



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MJ000945

May 23, 1990

MEMORANDUM

TO: FRED EILAND
CHIEF, PRESS OFFICE

FROM: ROBERT J. COSTA *Pls For RJC - 5/23/90*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT
ON THE LAROCHE DEMOCRATIC CAMPAIGN

Attached please find a copy of the Final Audit Report on the LaRouche Democratic Campaign which was approved by the Commission on May 17, 1990.

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

Attachment as stated

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

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FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

REPORT OF THE
AUDIT DIVISION
ON
LAROCHE DEMOCRATIC CAMPAIGN

I. BackgroundA. Overview

This report is based on an audit of LaRouche Democratic Campaign ("the Committee") to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Presidential Primary Matching Payment Account Act. The audit was conducted pursuant to 26 U.S.C. § 9038(a) which states that, "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037."

In addition, 26 U.S.C. § 9039(b) and 11 C.F.R. § 9038.1(a)(2) state, in relevant part, that the Commission may conduct other examinations and audits from time to time as it deems necessary.

The Committee registered with the Federal Election Commission on October 25, 1985. The Committee maintains its headquarters in Leesburg, Virginia.

The audit covered the period from the Committee's inception, October 25, 1985, through August 31, 1988. During this period, the Committee reported an opening cash balance of \$-0-, total receipts of \$3,930,064.25, total disbursements of \$3,857,066.60, and a closing cash balance of \$72,399.68*/ on August 31, 1988. In addition, data relating to the Statement of Net Outstanding Campaign Obligations (NOCO) were reviewed through September 30, 1989. Under 11 C.F.R. §9038.1(e)(4) additional audit work may be conducted and addenda to the report issued as necessary.

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

*/ These figures do not foot due to a mathematical error by the Committee.

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B. Key Personnel

From the inception of the Committee, the Treasurer has been Edward Spannaus.

C. Scope

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

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

A. Transactions Related to LaRouche Democratic Campaign Special Legal Account

Section 431(8) of Title 2 of the United States Code defines contribution to include a gift, subscription, loan (except for a loan made in accordance with 11 C.F.R. §100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

Section 431(9) of Title 2 of the United States Code defines expenditure to include a purchase, payment, distribution, loan (except for a loan made in accordance with 11 C.F.R. §100.8(b)(12)), advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.

During fieldwork, the Committee Treasurer advised the Audit staff of a Special Legal Account (SLA) which according to him "funds activities outside the purview of the Federal Election Campaign Act and the Presidential Primary Matching Payment Account Act."

An affidavit dated October 13, 1988, submitted by a Committee representative to the Audit staff describes this account as one where "...the only disbursements issued on the SLA were to attorneys for the purposes of defending Mr. LaRouche's ballot status from legal challenge, or of challenging the constitutionality of state ballot-access statutes."

In a subsequent letter to the Audit staff dated October 27, 1988, the Committee representative, in describing the source of funds deposited to this account, stated "that the nature of the SLA is determined by the nature of its disbursements." This letter goes on to discuss Advisory Opinion 1981-16 and Advisory Opinion 1982-35 in support of the Committee's position, that if an expense is strictly a matter of self-defense, it is outside the purview of the Act.

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Finally, in a March 1, 1989 letter, the Committee explains that a prepayment of \$6,500 from the SLA was made at a time when the Committee was preparing a constitutional challenge to the exclusion of the campaign from the Democratic National Convention and in the Committee's view "was outside the scope and jurisdiction of the FECA." Circumstances prevented the campaign from engaging in this litigation. Subsequently, Mr. LaRouche's general election committee was engaged in litigation in the state of Michigan with respect to a ballot challenge handled by the same legal firm. The \$6,500 prepayment was applied to the Michigan litigation and the expenses relative to the DNC, litigation were paid by the Committee.

On February 14, 1989, the Committee provided records for the Audit staff's review which included copies of contributor checks, bank statements, cancelled checks and an obstructed invoice. The Audit staff determined that SLA activity for 1988 consisted of \$11,750 in total receipts; \$11,602.36 in total disbursements; and an ending cash on hand balance at 12/30/88 of \$147.64.

Without unobstructed copies of invoices for all disbursements, the Audit staff is unable to determine whether the activity falls within the definition of contribution and expenditure.*

In the Interim Audit Report, the Audit staff recommended that within 30 calendar days of the date of service of the report, the Committee provide information regarding the litigation that necessitated the creation of the SLA, unobstructed copies of invoices for all disbursements and any other materials in support of their position.

The Committee's response of December 19, 1989 reiterates and expands on its position as presented in letters previously submitted to the Audit staff and which are discussed above. In addition, the Committee provided an unobstructed invoice for Mayberry and Associates supporting the \$6,500 prepayment. With respect to the other vendor in question, although the Committee's response states it has included a "cumulative invoice of his [Nicholas Miglino] best present recollection of the extent of his services", which totaled \$5,000, no such documentation was included. However, when subsequently notified of this, the Committee provided the missing document.

The Audit staff is of the opinion that activity of the Special Legal Account relative to Mayberry and Associates and

* If the activity is under the jurisdiction of the Act, additional recommendations will be forthcoming relative to 2 U.S.C. §441a(a), and for inadequately documented disbursements, which could result in a possible repayment under 26 U.S.C. §9038(b)(2).

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Nicholas Miglino appear to be outside the purview of the Act. According to the documentation provided, the services provided appear to pertain to litigation with respect to Michigan general election ballot access and defending petitions necessary for ballot position in New York.

Recommendation #1

The Audit staff recommends that no further action be taken with respect to this matter.

B. Matters Referred to the Office of General Counsel

Certain matters noted during the audit have been referred to the Commission's Office of General Counsel.

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

A. Stale-dated Committee Checks

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission. The committee shall inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

During our reconciliation of Committee bank accounts to disclosure reports, the Audit staff identified 17 checks, totaling \$3,369.70, which were dated prior to June 1, 1988 and remained outstanding as of September 30, 1988.

At the exit conference, Committee representatives offered no comments regarding these items, and were provided a schedule detailing the stale-dated checks.

In the Interim Audit Report, the Audit staff recommended that within 30 calendar days of the date of service of the report the Committee (1) provide copies (front and back) of any of the above checks which have now cleared the bank; (2) inform the Commission of its efforts to encourage the payees to cash the outstanding checks or provide evidence documenting the Committee's efforts to resolve these items; and (3) submit a check payable to the United States Treasury for the total amount of such checks which are still outstanding at the conclusion of the response period.

The Committee's response, received December 19, 1989, details its efforts to resolve stale-dated checks either by sending letters to the vendors involved to determine if monies are

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still owed to them, or, by issuing replacement checks (dated 3/1/89) for those items involving contribution refunds and including a cover letter encouraging the payees to cash these checks. For one stale-dated check (\$27.15), the Committee made no effort to resolve the item. The Committee concludes, in its response, that it has complied with the best efforts provisions to resolve these items, "comporting with 11 CFR 102.9(d) and 104.7", and considers only the \$27.15 item subject to repayment, noting it has no control over those vendors who did not reply, nor the persons who have not cashed their replacement checks.

The Audit staff is of the opinion that the Committee's efforts have, in fact, resolved only 8 stale-dated checks, totaling \$2,208.75, and that the remaining 9 items totaling \$1,160.95 require repayment to the United States Treasury (see Attachment 1).

