Fund did not address the instances where an individual made a contribution aggregating in excess of $200.00 without being solicited and it is possible that a portion of the contributions received without response devices were unsolicited. However, an argument could be made that the Compliance Fund substantially complied with the best efforts requirement with respect to occupation and employer by providing the additional evidence and explanation related to their procedures for obtaining the required information.

Conclusion

No further action is required on this matter.

B. Itemization of Contributions

The Act, at 2 U.S.C. § 434(b)(3)(A) requires a political committee required to file a report under this section to disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period whose contributions have an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such contribution. Identification is defined at 2 U.S.C. § 431(13) to mean in the case of an individual, the name, mailing address, and occupation of such individual, as well as the name of his or her employer.

The Audit staff examined contributions received by the Compliance Fund. Our review indicated that individual contributions aggregating in excess of $200 which were recieved within a few days of the close of books for the October monthly, Pre-election, and Post-election reports were not itemized as required. The Deputy Treasurer stated that the contributions were not itemized due to an oversight related to time deadlines with the Compliance Fund's computer service. On May 10, 1985, the Compliance Fund filed amended reports itemizing an additional 86 contributions totaling $46,180 as required. A review of this amendment indicated that the Compliance Fund correctly itemized the contributions as required.

In the interim report, the Audit staff noted that since appropriate amendments have been filed, no further action was recommended at that time, but the Compliance Fund was afforded an opportunity to provide additional comments if they so wished. The Compliance Fund chose not to provide any such additional comments in its response to the interim report.

Conclusion

The Commission determined that no further action is necessary on this matter.

Reagan-Bush '84 General Election Committee

A certain matter noted during the audit has been referred to the Office of General Counsel.

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

A. Reagan-Bush '84 General Election Committee

1. Expenditures Apparently in Excess of the Limitation

Section 9007(b)(2) of Title 26 of the United States Code states that if the Commission determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, it shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

Interim Report Analysis

As noted in the interim report, the Audit staff analyzed the GEC's reports and activity covering the period from inception through April 25, 1985 and noted that with respect to expenditures subject to the $40,400,000 limitation, it appeared the GEC had exceeded the limitation at 2 U.S.C. § 441a(b)(1)(B) in the amount of $1,484,107.92. It was also apparent from this analysis that without the inclusion of the Reagan-Bush '84 ("the Primary Committee") activity ($2,072,283.83), the GEC had not exceeded the spending limitation. This amount represents unreimbursed expenditures for voter registration and other political activities which were made by the Primary Committee but which appeared to benefit the candidate's general election campaign only. The expenditures represent only payments for goods and services used in a state after the date of that state's primary or caucus.2/

At the exit conference, GEC officials responded that they disagreed with the inclusion of the $2,072,283.83 as apparent general election expenditures and that the treatment of those disbursements represents a philosophical difference between the GEC and the Audit staff.

In the interim report the Audit staff recommended that absent a showing to the contrary, the Commission make a determination that the expenditure limitation at 2 U.S.C. § 441a(b)(1)(B) had been exceeded by $1,484,107.92.

During its deliberations on the Final Audit Report of the Primary Committee, the Commission considered the Committee's response to this Finding, as well as the Audit staff's recommendations. A more detailed discussion of this issue is included in that Final Audit Report at pages 3-7.

2/ This matter was also presented to the Primary Committee in an interim report sent July 17, 1985. In its response to the interim report, the Primary Committee disagreed that these expenditures were GEC related.

On June 26, 1986 the Commission made a determination that the $2,072,283.83 in expenses for voter registration and other political activities were made in connection with the candidate's campaign for nomination for election. Therefore, these expenses represent qualified campaign expenses of the Primary Committee and need not be reimbursed by or considered as qualified campaign expenses of the GEC.

Adjustments to Interim Report Finding

The Audit Staff considered the Commission's decision with respect to the voter registration expenses, analyzed the GEC's response relative to the media consulting fee addressed at finding III.A.4., reviewed information made available by the Primary Committee in response to a March, 1986 Commission request for additional media documentation (see Finding III.A.5.), and performed additional fieldwork resulting in the analysis depicted on page 8.

Upon completion of the additional fieldwork, the Audit staff's analysis of the GEC's reports and activity covering the period from inception through March 31, 1985, and available records relating to receipts and expenditures from April 1, 1985 through April 25, 1985 revealed the following with respect to expenditures subject to the $40,400,000 limitation.

Reagan-Bush '84 General Election Committee
Overall Limit - Audit Analysis

1.	Reported expenditures subject to limitation from inception through 3/31/85	$40,269,476.68
	Adjustments to the Above Reported Totals	
2.	Add: Misclassification of expenditures on 1984 year-end report	200,000.00
3.	Add: Expenditures made from 4/1/85 through 4/25/85 subject to limitation	64,482.79
4.	Add: Accounts payable - State bank accounts	5,861.98
5.	Less: Accounts receivable at 3/31/85	(111,671.14) a/
	Subtotal	$40,428,150.31
6.	Less: Audit-verified amount of expenditures which may be reimbursed by the Compliance Fund at GEC's option	(50,811.90) b/
7.	Subtotal: Expenditures subject to limitation per analysis of GEC's reported activity, as adjusted	$40,377,338.41
8.	Add: Apparent general election expenditures made by the Primary Committee	831,510.15 c/
9.	Total expenditures subject to limit	$41,208,848.56 d/

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a/ Included in this amount is an account receivable of $20,655.60, representing reimbursements due the GEC from an entity for travel on GEC chartered aircraft. This amount may be adjusted downward as additional information becomes available concerning the collectibility of the receivable. See Finding III.A.6.

b/ The Audit staff's analysis of the GEC's calculation of the amount available for allocation of exempt legal and accounting costs between the Compliance Fund and the GEC indicated that $926,355.27 could be properly allocated. As of 3/31/85, the Compliance Fund has reimbursed the GEC $875,543.37, thus leaving a balance of $50,811.90 eligible for reimbursement. The GEC, at its election, may allocate all or a portion of the $50,811.90 to the Compliance Fund. For the purpose of this calculation, it is assumed that the allocation and reimbursements from the Compliance Fund will be made, thereby reducing expenditures subject to the limitations.

c/ Included in this amount is $792,066.50 representing the unreimbursed portion of the media consultant fee due the Primary Committee. Also included is $39,443.55 representing the unreimbursed portion of production costs due the Primary Committee for commercials shared by both campaigns. These allocations were presented to the Primary Committee in July 1986 as part of an initial repayment determination contained in the final audit report. The Primary Committee has submitted a written response disputing the Commission's initial repayment determination and has requested an opportunity to address the Commission in Open Session. See Findings III.A.4. and III.A.5.

d/ Since several components upon which this total is based are subject to change, adjustments to this total may also be necessary.

Based on the above analysis, it appears that the GEC has exceeded the $40,400,000 limitation at 2 U.S.C. § 441a(b)(1)(B) in the amount of $808,848.56.

This amount represents a net decrease of $675,259.36 from the amount in the interim report ($1,484,107.92). The components are summarized at items a-d.

a.	Payments by the Primary Committee for voter registration and other political activities that the Commission determined were qualified campaign expenses of the Primary Committee and not GEC related. (See pages 6-7)	($2,072,283.83)
b.	Apparent nonqualified campaign expenses (not included in the interim report amount) which, based on the Audit staff's and Commission analysis of the GEC's response to the Interim Report are includable in the overall limit (see Finding III.A.2.)	565,514.32
c.	Unreimbursed portion of the media consultant fee due the Primary Committee (See Finding III.A.4.and footnote c/ on page 9.)	792,066.60
d.	Unreimbursed portion of production costs due the Primary Committee for commercials shared by both campaigns (See Finding III.A.5. and footnote c/ on page 9.)	39,443.55 3/
	Net Decrease	($675,259.36)

3/ This amount is $15,986.00 less than the amount noted in the Primary Committee's audit report at Attachment 5, line 12 (Audit analysis as Adjusted column). The $15,986 reduction is necessary since this amount, representing the portion of the fee paid to TTI by the Primary Committee, has already been included in the $792,066.60 figure in item c. above. If the Commission determines that the $792,066.60 media fee allocation is not appropriate, an appropriate amount will be added back to the production cost allocation amount. These allocations were presented to the Primary Committee in July 1986 as part of an initial repayment determination contained in the final audit report. The Primary Committee has submitted a written response disputing the Commission's intial repayment determination and has requested an opportunity to address the Commission in Open Session. (See Findings III.A.4. and III.A.5.).

Items c. and d. above were developed as a result of additional information supplied by the Committees after the GEC's response to the interim audit report in December 1985. Both matters were presented to the Primary Committee in the July 1986 publicly released audit report. As that report notes, on June 26, 1986, the Commission made initial determinations that the Primary Committee seek reimbursement from the GEC for both $792,066.60 related to an allocation of the media consulting fee and $55,429.55 3/ related to a reallocation of media production costs. It should be noted that the Primary Committee has formally disputed these initial determinations.

It appears that without the inclusion of the $831,510.15 in Primary Committee disbursements and assuming all receivables are collected at the amounts shown on page 8, the GEC would not exceed the spending limitation. Of this amount, $792,066.60 represents the GEC's portion of the media fee paid by the Primary Committee (see Finding III.A.4.). The balance of $39,443.55 represents the unreimbursed portion of production costs for shared commercials owed by the GEC to the Primary Committee (See Finding III.A.5.). These matters were discussed informally with the Deputy Treasurer and Counsel for both committees in February and May 1986 and formally presented to the Primary Committee in the publicly released Final Audit Report in July, 1986. In its response to the Commission's Initial Repayment Determination contained in the July, 1986 Audit Report, the Primary Committee disputed the Commission's initial repayment determination as it relates to these two matters. This response will be considered by the Commission prior to reaching a final determination with respect to the Primary Committee. If the Commission determines that the $831,510.15 (or any portion thereof) should not be allocated from the Primary Committee to the GEC, the recommended repayment amount will be adjusted accordingly.

Conclusion

On April 23, 1987, the Commission made an initial determination that the expenditures made in excess of the limitation totalling $808,848.56 must be repaid to the U.S. Treasury within 90 calendar days of receipt of this report in accordance with 11 C.F.R. § 9007.2(d). As noted above, the Primary Committee has disputed allocations included in the limitation calculation.

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: $808,848.56

3/ See page 10.

2. Apparent Nonqualified Campaign Expenses

The term "qualified campaign expense" is defined at 26 U.S.C. § 9002(11)(A)(iii) as an expense incurred by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such office. Under 26 U.S.C. § 9007(b)(4)(A), if the Commission determines that any amount of any payment made to the eligible candidates of a political party under Section 9006 was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, it shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary of Treasury an amount equal to such amount.

The regulations at 11 C.F.R. § 106.1(a) require that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be received.

The Audit staff reviewed GEC expenditures and noted three (3) categories of apparent nonqualified campaign expenses as outlined below.

a. Apparent Noncampaign Related Expenses

During the review of expenditures made by the GEC the Audit staff noted 23 payments, totaling $88,693.78, which appeared to be nonqualified campaign expenses. In the interim report the Audit staff recommended that the GEC supply documentation to show that these expenditures were for qualified campaign expenses. Absent such a showing, the interim report stated that the Audit staff would recommend that the Commission make an initial determination that the $88,693.78 be repaid to the U.S. Treasury. These expenditures can be divided into three sub-categories: i) Promotional Mailings; ii) Receipted Bill from a Political Committee; and iii) Joint Campaign Rally.

i. Promotional Mailing

Two payments, totaling $62,132.00, were for a mailing which the documentation indicated was to promote the election of a non-Federal Candidate.

In its response to the interim report, the GEC stated that the 2 items totaling $62,132.00 which appeared to be advertising promotion for a non-Federal Candidate were actually promotional costs associated with an endorsement of the Candidate by the non-Federal Candidate. The GEC provided a copy of the promotional mailing to support this contention.

The documentation supplied by the GEC for the two payments totaling $62,132.00 supports the GEC's contention that these payments were for qualified campaign expenses.

ii. Receipted Bill From a Political Committee

A payment in the amount of $14,000 was made to an apparent corporation for promotional services but the receipted bill was provided by a political committee. GEC officials suggested that a corporate employee probably inadvertently prepared the receipt on political committee stationery.

The GEC responded to the questionable $14,000 payment made to a corporation, but receipted by a political committee, by providing documentation from the corporate employee who signed the receipted bill. The employee stated that the use of political committee stationery for acknowledging payment was made in error.

The documentation supplied by the GEC in the response to the interim report as noted above, supports the GEC's contention that these payments were for qualified campaign expenses.

iii. Joint Campaign Rally

The GEC made 20 expenditures totaling $25,123.57 for a joint rally which benefited the Vice - Presidential candidate and another Federal candidate. No evidence was found during fieldwork that the other Federal candidate paid any portion of the expenses. Therefore, the calculated amount of the other Federal candidate's portion [$12,561.78 (50% of $25,123.57)] appeared to be a nonqualified campaign expense.

The GEC responded to the interim report by stating that the entire $25,123.57 which was expended for the rally should be considered as a qualified campaign expense because that amount represented the GEC's approximate share of the total cost of the rally relative to the benefits received. The GEC stated that the committee of the other Federal candidate supplied documentation showing that it paid about $13,000 or 1/3 of the total expenses which approximated $38,000.00. The GEC did not supply this documentation in its response. The GEC believes that the approximate 2/3 to 1/3 ratio for the rally expenses accurately reflected the value of the appearance to each of the participants.

The GEC stated that the 2/3 - 1/3 split of rally expenses between the Vice-Presidential candidate and the other Federal candidate is proper because certain expenses ($3,990.50 for flags and $1,751.45 for a balloon drop) were made as a result of the presence of the Vice-Presidential candidate and were authorized by the Reagan-Bush advance team. These items are included in the $25,123.57 paid by the GEC. The GEC also feels the ratio is appropriate because, according to the coordinator of the rally, the Vice-Presidential candidate spoke for approximately 10 minutes and the other Federal candidate spoke for 5 minutes. Again, no documentation has been supplied to support this contention which was attributed to an unidentified coordinator for the rally.

In light of the assertions contained in the GEC's response regarding the rally, the Audit staff re-evaluated the information obtained during our initial fieldwork relative to this rally. The advertising material we examined indicated that the other Federal candidate was at least an equal participant at the rally. Flyers promoting the event listed the other candidate first. It appears that the expenses the GEC asserted were a result of the Vice-Presidential candidate appearance as well as the other expenses comprising the $25,123.57 provided equal benefit to both candidates. Included in this amount were typical rally expenses such as flyers, radio and newspaper advertising, hall rental and decorations, payments for a band and sound equipment, food for volunteers, and flags and balloons; which clearly benefitted both candidates.

With respect to the 2/3 - 1/3 cost/benefit ratio, the Audit staff has not been supplied with any documentation beyond the narrative section of the GEC's response to analyze this contention. In addition, we have not been provided with any evidence with respect to the $13,000 purportedly spent by the other candidate's committee to assess the impact of those expenditures on this matter. Therefore, based on our re-evaluation of the information regarding this rally, it is the opinion of the Audit staff that the GEC has failed to provide documentation sufficient to demonstrate that the $12,561.78 was spent for qualified campaign expenses.

On May 2, 1986 (almost five months after the interim response due date), the GEC supplied additional information related to this rally. Since additional testing must be performed to verify the accuracy of these schedules, follow-up fieldwork will be scheduled and addenda to this report will be issued as necessary in accordance with 11 C.F.R. §§ 9007.1(b)(3) and 9007.1(e)(4).

Conclusion

No further action is necessary with respect to the $62,132 paid for a promotional mailing on behalf of the candidate and the $14,000 paid to a corporation for promotional services.

In addition, on April 23, 1987, the Commission determined that the 2/3 - 1/3 allocation set forth by the GEC in its response relative to the campaign rally expenditures is reasonable, and therefore no further action is necessary.

b. Apparent Undocumented Disbursements

The regulations at 11 C.F.R. § 9003.5(a) state that each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or authorized committee(s) are qualified campaign expenses as defined in 11 C.F.R. § 9002.11. The candidate and his or her authorized committee(s) shall obtain and furnish to the Commission at its request any evidence regarding qualified campaign expenses made by the candidate, his or her authorized committees and agents or persons authorized to make expenditures on behalf of the candidate or committee(s) as provided in 11 C.F.R. § 9003.5(b).

In addition, 11 C.F.R. § 9003.5(b) provides that the committee be required to maintain a receipted bill or cancelled check for all disbursements. This documentation shall also state the purpose of the disbursement or be presented with collateral evidence to document the expenditure.

The Audit staff reviewed the records made available related to the GEC's media purchases. A portion of those purchases for "spot TV" buys were handled by a media buyer, headquartered in New York City. Our reconciliation of net funds transferred ($10,713,513.13) to the buyer versus the value ($10,311,932.32) of documentation provided in support of these transfers indicated that $401,580.81 in funds transferred remained unsupported. Our review was conducted during the week of April 22, 1985. At that time, we were advised that additional documentation would be forthcoming from the buyer.

In addition, the GEC opened a separate bank account in each of the fifty states and three geographic regions. The Audit staff reviewed bank statements, cancelled checks and other supporting documentation for all these accounts. During the review of the Connecticut account, the Audit staff noted that the GEC did not have bank statements or cancelled checks for the period November 1 through December 14, 1984. Between March 1, 1985 and May 14, 1985 the Audit staff made numerous requests for these statements from the GEC.