Recommendation #2

On May 17, 1990, the Commission made an initial determination that \$1,160.95 in stale-dated checks is repayable to the United States Treasury pursuant to Section 9038.6 of Title 11 of the Code of Federal Regulations.

B. Matching Funds Received in Excess of Entitlement

Section 9038(b)(1) of Title 26 of the United States Code states, in part, that payments made to a candidate from the matching payment account in excess of the candidate's entitlement shall be repaid to the Secretary upon notification by the Commission.

Section 9038.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that a candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section.

Section 9038.2(b)(1)(i) of Title 11 of the Code of Federal Regulations states that the Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Included are payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 C.F.R. § 9034.5.

As presented in Finding III.F., the candidate's audited NOCO statement reflected a deficit on May 26, 1988, the candidate's date of ineligibility. The Audit staff determined that contributions received from individuals and matching funds received after the date of ineligibility coupled with the exclusion of accounts payable for non-qualified campaign expenses originally included by the Committee on its NOCOs filed with the Commission, caused the deficit to be eliminated on July 14, 1988.

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The Committee received three matching fund payments, totaling \$109,148.88, after July 14, 1988. On July 27, 1988, Matching Fund Request #5 (\$40,657.36) was certified by the Commission and received by the Committee on July 29, 1988. On August 24, 1988 Matching Fund Request #6 (\$41,330.02) was certified by the Commission and received by the Committee on August 26, 1988. On October 13, 1988 Matching Fund Request #7 (\$27,161.50) was certified by the Commission and later received by the Committee.

At the exit conference, Committee representatives stated they would review copies of workpapers provided by the Audit staff.

In the Interim Audit Report, the Audit staff recommended that within 30 calendar days after service of the report the Committee demonstrate that it has not received matching funds in excess of entitlement. Absent such a showing, the Audit staff would recommend that the Commission make an initial determination that \$109,148.88 be repaid to the United States Treasury.

In its response, received December 19, 1989, the Committee presents the issue to be "whether a presidential candidate who chooses to campaign after being declared ineligible for additional public financing is entitled to have the entire deficit as of the date of ineligibility paid for by public financing, so as to permit the use of private funds raised after the date of ineligibility exclusively for the candidate's continued electioneering. The Federal Election Campaign Act, as amended, is silent on this issue." The Committee next references 11 C.F.R. §9034.1(b), stating that "[t]his regulation clearly assumes that all private contributions are automatically applied to reduction of NOCO, regardless of whether or not a candidate continues to campaign."

"In the case of the candidate who does withdraw from the race at that point, no problem arises, since there is no legitimate purpose to which private contributions might be applied, other than winding down and retirement of campaign obligations. In this circumstance, both the regulation and its application are fair and reasonable. However, no regulation addresses the issue of whether private contributions received after the date of ineligibility, in the case of a candidate who continues to campaign, must be applied to reduce the deficit, or can instead be used for continued campaigning."

The Committee then points out that in order to continue to campaign as a viable candidate, the candidate must have access to all of his or her private funds and that the Audit Division's proposed interpretation of entitlement would exact a severe penalty against the candidate who chooses to continue campaigning by denying his statutory right to receive matching funds for retiring qualified debt.

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In support of this position, the Committee then cites, as relevant, the following issues:

With respect to the LaRouche Campaign, Lyndon LaRouche's 1984 Presidential Committee, the Statement of Reasons submitted by the FEC's Office of General Counsel stated "the Commission must decide that its repayment determination only seeks recovery of federal funds used for non-qualified purposes, while at the same time allowing an ineligible candidate to continue his or her campaign with private monies."

The same document states that "the legislative history makes clear that candidates deemed ineligible for insufficient public support are free to continue their campaigns for the nomination with private monies only."

The Committee thereafter argues that the Audit staff misapplied the concept of entitlement when contributions from individuals were used to eliminate the deficit; comparing it to the "1984 misapplication of the definition of 'non-qualified campaign expense'" and noting both applications have the effect of forcing a candidate to cease campaigning, even when such campaigning is financed by private contributions.

The Committee then emphasizes "that while the campaign continued, using private funds, the Committee also did not fail to retire the qualified debt, using federal funds for that sole purpose. No federal funds were used for the purpose of continuing to campaign. The amount of federal funds received post-ineligibility never exceeded the Net Outstanding Campaign Obligation."

The Committee's response continues stating it "was aware of the requirement to use federal funds received after the date of ineligibility solely for the purpose of defraying qualified pre-ineligibility obligations and later winding down costs. To that end the Committee established its segregated federal funds account."

The Committee concludes its response by noting its position is that no repayment is required.

With respect to the Committee's position as presented above, the Audit staff believes it has applied 11 C.F.R. §9034.1(b) correctly. In reducing a candidate's deficit as calculated at date of ineligibility ("DOI"), the regulation prescribes that all private contributions be applied whether or not actually used to pay qualified accounts payable at DOI. Thus, matching funds may be received/used only to the extent necessary to supplement private contributions in reducing said deficit (see application at p. 19).

With respect to the Committee's references to the Statement of Reasons for Lyndon LaRouche's 1984 presidential primary campaign, the Committee neglects to note the following.

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The situation addressed a candidate with remaining entitlement and notes that at "issue in this case is whether or not the Commission's initial determination (with respect to post-ineligibility expenditures under 26 U.S.C. §9038(b)(2)) is properly limited to the recovery of federal funds, as opposed to private monies, spent on the ineligible candidate's continued campaigning", as opposed to recovery of matching funds received in excess of entitlement.

The summary section also states, just prior to the section referred to by the Committee, that "In summary, the Commission is guided by several basic principles when making decisions involving candidate entitlement and repayment of federal funds. The statute provides that candidates unable to demonstrate a minimal level of support at the polls are not eligible to receive additional federal funds for the purpose of continuing their campaigns. The statute and implementing regulations also provide, however, that such ineligible candidates may continue to receive federal funds only to defray qualified debt incurred prior to becoming ineligible and to pay for costs associated with terminating campaign activity; entitlement to additional matching funds for such purposes is dependent upon the existence of net outstanding campaign obligations. Moreover, such individuals are free to continue their campaigns for the nomination with private monies only. Finally, the statute and regulations provide for the recovery of the federal portion of campaign funds that are spent on non-qualified campaign expenses. Thus, to require a repayment under 26 U.S.C. § 9038(b)(2) and 11 C.F.R. § 9038.2(b)(2), the Commission must decide that its repayment determination only seeks recovery of federal funds used for non-qualified purposes, while at the same time allowing an ineligible candidate to continue his or her campaign with private monies."

With respect to the Committee's final argument, that the federal funds were not used by virtue of establishing a "segregated federal funds account", the Commission has previously considered this argument.

Section 9038.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that to determine at what point committee accounts no longer contain matching funds for the purpose of seeking repayment for non-qualified campaign expenses, the Commission will review committee expenditures from the date of the last matching fund payment to the candidate, using the assumption that the last payment has been expended on a last-in, first-out basis [emphasis added].

The Regulations consider all committee accounts as if they are one account and make no provision for the segregation of matching funds. Only after the point in time when all matching funds have been expended may disbursements for non-qualified campaign expenses be made without incurring a repayment obligation.