During the period November 1 through December 14, 1984 the Audit staff found no evidence of transfers or other deposits made to the Connecticut state account although it was possible funds were received during this period. The balance per bank as of December 14, 1984 was $6,422.08 less than the balance per bank as of November 1, 1984 indicating that at least this amount of checks had been paid by the bank.

Forty-three expenditures totaling $10,624.73 were reported on the schedule G-P for Connecticut which did not clear the bank during the period when bank statements were available and could not be documented by cancelled checks or receipted bills.

At the exit conference, GEC officials said that media invoices would be made available as soon as possible and they had made a second request for the missing Connecticut bank statements which would support the undocumented expenditures and resolve the apparent discrepancy between the bank records and reported expenditures.

In the interim report, the Audit staff recommended that the GEC be requested to show that the above expenditures totaling $412,205.54 are qualified campaign expenses. Absent such a showing, the Audit staff would recommend that the Commission make an initial determination that the $412,205.54 be repaid to the U.S. Treasury.

With respect to documentation for "spot TV" buys handled by the media buyer, the GEC's response to the interim report included invoice records relative to the amount found to be initially undocumented. The Audit staff reviewed the records made available and notes that payments for remaining "spot buys" are now adequately documented.

In the response, the GEC also supplied bank statements for the Connecticut bank account which adequately documented the previously undocumented expenditures. The information supplied also resolved the apparent discrepancy between the bank records and reported expenditures.

Conclusion

No further action is necessary with regard to the $401,580.81 in previously undocumented spot buys and the $10,624.73 in expenditures made from the Connecticut bank account.

c. Expenditures Paid Prior to the Beginning of the Expenditure Report Period

The Regulations, at 11 C.F.R. § 9003.4(a)(1) permit a candidate to incur expenditures before the beginning of the expenditure report period, as defined at 11 C.F.R. § 9002.12, if such expenditures are for property, services or facilities which are to be used in connection with his or her general election campaign and which are for use during the expenditure report period. Such expenditures will be considered qualified campaign expenses. Examples of such expenditures include: Expenditures for establishing financial accounting systems, expenditures for organizational planning and expenditures for polling.

On August 31, 1984, the GEC reimbursed $64,615.00 to the Primary Committee representing four (4) expenditures categorized by the GEC as voter registration and GOTV expenses. These expenditures were for telephone installation, telemarketing services, and postage paid in August, 1984 by the Primary Committee prior to the beginning of the expenditure report period. (In accordance with 11 C.F.R. § 9002.12, the expenditure report period began on August 22, 1984 - the date the Candidate was selected as the nominee of his party for President). The documentation supporting these expenditures does not clearly indicate when these service were used or if they were for polling or GOTV. GEC officials believe these expenditures were incurred in accordance with 11 C.F.R. § 9003.4(a)(1).

In the interim report, the Audit staff recommended that the GEC show that the above expenditures totaling $64,615.00 were qualified campaign expenses. Absent such a showing, the Audit staff would recommend that the Commission make an initial determination that the $64,615.00 be repaid to the U.S. Treasury.

In its response to the interim report, the GEC submitted documentation and explanations further detailing the purposes of these expenditures. The information supplied indicates that these are the type of start-up and polling expenses permissible under 11 C.F.R. § 9003.4(a)(1).

Conclusion

No further action is necessary with respect to the above expenditures totaling $64,615.00.

3. <u>Interest Earned on Investment of Federal Funds</u>

The Regulations at 11 C.F.R. § 9004.5 state in part that investment of public funds or any other use of public funds to generate income is permissible, provided that an amount equal to all net income derived from such investment, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

The Audit staff reviewed the GEC's investment activity and determined that $496,796.58 in interest was earned from investments of public funds between August, 1984 and April, 1985. The income tax liability on this amount equals $228,434.42, leaving a balance of $268,362.16 repayable to the Secretary of the Treasury.

On March 22, 1985, April 4, 1985, and July 12, 1985 the GEC made partial repayments to the Secretary totaling $245,000, resulting in a balance due to the U.S. Treasury of $23,362.16.

In the interim report the Audit staff recommended that absent a showing to the contrary the Commission make an initial determination that the $23,362.16 be repaid to the U.S. Treasury.

On December 11, 1985, the GEC repaid the $23,362.16 to the U.S. Treasury.

<u>Conclusion</u>

No further action is required on this matter.

4. <u>Fee Payment to Media Firm</u>

For a primary Presidential candidate, the term "qualified campaign expense" is defined at 26 U.S.C. § 9032(9) as a purchase, payment, advance, or gift of money or anything of value incurred by a candidate or by his authorized committee, <u>in connection with his nomination for election</u> (emphasis added).

For a General Election Presidential candidate, the term "qualified campaign expense" is defined at 26 U.S.C. § 9002(11)(A)(iii) as an expense incurred by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such office. Under 26 U.S.C. § 9007(b)(4)(A), if the Commission determines that any amount of any payment made to the eligible candidates of a political party under Section 9006 was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, it shall notify such candidate of the amount so used, and such candidate shall pay to the Secretary of Treasury an amount equal to such amount.

The Regulations at 11 C.F.R. § 106.1(a) require that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be received.

The Primary Committee and the GEC contracted with Tuesday Team, Inc. (TTI) to handle the production and time buying for commercials to be aired during both the primary and general electon campaigns. For these services, the Primary Committee paid a consultant fee of $1,000,000 to TTI. The consultant fee for the GEC was $1,315,000.29. All but $26,225.00 of the GEC's fee was paid by the Republican National Committee in accordance with 2 U.S.C. § 441a(d)(2).

In the interim report, the Audit staff cited 2 U.S.C. § 441b and said it appeared the consultant fee paid by the GEC to its media firm was too low and a possible in-kind corporate contribution had been made by the firm. Our analysis was based on the application of a standard 17.65% mark-up on media time buys and production costs normally charged by media firms. (In fact, the Primary Committee used this standard mark-up rate to justify the $1,000,000 fee it paid to TTI.) Since the GEC incurred $25,278,001.03 in media buys and production expenses (according to TTI's financial statements), the $1,315,000.29 fee appeared much too low in light of the normal 17.65% mark-up.

At the exit conference, GEC officials responded that the fee paid for the general election period was negotiated when the market was "soft." They also said that their contract was similar to media contracts with other "prestigious" firms that purchase a large volume of media time.

In the interim report, the Audit staff recommended that the GEC submit evidence demonstrating an in-kind contribution had not been received from the corporate media consulting firm. The Audit staff added that based on a review of that documentation, additional recommendations could be forthcoming.

In its response to the interim report, the GEC dismissed the Audit staff's interpretation of the Primary Committee's justification for the fee paid TTI during the nomination period. The GEC simply stated that it sought and obtained a flat fee arrangement through arms length negotiations.

The GEC concluded that the fee was substantial when considering the time frame "(a)nd there is absolutely no evidence whatever that the fee did not compensate Tuesday Team for the market value of its services." The response did not elaborate on this point, but instead contained documentation supporting the contention that the media firm was compensated for the market value of its services in accordance with normal advertising business practices. The documentation consists of articles from trade journals and a letter from an advertising firm stating that negotiations often result in a set fee instead of the standard 17.65% commission on media buys. The articles indicate that in lieu of the standard commission, advertising firms will accept less when (1) the budgets are large, (2) the clients are prestigious, and (3) the opportunity for growth is present.4/ One article quotes an industry official as stating "as long as the advertiser recognizes our right to have a decent profit, 7.5% to 10% of gross billings, you can project profit and manpower usage."

The Audit staff agrees that the documentation supplied supports the contention that TTI was compensated for the market value of its services to both the Primary Committee and the GEC in accordance with normal industry practices. This conclusion is based on the Audit staff's analysis of combined activity of both the Primary Committee and GEC. The analysis summarized on line 3 of Attachment 1 indicates that TTI received an average gross profit of 8.336% for its services to both committees. This rate of return is consistent with normal advertising firm practices as outlined in the articles supplied in the response. Therefore, it no longer appears that the media firm has made an in-kind contribution to the GEC. Rather, it appears that the fees negotiated by both committees were not allocated properly between them. Our analysis summarized on Attachment 1 and detailed below indicates that the GEC should reimburse the Primary Committee $792,066.60 to reflect the proper allocation of the fee paid TTI in accordance with 11 C.F.R. § 106.1(a).