Therefore, the Audit staff's position remains unchanged.

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Recommendation #3

On May 17, 1990, the Commission made an initial determination that \$109,148.88 in matching funds received by the Committee represent matching funds received in excess of entitlement, and that an equal amount must be repaid to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1).

C. Calculation of Repayment Ratio

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

The Regulations at 11 C.F.R. § 9038.2(b)(2)(iii) state that the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility.

On May 2, 1988, the Commission determined Mr. LaRouche's date of ineligibility to be May 26, 1988.

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

Total Matching Funds Certified through the
Date of Ineligibility - 5/26/88

Numerator plus Private Contributions Received
through 5/26/88

$$\frac{635,917.29}{3,319,955.76} = .191544$$

Thus, the repayment ratio for non-qualified campaign expenses is 19.1544%.

D. Apparent Non-qualified Campaign Expenses:
New Hampshire Expenditures in Excess of State
Limitation

Section 9035(a) of Title 26 of the United States Code and Section 9035.1(a)(1) of Title 11 of the Code of Federal Regulations state, in part, that no candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441a(b)(1)(A) of Title 2.

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

The Audit staff's review and analysis of expenditures allocable to New Hampshire, including those allocated by the Committee, indicated that \$520,033.84 should reasonably have been allocated to New Hampshire, causing the Committee to exceed the state expenditure limitation by \$59,033.84. The Committee's (amended) Allocation of Primary Expenditures By State For a Presidential Candidate for its 1988 Pre-Election Report, disclosed that \$526,137.85 had been allocated to New Hampshire, exceeding the New Hampshire state expenditure limitation of \$461,000 by \$65,137.85. The Committee's net overallocation of \$6,104.01 resulted mainly from differences in allocating media and travel expenditures. The Committee excluded from allocation approximately \$9,000 in travel expenditures for security personnel travelling in New Hampshire with the candidate, and failed to exclude from state allocation approximately \$15,000 in various expenditures for overhead, interstate telephone calls, media production, national advertising, advertising for another state, and travel and subsistence for personnel who remained in the state for less than five days.

The Audit staff also determined that \$22,680.29 of the \$59,033.84 in expenditures in excess of the limitation was paid after July 14, 1988, the date on which the Committee's accounts no longer contained matching funds, and under these circumstances is presently not subject to pro rata repayment. See Findings III.B. and F.

The amount subject to repayment is calculated below:

Amount in excess of the New Hampshire State Expenditure Limitation	\$59,033.84
LESS: Expenditures paid after 7/14/88	<u>(22,680.29)</u>
Amount Subject to Repayment	\$36,353.55
Times Repayment Ratio (III.C.)	.191544
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Preliminary Calculation of the Repayment Amount	<u>\$ 6,963.30</u>

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The following recommendation was presented to the Commission on September 19, 1989:

"The Audit staff recommends that within 30 calendar days after service of this report the Committee demonstrate that it has not exceeded the New Hampshire state expenditure limitation. Absent such a showing, the Audit staff will recommend that the Commission make an initial determination that \$6,963.30 be repaid to the United States Treasury."

During the Commission's consideration of this recommendation, the Commissioners could not reach a conclusive decision.

A motion was made to approve the above recommendation as written, that motion failed by a vote of 3-3; Commissioners Aikens, Elliott and Josefiak voting in the affirmative and Commissioners McDonald, McGarry and Thomas voting against.

A second motion was made to approve the recommendation, provided the original amount of non-qualified campaign expenses in excess of the state limitation subject to repayment (\$36,353.55) be further reduced by the value of those non-qualified campaign expenses paid with matching funds after the candidate's date of ineligibility (\$17,254.78). The pro rata portion to be repaid to the United States Treasury would in turn decrease to \$3,658.25; $(\$36,353.55 - \$17,254.78) \times .191544$. That motion failed by a vote of 3-3; Commissioners McDonald, McGarry and Thomas voting in the affirmative and Commissioners Aikens, Elliott and Josefiak voting against.

A third motion was made to require the pro rata repayment of \$3,658.25, as calculated above, and to add language to the report to explain the issue on which the Commission did not reach a majority decision. This motion passed by a vote of 5-1; Commissioners McDonald, McGarry, Thomas, Elliott and Josefiak voting in the affirmative and Commissioner Aikens voting against.

The discussion with respect to the recommendations involved the appropriateness of seeking a repayment under 26 U.S.C. §9038(b)(1), as found at Finding III.B., pp. 5-9; while at the same time seeking a repayment under 26 U.S.C. §9038(b)(2). The Commission focused on the question of whether or not a "double counting" existed since as part of the calculation of the Committee's remaining entitlement, non-qualified campaign expenses were not recognized for purposes of determining the Candidate's deficit in accordance with 11 C.F.R. §9034.5(b). Also, a pro rata repayment was being sought for the amount of non-qualified campaign expenses paid with matching funds but not permitted to be recognized for NOCO purposes.

Based on the Commission's deliberations as described above, the Interim Audit Report recommended that within 30 calendar days after service of the report the Committee submit evidence demonstrating that the payments in question are qualified

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campaign expenses. Absent such a showing, it will therefore be recommended that the Commission make an initial determination that the pro rata portion of \$3,658.25 be repaid to the United States Treasury.

The Committee, in its response received December 19, 1989, states:

"Section 9035(a) [of Title 26, United States Code], as cited, falls under Chapter 96 of the Federal Election Campaign Act, that is, the 'Presidential Primary Matching Payment Account Act', which applies to candidates receiving federal funding for their primary campaigns. Lyndon LaRouche had been denied matching funds upon first application, and was not subsequently qualified by the Commission for receipt of such funds until after the date of the New Hampshire primary election. No federal funds were used to defray any costs associated with the New Hampshire campaign.

Therefore, campaign activity relevant to the New Hampshire campaign, including amounts spent, falls outside the scope of that Chapter (though of course not outside the scope of the more general provisions of the F.E.C.A.), unless the provisions of that Chapter are retroactively applied.

Therefore, no repayment should be required under this Section."

The Audit staff finds the Committee's arguments to be defective in at least two areas. First, in order to become eligible to receive Presidential primary matching funds, 11 C.F.R. §9033.2(b)(2) provides that the candidate and the candidate's authorized committee(s) shall certify that they have not incurred and will not incur expenditures in connection with the candidate's campaign for nomination, which expenditures are in excess of the limitations under 11 CFR Part 9035. Second, the Audit staff's analysis indicates that \$69,160.26 of expenditures allocable to New Hampshire were paid after March 25, 1988, the date upon which federal funds were first deposited into the Committee's bank account. Therefore, the Audit staff's position remains unchanged, except as noted below.

Based on the Committee's response with respect to Finding III.A., Stale-dated Committee Checks, the Audit staff has made the following adjustment to the pro rata repayment amount as calculated in the Interim Audit Report for one stale-dated check which has subsequently been voided, and another stale-dated check for which repayment is being requested under Section III.A. of this report:

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Pro Rata Repayment Recommended in the Interim Audit Report (see page 12)	\$ 3,658.25
LESS: Adjustment for Pro Rata Portions of Two Stale-Dated Checks	(23.88)
Revised Calculation of Repayment Amount	<u>\$ 3,634.37</u>

Recommendation #4

On May 17, 1990, the Commission made an initial determination that the pro rata portion of \$3,634.37 is repayable to the United States Treasury.

E. Apparent Non-qualified Campaign Expenses:
Post-Ineligibility Campaign Expenditures

Section 9038.2(b)(2) of Title 11 of the Code of Federal Regulations states, in relevant part, that the Commission may determine that amounts of any payments made to a candidate from the matching payment account were used for purposes other than to defray qualified campaign expenses.

Section 9032(9) of Title 26 of the United States Code and Section 9032.9 of Title 11 of the Code of Federal Regulations, in part, define a qualified campaign expense as a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value incurred by a candidate or his authorized committee in connection with his campaign for nomination for election from the date the individual became a candidate through the last day of the candidate's eligibility.

Furthermore, included in the examples of disbursements that are not qualified campaign expenses under 11 C.F.R. §9034.4(b)(3) are "post-ineligibility expenditures" or expenses incurred after a candidate's date of ineligibility, to the extent that they do not qualify as winding down costs.

Sections 9034.4(a)(3) and (b)(3) of Title 11 of the Code of Federal Regulations provide that any expenses incurred after a candidate's date of ineligibility are not qualified campaign expenses except for winding down costs associated with the termination of political activity, such as the costs of complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies; or costs incurred before the candidate's date of ineligibility for goods and services to be received before the date of ineligibility and for which written arrangement or commitment was made on or before the candidate's date of ineligibility.

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The Audit staff identified 63 payments totaling \$71,500.63, incurred after May 26, 1988, the candidate's date of ineligibility, which upon examination of the supporting documentation appear to be expenditures related to the Democratic National Convention.

The Audit staff also identified 31 payments totaling \$12,540.35 relative to expenses incurred after the date of ineligibility and based on our analysis of the supporting documentation made available appeared to be related to a continued campaign effort, as opposed to winding down costs.

Finally, the Audit staff identified one media expenditure in the amount of \$262,828.50 paid May 19, 1988, prior to the candidate's 5/26/88 date of ineligibility ("DOI"), for a one-half hour broadcast aired on June 4, 1988. On August 31, 1988 the Committee received a \$44,152.98 refund with respect to this media purchase, for a net cost of \$218,675.52. Based on available information, this appears to be related to a continued campaign effort as opposed to a winding down cost.

It was further determined that payment of \$47,949.49 in convention related expenditures and payment of \$630 related to a continuing campaign effort occurring after July 14, 1988, the date the Committee's accounts no longer contained matching funds, and, as such, are not presently subject to pro rata repayment.

The amount subject to repayment is calculated below:

Post Ineligibility Expenditures Convention Related	\$ 71,500.63
Post Ineligibility Expenditure Continuing to Campaign	12,540.35
Post Ineligibility Media Expenditure	<u>218,675.52</u>
Subtotal	\$302,716.50
LESS: Amounts Paid after 7/14/88:	
Convention Related	(47,949.49)
Continuing to Campaign	(630.00)
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Amount Subject to Repayment	\$254,137.01
Repayment Ratio (III.C.)	<u>.191544</u>
Preliminary Calculation of the Repayment Amount	<u>\$ 48,678.42</u>

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At the exit conference, Committee representatives were supplied with schedules detailing these items, with the exception of the media expenditure.

The following recommendation was presented to the Commission on September 19, 1989:

"The Audit staff recommends that within 30 calendar days of the date of service of this report the Committee submit evidence demonstrating that the payments which appear to be convention related and continuing to campaign expenses are qualified campaign expenses. Absent such a showing, the Audit staff will recommend that the Commission make an initial determination that \$48,678.42 be repaid to the United States Treasury."

During the Commission's consideration of this recommendation the Commissioners could not reach a conclusive decision.

A motion was made to approve the above recommendation as written, that motion failed by a vote of 3-3; Commissioners Aikens, Elliott and Josefiak voting in the affirmative and Commissioners McDonald, McGarry and Thomas voting against.

A second motion was made to approve the recommendation, provided the original amount of non-qualified post-ineligibility expenses subject to repayment (\$254,137.01) be further reduced by the value of those non-qualified campaign expenses paid with matching funds after the candidate's date of ineligibility (\$35,259.49). The pro rata portion to be repaid to the United States Treasury would in turn decrease to \$41,924.68; $(\$254,137.01 - \$35,259.49) \times .191544$. That motion failed by a vote of 3-3; Commissioners McDonald, McGarry and Thomas voting in the affirmative and Commissioners Aikens, Elliott and Josefiak voting against.

A third motion was made to require the pro rata repayment of \$41,924.68, as calculated above, and to add language to the report to explain the issue on which the Commission did not reach a majority decision. This motion passed by a vote of 5-1; Commissioners McDonald, McGarry, Thomas, Elliott and Josefiak voting in the affirmative and Commissioner Aikens voting against.

The discussion with respect to the recommendations involved the appropriateness of seeking a repayment under 26 U.S.C. §9038(b)(1), as found at Finding III.B., pp 5-9; while at the same time seeking a repayment under 26 U.S.C. §9038(b)(2). The Commission focused on the question of whether or not a "double counting" existed since a part of the calculation of the Committee's remaining entitlement, non-qualified campaign expenses were not recognized for purposes of determining the Candidate's deficit in accordance with 11 C.F.R. §9034.5(b). Also, a pro rata repayment was being sought for the amount of non-qualified

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campaign expenses paid with matching funds but not permitted to be recognized for NOCO purposes.

Based on the Commission's deliberations as described above, the Interim Audit Report recommended that within 30 calendar days after service of the report the Committee submit evidence demonstrating that the payments in question are qualified campaign expenses. Absent such a showing, it will therefore be recommended that the Commission make an initial determination that the pro rata portion of \$41,924.68 be repaid to the United States Treasury.

The Committee's response of December 19, 1989 states that with respect to the media expenditure, campaign volunteers inadvertently assumed, based on regulations in effect when the Committee was organized, that such an expenditure constituted a qualified campaign expense. The response states it was an oversight made in good faith, without any intent to circumvent the law or regulations and requests the Committee not be penalized for a good faith mistake. The response continues by stating that in the event a repayment is required, an additional refund has been received with respect to the media expenditure totalling \$5,088.93. The Committee's response does not address the other post-ineligibility expenditures identified by the Audit staff.

The Audit staff's position remains unchanged, with the exception of an adjustment for the additional media refund.

Pro Rata Repayment Recommended in the Interim Audit Report	\$ 41,924.68
LESS: Adjustment for Additional Refund (\$5,088.93 x .191544)	(974.75)

Revised Calculation of the Repayment Amount	\$ 40,949.93
--	--------------

Recommendation #5

On May 17, 1990, the Commission made an initial determination that the pro rata portion of \$40,949.93 is repayable to the United States Treasury.