Attachment 1, at line 1, reflects total GEC and Primary Committee expenditures for media buys and production expenses as reflected on TTI's financial statements. Then we combined the media time buys and production expenses of both committees and compared that to the combined fees received by the media firm (Attachment 1, lines 1. and 2., Total column). On line 3. we calculated the average gross profit rate (before

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4/ It is apparent that the Primary Committee could be viewed as possessing all three attributes, however, it is unlikely that the GEC could be viewed in the same manner. TTI ceased operating after completing its contract with the GEC.

administrative expenses) of 8.336% received by the media firm for its services to both committees. Applying this rate to the $25,278,001.03 paid by the GEC for production expenses and media time buys results in an appropriate fee of $2,107,066.89 or $792,066.60 more than the $1,315,000.29 actually paid. Conversely, application of the 8.336% gross profit rate to the Primary Committee's payments for production and time buys of $2,494,543.58 results in an appropriate fee of $207,933.40 or $792,066.60 less than the $1,000,000.00 actually paid. As explained below, this calculation was based on amounts contained in TTI's financial statements which appear to already reflect an allocation of $331,366.44 for production costs possibly related to shared commercials.

The Audit staff's analysis based on the Committee's response to the interim report, began with a review of financial statements prepared by TTI. We noted the following breakdown of expenses:

	GEC	Primary	Total
1. Production Costs	$ 2,630,633.26	$ 576,811.62	$ 3,207,444.88
2. Media Time Buys	22,647,367.77	1,917,731.96	24,565,099.73
3. Total of 1. and 2.	$25,278,001.03	$2,494,543.58	$27,772,544.61
4. Consulting fee	$ 1,315,000.29	$1,000,000.00	$ 2,315,000.29

Prior to obtaining TTI's financial statements, the Audit staff had reviewed bank statements and related supporting documentation with respect to these amounts. With the exception of item 1., production costs, the documentation provided by the committees and TTI materially supported these amounts. Our review of bank records and related supporting documentation indicated that prior to any allocation for shared commercials (addressed at Finding III.A.5.), Primary Committee production costs totaled $908,178.06 and GEC production costs totaled $2,299,019.22. Since total production costs for both committees per bank records and supporting documentation totals $3,207,197.28 ($908,178.06 + $2,299,019.22) or only $247.60 less than the total per the TTI accountant's financial statements, it is the opinion of the Audit staff that the TTI financial statements may reflect an adjustment for allocation of shared commercials. In other words, it appears that TTI may have allocated $331,366.44 in production costs from the Primary

Committee to the GEC. This contrasts with the Commission's determination that indicated an appropriate allocation of $181,877.55 (Attachment 2, line 9, Audit Analysis as adjusted). For a more detailed discussion of the Audit staff's analysis see Finding III.A.5.

On February 4, 1986, the Audit staff met informally with Counsel and the Deputy Treasurer for the committees and requested an explanation regarding this apparent allocation reflected on TTI's financial statements. The Committee officials could not account for the apparent allocation. Therefore, the Audit staff supplied the Committee officials with workpapers similar to Attachment 1 and explained how the consulting fee allocation of $792,066.60 was calculated using the figures from TTI's financial statements which appeared to already reflect the larger allocation of $331,366.44 for shared commercials.

The issue involving proper allocation of the fees paid to TTI was not included in the GEC interim report. Therefore, the GEC will be afforded an opportunity to respond to the Commission's initial determination. This response will be considered by the Commission in reaching a final determination (See 11 C.F.R. § 9007.2(c)).

Conclusion

On April 23, 1987, the Commission determined that the GEC owes the Primary Committee $792,066.60 and this amount should be included in expenditures subject to the limitation (Finding III.A.1.) and the Statement of Net Outstanding Qualified Campaign Expenses (Finding III.A.6.). This allocation was presented to the Primary Committee in July 1986 as part of an initial repayment determination contained in the final audit report. The Primary Committee has submitted a written response disputing the Commission's initial repayment determination and has requested an opportunity to address the Commission in Open Session.

The GEC is also to provide the Audit Staff with an explanation, accompanied by adequate supporting documentation, of the apparent allocation of $331,366.44 in production costs from the Primary Committee to the GEC as reflected in TTI's financial statements. Such documentation, at a minimum, is to include journal entries, ledger pages, cost distribution schedules, adjusting entries, related CPA workpapers, and any other documentation which will permit verification of the $576,811.62 total of Primary Committee production costs as reflected on TTI's financial statements. As noted above, this apparent allocation contrasts with the Audit Analysis as reflected on line 9 of Attachment 2.

5. Media Production Costs

The Regulations, at 11 C.F.R. § 106.1(a) require that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived.

Certain production costs, identified by the Primary Committee as relating to commercials to be aired during both the primary and general election campaigns, were viewed by Committees as allocable between the primary and general election campaigns. On September 7, 1984, the GEC reimbursed $304,389.50 to the Primary Committee. The Primary Committee indicated that this amount represented 50% of total production costs associated with certain commercials. The committees' Deputy Treasurer stated that this allocation was based on the fact that the same commercials were produced for use in both the primary and general election campaigns and that the allocation percentage was developed in early 1984 based on planning and estimated usage of production ppieces. For a complete discussion of this issue, please refer to Finding III.B.2. contained in the Final Audit Report on the Primary Committee.

On June 26, 1986, the Commission determined that the audit analysis at Attachment 2 should be adjusted to reflect Commission approval of the committees' 50/50 formula for allocating production costs between the two campaigns.5/ The Commission further determined that within 30 days of receipt of this report, the Primary Committee is to seek from the GEC the amount ($39,443.55) 6/ of allocable production costs still owing. It should be noted that the Primary Committee disputed this determination.

5/ As noted on pages 21-22, the financial statements prepared by TTI indicate a possible reallocation of $331,366.44 or $149,488.89 more than the Audit Analysis as Adjusted as shown on line 9 of Attachment 2.

6/ This amount is $15,986.00 less than the amount noted in the Primary Committee's audit report at Attachment 5, line 12 (Audit Analysis as adjusted column). The $15,986.00 reduction is necessary since this amount, representing the portion of the fee paid to TTI by the Primary Committee, has already been included in the $792,066.60 media fee allocation. If the Commission determines that the $792,066.60 media fee allocation is not appropriate, an appropriate amount will be added back to the production cost allocation amount. (See Findings III.A.4. and III.A.5.).

Conclusion

On April 23, 1987, the Commission determined that the GEC owes the Primary Committee $39,443.55 and this amount should be included in expenditures subject to the limitation (Finding III.A.1.) and the Statement of Net Outstanding Qualified Campaign Expenses (Finding III.A.6.). This allocation was presented to the Primary Committee in July 1986 as part of an initial repayment determination contained in the final audit report. The Primary Committee has submitted a written response disputing the Commission's initial repayment determination and has requested an opportunity to address the Commission in Open Session.

6. Determination of Net Outstanding Qualified Campaign Expenses

Under 11 C.F.R. § 9007.2(b)(3), if the Commission determines that a portion of payments received from the Fund under 11 C.F.R. part 9005 remains unspent after all qualified campaign expenses have been paid, it shall so notify the candidate, and such candidate shall pay the United States Treasury that portion of surplus funds.

On March 28, 1985, the GEC presented an updated Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE") to the Audit staff depicting its financial position as of December 6, 1984, the end of the expenditure report period (26 U.S.C. § 9002(12)(A)). The Audit staff reviewed the available books and records to verify the totals on the NOQCE and developed the statement shown below.

Analysis of Reagan-Bush '84 General Election Committee Statement of Net Outstanding Qualified Campaign Expenses As of March 31, 1985

	Audit	GEC	Audit	GEC
Assets				
Cash-on-Hand	$ 92,989.33	$101,312.74		
Accounts Receivable	111,671.14 a/	124,216.80		
Capital Assets	35,843.37 b/	-0-		
Maximum Allocation To Exempt Legal & Accounting	50,811.90 c/	50,360.27		
Accrued Interest Receivable	10,833.79 d/	-0-		
Total Assets			$ 302,149.53	$275,889.
Liabilities				
Accounts Payable-Vendors	$ 64,482.79	$ 65,144.92		
Reimbursement due Primary Committee for - Media fee	792,066.60 e/	-0-		
- Shared Commercials	39,443.55 e/			
State Bank Accounts	5,861.98	-0-		
Estimated Liabilities	-0-	30,000.00		
Income Taxes Due	4,937.54	4,937.54		
Interest Repayment Due	168,362.16	168,362.16		
Total Liabilities			1,075,154.62	268,444.6
Net Outstanding Qualified Campaign Expenses (deficit)			$ (773,005.09) f/	$ 7,445.1

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a/ Included in this amount is an account receivable of $20,655.60, representing reimbursements due the GEC from a news organization for travel on GEC chartered aircraft. This amount may be adjusted downward as additional information becomes available concerning the collectibility of the receivable. See discussion on pages 28-29.

b/ See discussion entitled Capital Assets on page 27.

c/ The Audit staff's analysis of the GEC's calculation of the amount available for allocation of exempt legal and accounting costs between the Compliance Fund and the GEC indicated that $926,355.27 could be properly allocated. As of this date, the Compliance Fund has reimbursed the GEC $875,543.37, thus leaving a balance of $50,811.90 eligible for reimbursement. The GEC, at its election, may allocate all or a portion of the $50,811.90. For the purpose of this calculation, it is assumed that the allocations and reimbursements from the Compliance Fund will be made.

d During the campaign, Federal funds were, according to the Deputy Treasurer, transferred in error to the Primary Committee and to the Compliance Fund. The value shown is the amount of interest, as calculated by the Audit staff, earned on the investment of the Federal funds.

e/ These allocations were presented to the Primary Committee in July 1986 as part of an initial repayment determination contained in the final audit report. The Primary Committee has submitted a written response disputing the Commission's initial repayment determination and has requested an opportunity to address the Commission in Open Session.

f/ The audited NOQCE statement on page 25 reflects a deficit of $773,005.09 while the Audit Analysis - Overall Limit on pages 8 and 10 indicates that the GEC incurred expenditures in excess of the limit by $808,848.56. This difference of 35,843.47 is explained by the items listed below.

A.	Additional capital assets not recognized by the GEC on the NOQCE statement (See discussion on page 27)	$35,843.37
B.	Unexplained miscellaneous adjustment	.10
		$35,843.47

The GEC is generally in agreement with the various components contained in the NOQCE statement prepared by the Audit staff with the exception of two components as discussed below and the allocation of the media fee and shared production costs discussed at Finding III.A.4. and III.A.5.

Capital Assets

Included in the accounts receivable total contained in the GEC's NOQCE statement is $40,658.00 representing capital assets. This amount represents the value of capital assets purchased after March 31, 1985 from the GEC by the Compliance Fund. The Audit staff's NOQCE includes this amount in the accounts receivable balance of $111,671.14. The GEC does not recognize any of the additional $35,843.37 in the capital assets category shown on the Audit staff's NOQCE.

The $35,843.37 represents the GEC value of certain capital assets which the Audit staff was not able to account for based on our analysis of records made available by the GEC concerning the purchase and sale of assets acquired by the GEC for use in the general election campaign. The Audit staff was precluded from performing the necessary procedures to obtain sufficient competent evidential matter needed to form an opinion as to whether the books, records, and disclosure reports of the GEC properly reflected the acquisition and disposition of assets. The Audit staff, based on the information and records made available, could not verify either the total number and value of assets purchased nor the ultimate disposition of the capital assets (see Section I.C. Scope, page 2).

The GEC's response to the interim report included a schedule which the GEC said shows the disposition of the $37,956.37 in capital assets questioned in the interim report. The schedule does not contain any documentation with which to verify these transactions with the exception of one of the assets with a book value of $2,113.00. It is also unclear when these items were disposed and what, if any, compensation was received. Therefore, the Audit staff has included an additional $35,843.37 ($37,956.37 less $2,113) in assets on the NOQCE Statement.

On May 2, 1986 (almost five months after the interim report response due date) the GEC supplied additional schedules of asset acquisition, depreciation, and dispostion. Since additional testing must be performed to verify the accuracy of these schedules, follow-up fieldwork will be scheduled and addenda to this report will be issued as necessary in accordance with 11 C.F.R. §§ 9007.1(b)(3) and 9007.1(e)(4).

Accounts Receivable - Press Reimbursements Due From News Organization

The GEC paid for charter aircraft to transport the press contingent and so facilitate press coverage of the campaign. Included on the GEC's Statement of Net Outstanding Qualified Campaign Expenses (NOQCE), is $20,655.60 due from a news organization for its share of such travel expenses. This receivable, as a committee asset, offsets the GEC's expenditures subject to the expenditure limit. However, if it is written off as uncollectible, since the news organization has filed for a Chapter 11 Reorganization in bankruptcy, the GEC's expenses for such travel arrangements will not be offset and so will count toward the expenditure limit. The GEC officials said that they expected reimbursement for such expenses, that they would not have incurred them otherwise, and that therefore the unreimbursed expense in no event should be charged to the expenditure limit. Rather, the GEC proposes that it assign the receivable to the Government at full value (and so offsetting the expenses allocable to the news organization) which can perhaps ultimately achieve a return to the Treasury.

Notwithstanding the GEC's argument, presidential candidates presumably provide such transportation services to the media to further their campaigns. It is for this reason that the regulations specifically provide such expenses "will be considered qualified campaign expenses subject to the overall expenditure limitation..." 11 C.F.R. § 9004.6(a). The regulations further provide that only "[i]f reimbursement for such expenditures is received by a committee, ... [the amounts received] may be deducted from the amount of expenditures that are subject to the overall expenditure limitation..." 11 C.F.R. § 9004.6(b) (emphasis added). Accordingly, the debt should be treated as a receivable and adjusted as necessary. The GEC's offer to assign to the Government its right to collect the debt in bankruptcy does not resolve the issue as to whether or not the GEC's unreimbursed qualified campaign expenses are to count against the GEC's expenditure limit under 2 U.S.C. § 441a. Further, such an effective purchase of the receivable in return for the right to attempt to collect it in bankruptcy court is not provided for or anticipated by the Act or the Regulations, and would not appear to accord to the Commission any greater priority in pursuit of the claim.

GEC Response to Interim Report

With respect to the receivable for a press reimbursement due from a news organization, the GEC responded that the Audit staff's position is a "...hypertechnical response to what is essentially an unexpected and unique circumstance." The GEC argues that they relied in good faith upon the assurance of a major news organization that it would provide reimbursement. By making the GEC the guarantor of such payment, the GEC implies that the Commission discourages an arrangement which contributes to the public interest by aiding close and accurate reporting of the candidate's activities.

In its response, the GEC submitted an alternative proposal. The proposal suggested that the Compliance Fund be permitted to take assignment of the receivable at face value. The GEC argued that such an arrangement will satisfy the Commission's obligation to recover federal funds while protecting the GEC from being unfairly penalized for its good faith reliance in budgeting the news organization's promise of reimbursement.

The Audit staff believes that an assignment of the receivable to the Compliance Fund at face value would represent a contribution from the Compliance Fund to the GEC. Such contributions are prohibited under 26 U.S.C. § 9003(b)(2). Under normal business practices, entities frequently assign delinquent receivables to brokers or collection agents who specialize in recovering bad debts. In such an arrangement, the entity which sold the receivable would receive only a portion of the face value of the receivable in return, never the full value. However, the Commission's regulation at 11 C.F.R. § 9003.3(a)(2) lists the following permissible uses of contributions to the legal and accounting compliance fund: a) to defray the cost of legal and accounting services provided solely to ensure compliance; b) to defray that portion of expenditures for payroll, overhead and computer services related to compliance; c) to defray any criminal or civil penalties; d) to make repayments; e) to defray the cost of soliciting contributions to the legal and compliance fund; and f) to make a loan to an account established to defray qualified campaign expenses incurred prior to the expenditure report period or prior to the receipt of Federal funds, provided that the amounts so loaned are restored to the legal and compliance fund. 11 C.F.R. § 9002.3(a)(2)(A)-(F). These permissible uses do not include the purchasing of accounts receivable, nor are any of listed uses similar in nature to the purchasing of receivables. The purchasing of such receivable would allow an infusion of private funds into a publicly-funded campaign. Therefore, the Audit staff is of the opinion that the GEC may not assign (sell) the receivable due from the news organization to the Compliance Fund irrespective of any determination of appropriate fair market value of the receivable.

Conclusion

The NOQCE statement presented above indicates a deficit caused by expenditures made in excess of the limitation and that matter is addressed at Finding III.A.1. Adjustments may be made to the NOQCE statement as a result of the GEC's response to Findings III.A.1., 4., and 5.[7] In addition, follow-up fieldwork may be performed to verify actual expenses and addenda to this report will be prepared as necessary.

7. <u>Matters Referred to the Commission's Office of General Counsel</u>

a. A certain matter noted during the audit has been referred to the Office of General Counsel.

IV. <u>Summary - Amounts Repayable to the U.S. Treasury</u>

Presented below is a summary of the amounts subject to the repayment provisions of 26 U.S.C. § 9007(b) as discussed in Section III. of this report.

Finding III.A.1.	Expenditures Apparently in Excess of Limitation	$ 808,848.56[7]
Total Repayment Amount		$ 808,848.56

[7] As noted in Findings III.A.1., 4., and 5., the Primary Committee has disputed allocations included in the repayment calculation.