F. Determination of Net Outstanding Campaign Obligations

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

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On May 2, 1988, the Commission determined Mr. LaRouche's date of ineligibility to be May 26, 1988. The Committee filed a Statement of Net Outstanding Campaign Obligations (NOCO) on June 9, 1988 which reflected the Committee's estimated NOCO as of the date of ineligibility. The Audit staff reviewed the Committee's financial activity through September 30, 1989 and their estimates of winding down costs. The NOCO Statement, as adjusted by the Audit staff, appears below:

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LAROCHE DEMOCRATIC CAMPAIGN
Audit Analysis of May 26, 1988 NOCO Statement
Determined as of September 30, 1989

Assets

Cash in Bank	\$30,505.23	
Accounts Receivable	89,456.80	
Capital Assets	4,083.00	
Other Assets	<u>14,920.67</u>	
 Total Assets		 \$138,965.70

Obligations

Accounts Payable-Qualified Campaign Expenses	\$289,842.69	1/
 Actual Winding Down Costs (7/21/88-9/30/89)	 129,459.70	 2/
 Estimated Winding Down Costs (10/1/89 - 6/30/90)		
Storage	\$1,000.00	
Office Supplies and Postage	500.00	
Legal and Accounting Fees	<u>1,500.00</u>	
 Total Estimated Winding Down Costs	 <u>3,000.00</u>	
 Total Obligations		 <u>422,302.39</u> 3/
 Net Outstanding Campaign Obligations (Deficit) as of May 26, 1988		 <u>\$(283,336.69)</u>

- 1/ The figure shown is net of \$39,935.07 of payables paid after the date of ineligibility determined to be non-qualified campaign expenses and excluded under 11 C.F.R. §9034.5(b).
- 2/ The figure shown is net of \$176,430.74 in expenditures paid after the date of ineligibility determined to be non-qualified campaign expenses and excluded under 11 C.F.R. § 9034.5(b).
- 3/ Since estimates were used in computing this amount, the Audit staff will review the Committee's reports and records to compare the actual figures with the estimates and prepare adjustments as necessary.

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Shown below is an adjustment for private contributions, interest and matching funds received after 5/26/88, based on the most current financial information available at the close of fieldwork.

Net Outstanding Campaign Obligations (Deficit) as of 5/26/88	\$(283,336.69)
Net Private Contributions Received (5/27/88-7/14/88)	202,825.87
Matching Funds Received (5/27/88-7/14/88)	80,510.82
Remaining Entitlement as of July 14, 1988*/	<u>\$(-0-)</u>

The Committee's response to the Interim Audit Report, received December 19, 1989, notes that schedules provided by the Audit staff during fieldwork support different figures than those presented in the Interim Audit Report. The Committee then requests itemization and justification for these changes.

The Audit staff has forwarded to the Committee copies of workpapers detailing not only post-fieldwork adjustments to the NOCO to support the presentation in the Interim Audit Report, but also workpapers reflecting the revised NOCO presented in this report.

Additional fieldwork may be required to assess the impact of future financial activity on the NOCO Statement.

IV. Summary - Amounts Repayable to the United States Treasury

Presented below is a summary of the amounts recommended by the Audit staff as subject to the repayment provisions of 26 U.S.C. § 9038(b) as discussed in Section III of this report.

Finding III. A. Stale-dated Committee Checks	\$ 1,160.95
Finding III. B. Matching Funds Received in Excess of Entitlement	109,148.88
Finding III. D. Apparent Non-qualified Campaign Expenses: Expenditures in Excess of New Hampshire State Limitation	3,634.37
Finding III. E. Apparent Non-qualified Campaign Expenses: Post-Ineligibility Campaign Expenditures	<u>40,949.93</u>
Total Amount Due the United States Treasury	<u>\$154,894.13</u>

*/ A deposit of private contributions on 7/14/88 eliminated the Committee's remaining entitlement.

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LAROUCHE DEMOCRATIC CAMPAIGN
STATE-DATED COMMITTEE CHECKS
(Audit Analysis of December 19, 1989 Committee Response)

<u>CHECK #</u>	<u>Payee</u>	<u>Date</u>	<u>Amount</u>	<u>Committee Response</u>	<u>Unresolved Amount</u>
557	WOMI AM-FM	07-08-87	\$150.00	No debt exists per vendor	\$ -0-
759	WTJZ AM	07-30-87	160.00	No debt exists per vendor	-0-
1076	WGGM AM	09-09-87	82.50	No response by vendor	82.50
1288	WGGM AM	10-01-87	82.50	No response by vendor	82.50
1724	KOOI	11-25-87	240.00	No debt exists per vendor	-0-
1725	KEBE	11-25-87	108.00	No debt exists per vendor	-0-
1894	Arthur Murphy	12-15-87	27.15	No attempt to resolve	27.15
2996	KAKS	04-05-88	182.00	No debt exists per vendor	-0-
3005	Oregon Assembly for Black Affairs	04-05-88	50.00	No response by vendor	50.00
223	KPZE AM	05-25-88	363.80	No response by vendor	363.80
242	KPCO	05-25-88	243.75	No debt exists per vendor	-0-
118	Margaret Keen	12-23-87	1,000.00	Reissued check negotiated	-0-
121	Billy Barnett	01-05-88	5.00	Reissued check outstanding	5.00
144	Thomas G. Barone	02-29-88	200.00	Reissued check outstanding	200.00
170	Marian Schatz	04-01-88	125.00	Reissued check negotiated	-0-
176	Charles Berends	04-01-88	150.00	Reissued check outstanding	150.00
219	Mae Roberts	05-19-88	<u>200.00</u>	Reissued check outstanding	<u>200.00</u>
	Total		\$ <u>3,369.70</u>		<u>\$1,160.95</u>

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Public Records

RECEIVED
FEDERAL ELECTION COMMISSION

91 FEB 13 11:01



FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

February 14, 1991

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: REPAYMENT OF \$4,795.32 RECEIVED FROM THE LAROUCHE
DEMOCRATIC CAMPAIGN

This informational memorandum is to advise you of a repayment received from The LaRouche Democratic Campaign which represents the repayments discussed in Recommendations #2 and #4 in the committee's Final Audit Report with respect to expenditures in excess of a state limitation and stale-dated checks. A separate repayment check was issued for each repayment request.

Copies of the committee's accompanying letter, the repayment checks, and the receipt showing delivery to the Department of the Treasury are attached.

Attachments as stated

91070164818

LAW OFFICE OF
RICHARD MAYBERRY & ASSOCIATES
FIFTH FLOOR
888 16TH STREET, N.W.
WASHINGTON, D.C. 20006
(202) 785-6677

January 31, 1991

Kim L. Bright-Coleman
Special Assistant General Counsel
Federal Election Commission
Washington, DC 20463

Re: LaRouche Democratic Campaign payment

Dear Ms. Bright-Coleman:

Enclosed please find LaRouche Democratic Campaign's payment to the U.S. Treasury in accordance with the Commission's Final Audit Report, Recommendations #2 and #4.

Very truly yours,

Richard Mayberry

Richard Mayberry

RM:ww
Enclosure

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91 FEB -4 PM 3:49

91 JAN 31 PM 4:29



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIPT FROM THE
UNITED STATES DEPARTMENT OF TREASURY
FOR A REPAYMENT OF
1988 PRESIDENTIAL PRIMARY MATCHING FUNDS

February 13, 1991
Page 1 of 2

Accepted on this date were two (2) repayments of Presidential Primary Matching Funds, totalling \$4,795.32, made by The LaRouche Democratic Campaign which were received at the Federal Election Commission pursuant to 26 U.S.C. § 9038(b)(2) and 11 C.F.R. §9038.6.