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Reagan-Bush '84 General Election Committee
Reagan-Bush '84 (Primary Committee)
Proper Allocation of Fee Paid to Media Firm (TTI)

		Reagan-Bush '84 General Election Committee		Reagan-Bush '84 (Primary Committee)		Total
1.	Media Buys and Production Expenses	$25,278,001.03 a/		$ 2,494,543.58 a/		$27,772,544.61
2.	Media Fee Paid	$ 1,315,000.29		$ 1,000,000.00		$ 2,315,000.29
3.	Calculation of Average Gross Profit (line 2 total - line 1 total)	($ 2,315,000.29	-	$27,772,544.61)	=	8.336%
4.	Application of Gross Profit to Buys (8.336% x line 1 = Proper Fee Payment)	$ 2,107,066.89		$ 207,933.40		$ 2,315,000.29
5.	Less: Actual Fee paid from line 2	(1,315,000.29)		(1,000,000.00)		(2,315,000.29)
6.	Reimbursement Due Primary From GEC	$ 792,066.60		($ 792,066.60)		$ -0-

a/ Amounts are based on Audit staff reconciliations of bank accounts maintained by TTI exclusively on behalf of the committees, and TTI Financial Statements.

Attachment 2
Final Audit Report
Reagan-Bush '84 GEC
Page 1 of 1

Reagan-Bush '84 General Election Committee
Calculation of Allocable Production Costs

	Committee	Audit Analysis	Audit Analysis as adjusted
1. Total Allocable Production Costs	$662,533.00	$696,726.36	$696,726.36
2. Less: Primary Only Commercials:			
Spring of 84:30	(49,206.00)	(49,206.00)	(49,206.00)
Spring of 84:60		(73,810.00)	(73,810.00)
America's Back:30	(146,354.00)	(146,354.00)	(146,354.00)
America's Back:60	(97,569.00)	(97,569.00)	(97,569.00)
Prouder Stronger Better:30	(84,537.00)		
3. Less: General Only Commercial: The Bear	(53,754.00)	(53,754.00)	(53,754.00)
4. Net Production Costs to be split	231,113.00	276,033.36	276,033.36
5. Allocation to GEC of shared Commercials	$115,557.00	$166,131.44	$138,016.68
6. Add: General Only Commercial: The Bear	26,877.00	53,754.00	53,754.00
7. Amount Allocable	142,434.00	219,885.44	191,770.68
8. Less: GEC payments for Primary Only Commercials:			
America's Back:60	-0-	(7,012.10)	(7,012.10)
America's Back:30	-0-	(2,881.03)	(2,881.03)
9. Net Amount Allocable	142,434.00	209,992.31	181,877.55 1/
10. Amount Reimbursed	(142,434.00)	(142,434.00)	(142,434.00)
11. Amount yet to be Reimbursed by GEC	$ -0-	$ 67,558.31	$ 39,443.55

1/ The $181,877.55 of allocable production costs from the Primary Committee to the GEC production account indicates Primary Committee production costs of $726,300.51 ($908,178.06 - $181,877.55). It is noted that in Finding III.A.4., Fee Payment to Media Firm, Primary Committee production costs are reflected as $576,811.62. This figure was taken from the 1/31/85 TTI financial statements. To date, the committees have not provided access to records which will explain this difference. Once those records are provided and received by the Audit staff, adjustments will be made.

FEC
DOCUMENT
SEPARATOR

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

July 11, 1988

TO: Fred Eiland
Chief, Press Office

FROM: Kim L. Bright-Coleman KBC
Special Assistant General Counsel

SUBJECT: Public Issuance of the Statement of Reasons for the Final Repayment Determination for Reagan-Bush '84 General Election Committee

Attached please find a copy of the above mentioned Statement of Reasons which the Commission approved on June 2, 1988.

Informational copies of the Statement of Reasons have been received by all parties involved and the document may be released to the public.

Attachment as stated

cc: Audit Division
FEC Library
Public Disclosure
Reports Analysis Division

FEDERAL ELECTION COMMISSION

June 2, 1988

John J. Duffy, Esquire
Piper & Marbury
1200 - 19th Street, N.W.
Washington, D.C. 20036

Dear Mr. Duffy:

The Commission has considered the responses filed on behalf of the Reagan-Bush '84 General Election Committee to the Commission's initial repayment determination contained within the Report of the Audit Division on the Committee issued on May 7, 1987. On June 2, 1988, the Commission made a final determination that President Ronald Reagan, Vice President George Bush, and the Reagan-Bush '84 General Election Committee are not required to make an additional repayment to the United States Treasury.

Enclosed is a Statement of Reasons in support of the Commission's final determination. See 11 C.F.R. § 9007.2(c)(4). Judicial review of the Commission's determination is available pursuant to 26 U.S.C. § 9011.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
President Ronald Reagan,)
Vice President George Bush,)
Reagan-Bush '84 General)
Election Committee, and)
Reagan-Bush '84 Compliance Fund)

STATEMENT OF REASONS

On June 2, 1988, the Commission made a final determination that no additional repayment is due from President Ronald Reagan, Vice President George Bush, and Reagan-Bush '84 General Election Committee. This Statement sets forth the legal and factual basis for the Commission's determination in accordance with 11 C.F.R. § 9007.2(c)(4).

I. **BACKGROUND**

Reagan-Bush '84 General Election Committee ("GEC" or "Committee") is the principal campaign committee of President Ronald Reagan and Vice President George Bush, candidates for the office of President and Vice President in the 1984 presidential general election. The Reagan-Bush '84 Compliance Fund ("Compliance Fund") is the registered legal and accounting fund of the Committee.

The GEC received $40.4 million in public funds under the Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9013, ("Fund Act") to defray expenses "incurred by the candidate of a political party for the Office of President to further his election to such office..." 26 U.S.C. § 9002(11)(A)(i). See also 26 U.S.C. § 9004(c)(1). In order to establish their eligibility under the Fund Act, President Reagan and Vice President Bush certified that their campaign for election would abide by a spending limit equal to the amount of the public funds grant. See 26 U.S.C. § 9003(b)(1). See also 2 U.S.C. § 441a(b)(1). Under 26 U.S.C. § 9007(b)(2), the Commission may determine that the eligible candidates of a political party and their authorized committees have incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party were entitled under section 9004, and require that such candidates repay an equal amount to the United States Treasury. See also 11 C.F.R. § 9007.2(b)(2).

The Fund Act requires the Commission to conduct a thorough examination and audit of the qualified campaign expenses of publicly-funded campaigns of the candidates of each political party for President and Vice President. 26 U.S.C. § 9007(a). Based upon its audit of the GEC, the Commission made an initial determination on May 7, 1987, that the Committee must repay $808,848.56, representing the amount of expenditures the

Committee had made in excess of the limitations, to the United States Treasury.1/ The Commission's determination in this respect was based upon the inclusion of several expenditures in the GEC's expenditures subject to the overall spending limits. First, the Commission determined that the GEC owed $792,066.60 to Reagan-Bush '84 ("Primary Committee"), the candidates' principal campaign committee as candidates for the Republican nomination for President and Vice President in 1984, for its allocable share of the fee paid to Tuesday Team Inc. ("Tuesday Team" or "TTI"), a media firm. Secondly, the Commission determined that the GEC owed the Primary Committee $39,443.55 for media production costs for commercials intended for use in the general election campaign. Finally, the Commission further increased the amount of expenditures subject to the limit based on adjustments to the Committee's Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE Statement"). These findings were set forth in the Audit Report on the GEC issued on May 7, 1987.2/ Attachment 1. Pursuant to 11 C.F.R. § 9007.2(c)(2), the GEC

1/ The GEC had previously repaid $23,362.16 to the United States Treasury for interest earned on investment of federal funds on December 11, 1985. See 11 C.F.R. § 9007.2(b)(4).

2/ Corresponding findings regarding the media fee and production cost allocations were set forth in the Commission's audit report on the Primary Committee issued on July 8, 1986. Attachment 5. The GEC Audit Report noted that the Primary Committee had disputed the Commission's initial determination. See Attachment 1 at p.24.

submitted a response to the Audit Report on August 7, 1987, and requested an opportunity to make an oral presentation as part of its response to the initial repayment determination.3/ Attachment 2.

On February 9, 1988, the Commission made a final repayment determination with respect to the Primary Committee. Attachment 4-A. The Commission determined that the Primary Committee was not required to seek a reimbursement from the GEC for any amount of the media consultant fee paid to Tuesday Team. The Commission also determined, however, that the Primary Committee must seek reimbursement from the GEC for $39,443.55 in production costs.