In accordance with 26 U.S.C. §9038(d), the checks shall be deposited into the Presidential Primary Matching Payment Account.

The LaRouche Democratic Campaign
Amount of Repayment #1: \$3,634.37

Presented by:

Stacy O. Gross
for the
Federal Election Commission

Received by:

Raymond E. Allen
for the
United States Treasury

91070164820

THE LAROCHE DEMOCRATIC CAMPAIGN 10-85
P.O. BOX 210, DOWNTOWN STATION
LEESBURG, VA 22075

3938

1/23 1991

PAY TO THE
ORDER OF

U.S. Treasury

\$ 3634.37

Three thousand six hundred thirty-four and 27/100 DOLLARS

SOVRAN BANK.
Sovran Bank, N.A., Leesburg, Virginia

FOR *Pa. Final Audit Report - Recommendation # 4*

Raymond E. Allen

003938 056007387 0530 7203



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

RECEIPT FROM THE
 UNITED STATES DEPARTMENT OF TREASURY
 FOR A REPAYMENT OF
 1988 PRESIDENTIAL PRIMARY MATCHING FUNDS

February 13, 1991
 Page 2 of 2

The LaRouche Democratic Campaign
 Amount of Repayment #2: \$1,160.95

91070164821

Presented by:

William C. Gross
 for the
 Federal Election Commission

Received by:

Raymond Bunn
 for the
 United States Treasury

THE LAROUCHE DEMOCRATIC CAMPAIGN 10-85

P.O. BOX 210, DOWNTOWN STATION
 LEESBURG, VA 22075

3937

1/23 1991

PAY TO THE
 ORDER OF

U.S. Treasury

\$ 1160.95

One thousand one hundred sixty and 95/100

DOLLARS

SOVRAN BANK
 Sovran Bank, N.A., Leesburg, Virginia

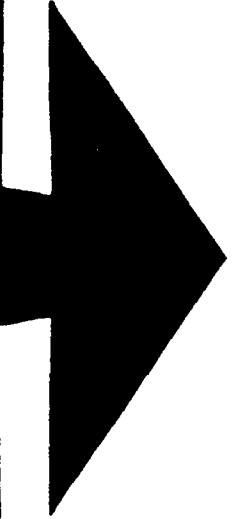
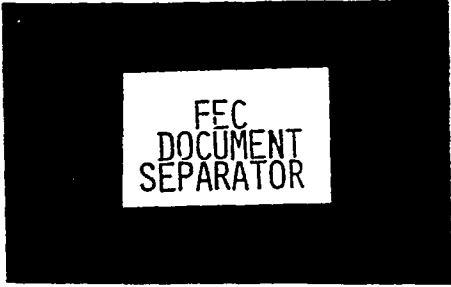
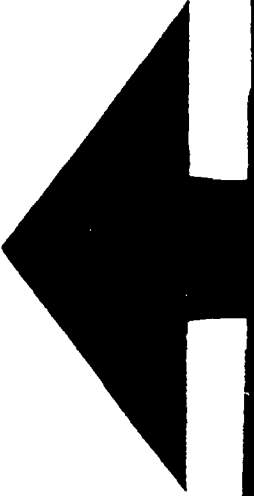
FOR

Final Audit Report, Recommendation #2

Raymond Bunn

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Public
Records



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DATE & TIME TRANSMITTED: WEDNESDAY, NOVEMBER 24, 1993 4:00

BALLOT DEADLINE: TUESDAY, NOVEMBER 30, 1993 4:00

COMMISSIONER: AIKENS, ELLIOTT, McDONALD, MCGARRY, POTTER, THOMAS

SUBJECT: RATIFICATION OF REPAYMENT DETERMINATIONS
FOR 1988 PRESIDENTIAL CAMPAIGNS. MEMORANDUM
TO THE COMMISSION FROM THE OFFICE OF THE
GENERAL COUNSEL DATED NOVEMBER 24, 1993.

- I approve the recommendation(s)
- I object to the recommendation(s)

COMMENTS: _____

DATE: _____ SIGNATURE: _____

A definite vote is required. All ballots must be signed and dated.
Please return ONLY THE BALLOT to the Commission Secretary.
Please return ballot no later than date and time shown above.

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

RECEIVED
F.E.C.
SECRETARIAT

NOV 24 AM 10:43



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

November 24, 1993

MEMORANDUM

TO: The Commission

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

Kim Bright-Coleman
Associate General Counsel

SUBJECT: Ratification of Repayment Determinations for 1988
Presidential Campaigns

On November 9, 1993, the Commission approved the Office of General Counsel's recommendation to ratify the repayment determinations made with respect to the 1988 presidential campaigns in light of FEC v. NRA Political Victory Fund, No. 91-5360 (D.C. Cir. Oct. 22, 1993). Accordingly, we have prepared this memorandum to effect the ratification of each preliminary repayment calculation, initial repayment determination, and final repayment determination for each publicly financed presidential campaign for the 1988 presidential election cycle in which the repayment determination is not yet finally closed and paid. The ratification would confirm the repayment determinations made with respect to Americans for Robertson, Inc., Paul Simon for President, Dukakis for President Committee, Inc., and LaRouche Democratic Campaign. Each of these committees instituted suits challenging the Commission's repayment determinations that are ongoing.

Attached for your information are copies of the certifications for the previous approval of the preliminary repayment calculation, initial repayment determination, and final repayment determination for each committee.^{1/}

^{1/} It should be noted that the preliminary repayment calculation is contained in the interim audit report and the initial repayment determination is set forth in the final audit report for each committee. The final repayment determination is supported by a statement of reasons. The certifications are for the Commission's approval of these documents.

RECOMMENDATION

The Office of General Counsel recommends that the Commission ratify the preliminary repayment calculations, initial repayment determinations, and final repayment determinations made with respect to the following 1988 publicly financed presidential candidates and committees:

Marion G. Robertson and Americans for Robertson, Inc.;
Michael S. Dukakis and Dukakis for President Committee, Inc.;
Senator Paul Simon and Paul Simon for President; and
Lyndon H. LaRouche and LaRouche Democratic Campaign.

Attachments

Certification of Commission votes on the interim audit reports, final audit reports and statements of reasons

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Americans for Robertson, Inc. -) Agenda Document #92-46
Final Audit Report.)

CERTIFICATION

I, Delores R. Harris, recording secretary for the Federal Election Commission open meeting on Thursday, March 26, 1992, do hereby certify that the Commission took the following actions in the above-captioned matter:

1. Decided by votes of 5-0 to approve recommendations 1-8, as submitted in Agenda Document #92-46.

Commissioners Aikens, Elliott, McDonald, McGarry and Thomas voted affirmatively for the decisions; Commissioner Potter was not present.

(continued)

Federal Election Commission
Certification for Americans
for Robertson, Inc. - Final
Audit Report
Thursday, March 26, 1992

2. Decided by a vote of 5-0 to approve the Final Audit Report - Americans for Robertson, Inc., as submitted in Agenda Document #92-46, and as amended by the Audit Division to add a footnote regarding the overall limitation.

Commissioners Aikens, Elliott, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Potter was not present.