The Statement of Expenditures Subject to the Limit and NOQCE Statement were subsequently revised to conform with the Commission's determinations, and to update figures based on GEC disclosure reports through September 30, 1987. Attachment 16. The revisions included eliminating a receivable of $20,868.07

3/ Counsel for the GEC subsequently withdrew his request for an oral presentation. Counsel for the Primary Committee and GEC had previously made an oral presentation on July 29, 1987, with respect to the Primary Committee, urging reversal of the Commission's initial determination. The Commission prepared a transcript of this presentation and provided counsel with a copy. Attachment 10. At the conclusion of the meeting, counsel was advised that the Commission would consider any additional factual and legal materials he wished to submit. Counsel submitted additional information for Commission consideration in letters dated August 5, 1987 and August 12, 1987. Attachments 11 and 12.

from a news organization. This receivable was originally included in the GEC's NOQCE Statement as a receivable from a news organization for reimbursement of air travel costs paid by the Committee. Attachment 1 at pp. 25-26 and 28-30. The Audit Division recommended that this debt be treated as uncollectible in accordance with the Commission's treatment of a similar debt in the context of an audit involving another publicly-financed campaign and made appropriate adjustments to the GEC's NOQCE Statement. Attachment 16. In a letter dated February 12, 1988, the Committee agreed to treatment of the receivable as uncollectible. Attachment 17. Finally, the Committee has indicated that the Compliance Fund will reimburse the GEC for $26,637.97, which would eliminate the repayment obligation. Attachments 17 and 18.

The Commission modifies its initial determination in accordance with its final determination regarding the Primary Committee and the revisions to the NOQCE Statement. Therefore, the Commission makes a final determination that the Reagan-Bush '84 General Election Committee is not required to make an additional repayment to the United States Treasury.

II. DISCUSSION

A. Introduction

The Commission's audits of the GEC and Primary Committee revealed that the two committees shared the services of a media consultant firm, Tuesday Team, Inc., for commercials which aired during both the primary and general election campaigns. TTI's services for the Primary Committee and the GEC included developing the advertising campaign for President Reagan's reelection, producing the advertisements, and arranging for their placement in various television and radio markets. The committees made separate payments to Tuesday Team for direct production costs, purchases of advertising time and the fee for its services. It appears that the committees had intended that most, if not all, of the commercials produced for the primary would also be used in the general election period. However, the committees later decided to use only roughly half of the primary-produced commercials in the general election period. The production costs of the shared advertisements were allocated between the two committees on a 50/50 basis. By separate contracts with Tuesday Team, the committees allocated the fee for Tuesday Team's services between the primary and general election campaigns, $1 million and $1.3 million, respectively.

The Commission's review raised questions concerning the allocation of the production costs for the advertisements between the campaign committees. Moreover, the Commission questioned whether the fee paid for the media firm's services was allocated properly between the Primary Committee and the GEC. The Primary Committee paid a fee to TTI of $1 million, while the GEC paid TTI $1.3 million. However, the GEC used approximately six (6) times as many commercials as did the Primary Committee, and spent more than eleven (11) times as much to purchase advertising time for the commercials as did the Primary Committee.4/ Since the media activity by the GEC appeared to greatly exceed that of the Primary Committee, the relationship of the amount of the fees paid by the two committees seemed disproportionate. Therefore, the Commission auditors questioned whether the GEC's media expenses were in effect subsidized by the Primary Committee.

B. Fee Payment to Media Firm

The fee allocation question was initially raised during the audit of the Primary Committee when the Audit Division indicated that, under normal industry practice for advertising contracts, the client pays a fee to a media firm that is calculated by a particular percentage (e.g. 17.65%) of the cost of the time buys. Attachment 5 at pp. 11-12. By this standard, the $1 million fee paid by the Primary Committee when compared with the total time buys during the primary period ($1.9 million) seemed excessive. In an informal response to the Audit staff, the Primary Committee submitted a sample media firm contract and asserted that ordinarily media firms charge the mark-up not only on time buys, but also on production costs and other services in the creative

4/ Tuesday Team produced nine commercials for the Primary Committee of which eight were actually used during the primary period. According to a schedule of commercials aired, including additional commercials identified by the Audit staff, it appears that at least fifty commercials were produced by TTI for the general election campaign and that four additional commercials produced for the Primary were used in the general. While the Primary Committee paid Tuesday Team approximately $1.9 million for time buys during the primary period, the GEC paid approximately $22.6 million for time buys during the general election campaign.

area, and that the $1 million fee paid TTI was in lieu of mark-up on more than simply time buys. Attachment 14.

The fee allocation question was further developed in the audit of the GEC, when the auditors examined the $1.3 million fee the GEC paid Tuesday Team for the more than $22 million in time buys and more than $2 million in production costs. The interim report on the GEC contained a finding that the GEC had apparently paid a disproportionally small fee based on the amount of time buys and production costs made on its behalf, and suggested the possibility of a prohibited in-kind contribution by TTI to the GEC.

In response to the interim report, the GEC argued that the fee fully compensated TTI for the market value of its services. Attachment 3 at pp. 5-7. The auditors evaluated the total media fee in view of the GEC's response, and concluded that TTI received a commercial return only when the media activities of the two committees were viewed as a whole.5/ On the basis of this approach, the Audit Report concluded that the GEC owed the Primary Committee $792,066.60, thereby increasing its expenditures subject to the limit. Attachment 1.

5/ The Audit staff used the figures from TTI's financial reports to calculate the amount of production costs allocable to each committee. These figures differed from those verified by the Audit staff from bank records and other records. Counsel provided an explanation for this discrepancy in the response to the Audit Report on the GEC (Attachment 2 at pp. 13-14). The Commission modified its calculations accordingly.

As in the responses submitted on behalf of the Primary Committee, the GEC has raised objections to the allocation to the GEC of any portion of the fee paid by the Primary Committee. *See* Attachments 2, 7, 8, 9, 10, 11, and 12. Upon further consideration of the media fee allocation with respect to the Primary Committee, the Commission decided on December 17, 1987, that while there are valid arguments for both allocation methods, the committees' allocation of the fee in this instance was reasonable. The Commission, thus, modified the position taken in its initial determination and made a final determination on February 9, 1988, that the Primary Committee was not required to seek reimbursement from the GEC for any amount of the media consultant fee paid to Tuesday Team. Therefore, consistent with the final determination with regard to the Primary Committee, the Commission has determined that the GEC does not owe any amount of the media consultant fee to the Primary Committee. This reduces the GEC's expenditures subject to the limit by $792,066.60.

C. Media Production Costs

The Commission's initial repayment determination was based in part upon the inclusion of $39,443.55 in expenditures subject to the limit, representing a reimbursement from the GEC to the Primary Committee for the allocable amount of production costs for shared commercials determined to be owing.6/ The issue

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6/ The Audit Report on the GEC explains that this amount is $15,986.00 less than the amount of production costs allocated to the GEC in the Audit Report on the Primary Committee. This (Footnote continued) regarding the allocation of production costs originated during the audit of the Primary Committee, which revealed that the Primary Committee had allocated 50% of production costs for certain commercials to the GEC, based on the assumption that these commercials would be shared by both committees. On September 7, 1984, the GEC -eimbursed the Primary Committee $304,389.50 for its share of the production costs for these advertisements. However, in February 1985, based on a new calculation of which advertisements were actually shared, the Primary Committee returned to the GEC the net amount of $161,955. Thus, the amount paid by the GEC for the commercials was $142,434.

Upon review of the bases for the committees' allocation of the production costs, the Commission's Audit Division indicated that the two committees had not allocated these expenses properly between them. The auditors verified the amount of direct production costs and the amount of production costs allocated to each committee was adjusted accordingly. The appropriate amount of production costs allocable to each committee was then calculated using the adjusted figures.

While the GEC did not raise specific objections to the production cost allocation, its response to the Audit Report incorporates by reference the arguments made by the Primary

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reduction was made because this amount had been included in the media fee allocation. The Primary Committee disagreed with the amount included in the production costs as a portion of the fee paid to Tuesday Team by the Primary Committee. Attachment 7 at p.11.

Committee. Attachment 2. In its response to the initial determination, the Primary Committee accepted the Commission's initial determination relating to allocation of the production costs for shared commercials. Attachment 7 at p.11. However, the Primary Committee contended that a Spanish language version of the "Statue of Liberty" television commercial produced by the Primary Committee was not used by the GEC and that production costs of $34,193 were associated with that version. Therefore, the Primary Committee asserted that this amount should be excluded from the total production costs required to be split between the Primary Committee and the GEC. Attachment 7 at p. 11.

The Commission decided on December 17, 1987, that the Primary Committee's factual assertion as to use of the Spanish language commercial was unsupported. The auditors reviewed both committees' advertising time charges, determined that the commercial in question was aired repeatedly during the general election campaign, and provided clear documentation of this fact to the Deputy Treasurer. Attachment 4-A at p.12. A sample invoice from a Spanish language television station showing that the commercial was used in the general election campaign is attached. Attachment 15. At the oral presentation, counsel was asked to clarify the basis for the Primary Committee's assertion. Since none of counsel's post presentation submissions addressed this issue, the Commission rejected the assertion that costs for the commercial should only be allocated to the primary campaign.