Attest:

March 27, 1992
Date

Delores R. Harris
Delores R. Harris
Administrative Assistant

Federal Election Commission
Certification for
American for Robertson, Inc.
Final Repayment Determination and
Proposed Statement of Reasons
(LRA #335).
September 23, 1993

2. Decided by a vote of 5-1 to:

- a. Determine that Marion G. Robertson and Americans for Robertson, Inc. must repay \$290,793.66 to the United States Treasury;
- b. Order Marion G. Robertson and Americans for Robertson, Inc. to refund \$105,634.56 to certain press organizations; and
- c. Approve the Statement of Reasons in support of the final repayment determination and refund order, as recommended in Agenda Document #93-76, subject to the amendments agreed upon pursuant to the meeting discussion.

Commissioners Aikens, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented and will issue a statement of reasons.

Attest:

September 24, 1993
Date

Delores Hardy
Delores Hardy
Administrative Assistant

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Interim Audit Report -)
Dukakis for President)
Committee, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 14, 1990, the Commission decided by a vote of 5-1 to approve the Interim Audit Report - Dukakis for President Committee, Inc., as submitted under staff memorandum dated February 8, 1990.

Commissioners Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

Attest:

2-14-90
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thursday, Feb. 8, 1990 3:05 p.m.
Circulated to the Commission: Friday, Feb. 9, 1990 12:00 p.m.
Deadline for vote: Tuesday, Feb. 13, 1990 4:00 p.m.
Objection received: Monday, Feb. 12, 1990 5:17 p.m.
Placed on Agenda for: Tuesday, Feb. 27, 1990
Objection withdrawn: Wednesday, Feb. 14, 1990 12:20 p.m.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Dukakis for President Committee, Inc.) Agenda Document #91-99

CERTIFICATION

I, Delores R. Harris, recording secretary for the Federal Election Commission open meeting on October 10, 1991, do hereby certify that the Commission took the following actions on Agenda Document #91-99:

1. Decided by votes of 5-0 to:
- a. approve recommendation 1, as found on page 6 (bottom pagination).
 - b. approve recommendation 2, as found on page 7 (bottom pagination).
 - c. approve recommendation 3, as found on page 25 (bottom pagination).
 - d. approve recommendation 5, as found on page 35 (bottom pagination).
 - e. approve recommendation 6, as found on page 37 (bottom pagination).

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decisions; Commissioner Josefiak was not present.

(continued)

Federal Election Commission
Certification for Dukakis for
President Committee, Inc. -
Final Audit Report
October 10, 1991

2. Decided by a vote of 4-1 to approve recommendation 4, except have the Audit Division revise the calculations to back out of the surplus calculation, those contributions which the committee has indicated were transferred over to the General Election Legal and Compliance Fund within 60 days or less.

Commissioners Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented; and Commissioner Josefiak was not present.

Attest:

October 11, 1991
Date

Delores R. Harris
Delores R. Harris
Administrative Assistant

0507012110

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Governor Michael S. Dukakis and) Agenda Document
the Dukakis for President Committee,) #93-14
Inc. - Proposed Final Repayment)
Determination and Statement of Reasons)
(LRA #340).)

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission open meeting on Thursday, February 25, 1993, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

1. Determine that Governor Michael S. Dukakis and the Dukakis for President Committee, Inc. must repay \$491,282.31 to the United States Treasury; and
2. Approve the draft Statement of Reasons in support of the final repayment determination, as recommended in the General Counsel's report dated February 8, 1993.

(continued)

Federal Election Commission
Certification for
Governor Michael S. Dukakis and
the Dukakis for President Committee,
Inc. - Proposed Final Repayment
Determination and Statement of Reasons
Thursday, February 25, 1993

3. Direct the General Counsel's office to reopen negotiations with Governor Michael S. Dukakis and the Dukakis for President Committee, Inc.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter was not present at the time of the vote.

Attest:

March 1, 1993
Date

Delores Hardy
Delores Hardy
Administrative Assistant

050701911

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Interim Audit Report on Paul Simon) Agenda Document
for President) #X90-039

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 26, 1990, do hereby certify that the Commission took the following actions with respect to the Interim Audit Report on Paul Simon for President as submitted under FEC Audit Division memorandum dated June 13, 1990:

1. Decided by a vote of 5-0 to approve recommendation #1 on pages four and five of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

2. Decided by a vote of 5-0 to approve recommendation #2 on page seven of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

Federal Election Commission
Certification for Interim Audit
Report on Paul Simon for President
June 26, 1990

3. Decided by a vote of 5-0 to approve recommendation #3 on page eight of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

4. Decided by a vote of 5-0 to approve recommendation #4 on page ten of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

5. Decided by a vote of 5-0 to approve recommendation #5 on page eleven of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

6. Decided by a vote of 5-0 to approve recommendation #6 on page twelve of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

7. Decided by a vote of 5-0 to approve recommendation #7 on page twelve of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

8. Decided by a vote of 5-0 to approve recommendation #8 on page thirteen of of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

9. Decided by a vote of 5-0 to approve recommendation #10 on page forty-two of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

10. Decided by a vote of 5-0 to approve recommendation #9 on page twenty-seven of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

11. Decided by a vote of 5-0 to approve recommendation #11 on page forty-three of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

12. Failed in a vote of 2-3 to pass a motion to approve recommendation #12 on pages forty-six and forty-seven of the audit report.

Commissioners Elliott and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented; Commissioner Aikens was not present.

13. Failed in a vote of 3-2 to pass a motion to approve recommendation #12 on pages forty-six and forty-seven of the audit report, subject to amendment of the last section to delete the third part, thereby reducing the recommended repayment to zero.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Elliott and Josefiak dissented; Commissioner Aikens was not present.

(continued)

14. Decided by a vote of 5-0 to direct the Audit Division to amend the audit report to show the split votes with respect to recommendation #12 on pages forty-six and forty-seven, using the language incorporated in previous audit reports.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

15. Failed in a vote of 2-3 to pass a motion to approve recommendation #13 on page fifty-one of the audit report.

Commissioners Elliott and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented. Commissioner Aikens was not present.

16. Failed in a vote of 3-2 to pass a motion to approve recommendation #13 on page fifty-one of the audit report, subject to amendment of the dollar amount to a figure of \$56,759.89, and that the preceding text be revised to include appropriate language in accord with this adjustment in the figures.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Elliott and Josefiak dissented. Commissioner Aikens was not present.

(continued)

17. Decided by a vote of 5-0 to direct the Audit Division to amend the audit report to reflect the split votes with respect to recommendation #13, and that the alleged double counting figure that was not agreed to would be deleted, so that the repayment figure would be \$56,759.89, and that necessary language changes be made to conform with this.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

18. Failed in a vote of 2-3 to pass a motion to approve recommendation #14 on page 53 of the audit report.

Commissioners Elliott and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry, and Thomas dissented; Commissioner Aikens was not present.

19. Failed in a vote of 3-2 to pass a motion to approve recommendation #14 on page 53 of the audit report, subject to amendment of the figures to read: \$347,796.25 (\$65,326.28 + \$282,469.97), and that the accompanying text would be revised to include these adjustments.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Elliott and Josefiak dissented; Commissioner Aikens was not present.

(continued)

20. Decided by a vote of 5-0 to direct the Audit Division to amend the audit report to reflect the votes taken by the Commission on recommendation #14, and that the alleged double counting figure be excluded from the repayment figures, so that the repayment figure would read \$347,796.25, and make the appropriate changes to the other figures and changes to the text.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

21. Decided by a vote of 5-0 to approve recommendation #15 on page 58 of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

(continued)

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22. Decided by a vote of 5-0 to approve recommendation #16 on page fifty-nine of the audit report.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

23. Decided by a vote of 5-0 to direct the Audit Division to amend the report as agreed at this meeting and to circulate the amended report for Commission approval on a tally vote basis.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens was not present.

Attest:

7-3-90
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Paul Simon for President -) Agenda Document #91-82
Final Audit Report.)

CERTIFICATION

I, Delores Harris, recording secretary of the Federal Election Commission open meeting on August 29, 1991, do hereby certify that the Commission took the following actions with respect to Agenda Document #91-82:

1. Decided by a vote of 6-0 to:
 - a. Approve recommendation #1, as found on page 9 (bottom pagination).
 - b. Approve recommendation #2, as found on page 15 (bottom pagination).

Commissioners Aikens, Elliott, Josefiak, McDonald McGarry and Thomas voted affirmatively for the decision.

(continued)

2. Failed by a vote of 3-3 to pass a motion to have the Audit Division back out of Iowa and New Hampshire any cost that upon review could be identified as cost related to individuals who did not spend five days or more in Iowa or New Hampshire, and that any such provision be included in a revised audit report to be circulated to the Commission for approval on a tally vote basis.

Commissioners McDonald, McGarry and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott and Josefiak dissented.

3. Failed in a vote of 3-3 to pass a motion to approve recommendation 3, as submitted in Agenda Document #91-82.

Commissioners Aikens, Elliott and Josefiak voted affirmatively for the motion and Commissioners McDonald, McGarry and Thomas dissented.

continued)

4. Decided in a vote of 4-2 to approve recommendation 3, as revised by backing out those expenses pertaining to salary or travel and subsistence that upon review the Audit Division finds relating to individuals who did not spend five or more days in Iowa or New Hampshire working out of the Rock Island or Boston Office, and revised to include language explaining the 3-3 split vote. The amount of repayment will be reduced accordingly.

Commissioners Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Aikens and Elliott dissented.

Attest:

September 3, 1991
Date

Delores Harris
Delores Harris
Administrative Assistant

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Paul Simon for President, Inc.
Final Repayment Determination and
Proposed Statement of Reasons
(LRA #355).

)
)
) Agenda Document #93-25
)
)
)

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission open meeting for Thursday, March 4, 1993, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions on Agenda Document #93-25:

1. Determine that Senator Paul Simon and the Paul Simon for President Committee must make a repayment to the United States Treasury, subject to the finding that the expenditures by the campaign for the Murphine Corporation be allocated as follows: 1/3 to national consulting services; 1/3 to Iowa limitations; and 1/3 to New Hampshire limitations.
2. Approve the Statement of Reasons in support of the final repayment determination, subject to the amendments agreed upon during the meeting discussion.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

March 9, 1993
Date

Delores Hardy
Delores Hardy
Administrative Assistant

FEDERAL ELECTION COMMISSION
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5. Failed on a vote of 3-3 to pass a motion to approve recommendation 5 on page 8 of the subject audit, as recommended by the Audit Division.

Commissioners Aikens, Elliott and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry and Thomas dissented.

6. Failed on a vote of 3-3 to pass a motion to revise recommendation 5 on page 8 of the subject audit to reduce the amount to be repaid to the U.S. Treasury to \$3,658.25.

Commissioners McDonald, McGarry and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott and Josefiak dissented.

7. Decided by a vote of 5-1 to amend recommendation 5 on page 8 of the subject audit, to add certain language to be approved by the Commission.

Commissioners Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

(continued)

FEDERAL ELECTION COMMISSION
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8. Failed on a vote of 3-3 to pass a motion to approve recommendation 6 on page 10 of the subject audit, as recommended by the Audit Division.

Commissioners Aikens, Elliott and Josefiak voted affirmatively for the motion; Commissioners McDonald, McGarry and Thomas dissented.

9. Failed on a vote of 3-3 to pass a motion to approve recommendation 6 on page 10 of the subject audit to reduce the amount to be repaid to U.S. Treasury to \$41,924.68.

Commissioners McDonald, McGarry and Thomas voted affirmatively for the motion; Commissioners Aikens, Elliott and Josefiak dissented.

10. Decided by a vote of 5-1 to amend recommendation 6 on page 10 of the subject audit, to add certain language to be approved by the Commission.

Commissioners Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

(continued)

FEDERAL ELECTION COMMISSION
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REPORT ON LAROUCHE DEMOCRATIC CAMPAIGN
SEPTEMBER 19, 1989

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11. Decided by a vote of 6-0 to approve the Interim Audit Report on LaRouche Democratic Campaign as contained in Agenda Document #89-73, as amended at the meeting, and noted above.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

12. Decided by a vote of 6-0 to circulate to the Commission for approval, on a tally vote basis, the Interim Audit Report on LaRouche Democratic Campaign, as amended at this meeting.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

9/21/89
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant
Office of the Secretariat

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Final Audit Report on the) Agenda Document #90-47
LaRouche Democratic Campaign)

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission meeting on May 17, 1990, do hereby certify that the Commission took the following actions with respect to Agenda Document #90-47:

Decided by a vote of 6-0 to:

1. Approve the recommendation of the Audit staff that no further action be taken with respect to Transactions Related to LaRouche Democratic Campaign Special Legal Account.
2. Make an initial determination that \$1,160.95 in stale-dated checks is repayable to the United States Treasury pursuant to Section 9038.6 of Title 11 of the Code of Federal Regulations.
3. Make an initial determination that \$109,148.88 in matching funds received by the Committee represents matching funds received in excess of entitlement, and that an equal amount must be repaid to the United States Treasury pursuant to 26 U.S.C. § 9038(b)(1).

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

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Democratic Campaign

Page 2

Decided by a vote of 5-1 to:

1. Make an initial determination that the pro rata portion of \$3,634.37, concerning New Hampshire Expenditures in Excess of State Limitation, is repayable to the United States Treasury.
2. Make an initial determination that the pro rata portion of \$40,949.93, concerning Apparent Non-qualified Campaign Expenses: Post-Ineligibility Campaign Expenditures, is repayable to the United States Treasury.

Commissioners Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision. Commissioner Aikens dissented.

Decided by a vote of 6-0 to:

Approve the proposed final audit report of the LaRouche Democratic Campaign as found in Agenda Document #90-47, subject to the motions already approved at this meeting.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

May 18, 1990
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Proposed Final Repayment Determination) Agenda Document
and Statement of Reasons -- Lyndon H.) #92-119
LaRouche Democratic Campaign (LRA #326).)

CERTIFICATION

I, Delores R. Hardy, recording secretary for the Federal Election Commission open meeting on Thursday, September 17, 1992, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Agenda Document #92-119:

1. Determine that Lyndon H. LaRouche, Jr. and the LaRouche Democratic Campaign must repay \$151,259.76 to the United States Treasury; and
2. Approve the draft Statement of Reasons in support of the final repayment determination, as recommended in the General Counsel's report dated September 3, 1992.

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

September 18, 1992
Date

Delores R. Hardy
Delores R. Hardy
Administrative Assistant