On February 9, 1988, the Commission made a final determination that the Primary Committee was required to seek reimbursement from the GEC in the amount of $39,443.55. Attachment 4-A at 12.7/ In accordance with the Commission's final determination with respect to the Primary Committee, the Commission here determines that the GEC is required to repay $39,443.55 to the Primary Committee for production costs associated with shared commercials.

D. Statement of Net Outstanding Qualified Campaign Expenses

The Commission has modified the final repayment amount based upon revisions to the GEC's Schedule of Expenditures Subject to the Limit and Statement of Net Outstanding Qualified Campaign Expenses to reflect the Commission's final determinations concerning the media fee and production costs allocations with respect to the Primary Committee. In addition, modifications have been made to update other information and to eliminate a receivable from a news organization as uncollectible. Attachment 16. In a letter dated February 12, 1988, counsel for the GEC agreed to these changes. Attachment 17. Moreover, counsel has indicated that the Compliance Fund reimbursed the GEC

7/ As to the portion of the media fee included in the production costs allocation in the Primary Committee Audit Report, the Commission concluded that since the allocation of the media fee had been treated separately, no additional portion of the fee need be included in the production costs allocation. Accordingly, the Commission deleted the additional amount allocated to the GEC, and reduced the additional reimbursement required by a corresponding amount. Attachment 4-A at p.12. On May 27, 1988, the GEC reimbursed the Primary Committee in accordance with the final determination regarding the Primary Committee.

in the amount of $26,637.97.8/ The net effect of these revisions is to reduce the GEC's expenditures subject to the overall statutory limit under 2 U.S.C. § 441a(b)(1).9/ Attachments 17 and 18.

8/ Counsel for the GEC indicated that on May 27, 1988, the Compliance Fund reimbursed the amount of $26,637.97 to the GEC. The NOQCE Statement sent to the GEC on January 14, 1988, included a line item amount of $30,811.90, representing compliance expenses paid by the Committee which could be reimbursed by the Compliance Fund. If the full allowable amount of $30,811.90 had been reimbursed, it would have resulted in unspent Federal funds, and a potential repayment obligation in the amount of $4,173.93. However, the Committee has avoided a repayment to the United States Treasury by limiting its reimbursement to $26,637.97. Attachment 18.

9/ The Committee has agreed that its Compliance Fund will pay $19,950 in settlement of a civil suit, an amount not reflected in the NOQCE or Schedule of Expenditures Subject to the Limit. Moreover, counsel for the Committee indicates that two other civil suits are pending, which could result in similar resolutions. Attachment 18 at p.2. It appears that the Compliance Fund may legitimately make any such payments on behalf of the Committee for the following reasons. First, it is arguable that such payments are not qualified campaign expenses under 11 C.F.R. § 9002.11. See Statement of Reasons, Lyndon LaRouche/Citizens For LaRouche (December 23, 1982), where the Commission determined that certain litigation costs were not qualified campaign expenses under the Primary Matching Payment Account Act. Second, the Commission has taken the view that the costs of defending law suits should not result in a committee using up its expenditure limits of 2 U.S.C. § 441a(b). In AO 1980-4, a law firm donated legal services to the Carter/Mondale Presidential Commitee to defend against a law suit that had been filed against the Committee. The opinion states that "to characterize the donated legal services as contributions in this case would force the Committee to charge the legal expenses to their expenditure limit under 2 U.S.C. § 441a(b)... . This result could, in turn, lead to the situation where any committee similarly situated would have to use up its expenditure limit... in defending law suits, rather than in campaigning for the presidency." CCH § 5457 at 10,506. Third, although not explicitly provided for in the Commission's regulations at 11 C.F.R. § 9003.3(a)(2), this type of use of legal and account-ing compliance funds appears to be permissible given the fact that the campaign is over. See 2 U.S.C. § 439a; 11 C.F.R. § 113.2.

1. Capital Assets

At the time of the Final Audit Report for the GEC, the Audit Division was not able to account for $35,843.37 in capital assets in the records provided by the GEC concerning the purchase and sale of assets acquired for the general election campaign. On May 2, 1986, the GEC supplied additional schedules of asset acquisition, depreciation and disposition. Thereafter, an onsite audit was conducted. Since this audit accounted for these capital assets, the NOQCE Statement has been adjusted, and the amount of $35,843.37 has been deducted from the current total of assets.

2. Reimbursements Due from News Organization

The Commission's regulations include as qualified campaign expenses the cost of providing transportation, certain ground services, and facilities to media and Secret Service personnel who travel with the candidate. 11 C.F.R. § 9004.6(a). The regulations further provide that "reimbursements received" from the media or Secret Service "may be deducted from the amount of expenditures that are subject to the overall limitation" of 2 U.S.C. § 441a(b)(1). 11 C.F.R. § 9004.6(b).

The GEC paid for charter aircraft to transport press members who were covering the general election campaign. Most of the press members and organizations who used this transportation reimbursed the GEC for the cost as permitted by 11 C. .R. § 9004.6(b). However, one news organization, which has filed for a Chapter 11 reorganization in bankruptcy, still has not reimbursed the GEC for the cost of its transportation, which totals $20,868.07. This receivable has been eliminated from the GEC's NOQCE Statement because this amount is uncollectible.[10]

If this receivable were considered a committee asset, any reimbursement for the expenditure received by the Committee would offset the GEC expenditures subject to the expenditure limit. However, since it has been written off as uncollectible, the GEC's expenses are not offset, and thus, the full amount of the receivable counts toward the expenditure limit.

Therefore, the Commission makes a final determination that the receivable from the news organization is uncollectible and that the amount of $20,868.07 should be deducted from the total of accounts receivable, but should be included in the expenditures subject to the overall limitation of 2 U.S.C. § 441a(b)(1). See Attachments 16 and 18.

10/ In its responses to the interim and final audit reports, the GEC proposed that this receivable be assigned to the government at full value, or in the alternative, that the Compliance Fund take assignment of the receivable at face value. Attachment 2 pp. 9-13, Attachment 3 p. 24-25. The Commission concluded in the Final Audit Report that an assignment to the Government is not anticipated by the Act or Commission regulations and does not seem to give the Commission any greater priority in pursuit of the claim than the GEC. Moreover, assignment of the receivable to the Compliance Fund would permit the infusion of private funds into a publicly-financed campaign, would be a contribution in violation of 26 U.S.C. § 9003(b)(2), and does not appear consistent with the permissible uses of contributions to the legal and accounting compliance fund delineated at 11 C.F.R. § 9003.3(a)(2). Thus, the Commission made an initial determination that the GEC may not assign the receivable to the Compliance Fund irrespective of the fair market value of the receivable. Attachment 1 at p. 29. Since this debt is now being classified as uncollectible, the issue of assignment is moot.

III. FINAL DETERMINATION

The Commission has made a final determination that for the foregoing reasons, President Ronald Reagan, Vice President George Bush and Reagan Bush '84 General Election Committee did not exceed the $40,400,000 expenditure limitation of 2 U.S.C. § 441a(b)(1)(B), 26 U.S.C. § 9007(b)(2), and are not required to make any additional repayment to the United States Treasury.

Attachments

1. Report of the Audit Division on Reagan-Bush '84 General Election Committee.
2. Reagan-Bush '84 General Election Committee Response to the Final Audit Report.
3. Reagan-Bush '84 General Election Committee Response to the Interim Audit Report.
4. Revised Statement of Reasons for Reagan-Bush '84 Primary Committee. (Agenda Document)

4A. Letter dated February 10, 1988 with attached Statement of Reasons.

5. Report of the Audit Division on Reagan-Bush '84 (Primary Committee).
6. Response of Primary Committee to Interim Audit Report.
7. Response of Primary Committee to Final Audit Report.
8. Analysis of Primary Committee response by the Audit Division.
9. Analysis of Issues Presented by the Oral Presentation (Primary Committee) by the Office of General Counsel.
10. Transcript of Oral Presentation (Primary Committee).
11. Letter dated August 5, 1987 from John Duffy.
12. Letter dated August 12, 1987 from John Duffy.

13. Memorandum from Audit Division Re: Revision of Media Fee Allocation.

14. Memorandum from Ron Robertson to Rick Halter Re: Reagan-Bush '84 Primary Campaign Media Costs.

15. Sample Television Station Invoice.

16. Memorandum Re: Expenditures Subject to Limit Update.

17. Letter from John Duffy dated 2/12/88.

18. Memorandum Re: Final NOQCE Statement and Schedule of Expenditures Subject to the Limit.

DOCUMENT SEPARATOR