

**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

December 11, 1981

MEMORANDUM

TO: FRED EILAND
PRESS OFFICE

FROM: BOB COSTA *RC*

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -
REAGAN BUSH COMMITTEE, THE REAGAN BUSH
COMPLIANCE FUND AND THE DEMOCRATS FOR REAGAN

Attached please find a copy of the final audit report of the Reagan Bush Committee, The Reagan Bush Compliance Fund and the Democrats For Reagan which was approved by the Commission on December 8, 1981.

Informational copies of the report have been received by all parties involved and the report may be released to the public as of today, December 11, 1981.

Attachment as stated

cc: FEC Library
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Public Record



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND
THE DEMOCRATS FOR REAGAN

I. Background

A. Overview

This report is based on an audit of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan, to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26 of the United States Code 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, Section 9007.1 of Title 11 of the Code of Federal Regulations states that after each Presidential election, the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate's authorized committee(s). Such examination and audit shall include, but shall not be limited to, expenses incurred pursuant to 11 C.F.R. 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 C.F.R. 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

The Reagan Bush Committee ("RBC" or "the Committee") registered with the Federal Election Commission on May 29, 1980 (under the name Reagan for President General Election Committee 1/) and served as the principal campaign committee of the Honorable Ronald Reagan, Republican candidate for President of the United States. The Candidate designated the Reagan Bush Compliance Fund 2/ ("the Compliance Fund") on July 7, 1980 (under the name Reagan for

1/ On August 7, 1980, the Committee amended its statement of organization to conduct business as the Reagan For President General Election Committee and/or Reagan Bush Committee.

2/ The Reagan Bush Compliance Fund was established to defray legal and accounting costs associated with ensuring compliance with the FECA.

President Compliance Fund) and the Democrats for Reagan on October 31, 1980 as authorized committees. The Reagan Bush Committee and the Reagan Bush Compliance Fund maintained their headquarters in Washington, D.C. and the Democrats for Reagan maintained its headquarters in Arlington, Virginia.

The audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the Committees at the time of the audit. During that period, the Committees reported the following activity:

<u>Committee</u>	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Reagan Bush Committee	-0-	\$32,516,345.37	\$31,647,351.55	\$868,993.82
Reagan Bush Compliance Fund	-0-	2,110,857.80	1,512,152.36	598,705.44
Democrats for Reagan	-0-	10,000.00 <u>3/</u>	10,000.00 <u>3/</u>	-0-

In addition, certain financial activity was reviewed through March 26, 1981.

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

B. Key Personnel

The principal officers of the Committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Reagan Bush Committee	U.S. Senator Paul Laxalt	Ms. Bay Buchanan <u>4/</u>
Reagan Bush Compliance Fund	U.S. Senator Paul Laxalt	Ms. Bay Buchanan <u>4/</u>
Democrats for Reagan	Mr. Leon Jaworski	Ms. Janine Perrignon

3/ Activity of Democrats for Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. Therefore, this activity is not subject to the limitation at 2 U.S.C. 441a(b)(1)(B). In addition, the Democrats for Reagan filed a termination report on January 30, 1981.

4/ On January 21, 1981, these Committees amended their statements of organization to disclose Mr. Scott Mackenzie as Treasurer, and on October 2, 1981, a further amendment was filed to disclose Mr. Arthur J. Dellinger as the present Treasurer.

C. Scope

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

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

A. Monies Received by the Reagan Bush Committee Relating to Expenditures Made by the Republican National Committee

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 (as adjusted for the change in the consumer price index since 1974), in the case of a campaign for election to such office (also see 2 U.S.C. Section 441a(c)). The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

Section 441a(d)(1) and (2) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. Section 441a(e)).

Section 9004.6(a) and (b) of Title 11 of the Code of Federal Regulations permits an authorized committee of a publicly-funded candidate to receive reimbursements for expenses for transportation and related ground services made available to the media, Secret Service and other staff authorized by law or required by national security to travel with a candidate.

The Audit staff analyzed the campaign tours of the Presidential and Vice-Presidential candidates for which the Reagan Bush Committee sought reimbursement from the news media, Secret Service and Reagan Bush Compliance Fund. Based on a review of Committee records, and disclosure reports filed by the Republican National Committee, the Audit staff has found that the RNC made seven expenditures totaling \$1,633,293.89 in connection with the campaign tours; the RNC applied this amount to its expenditure limit under 2 U.S.C. Section 441a(d)(2). ^{5/} These RNC expenditures were made directly to the vendors and were in

^{5/} The RNC's limitation in 1980 was \$4,637,653.76. It should be noted that although there are several references in this report to certain financial activities of the RNC, the scope of the audit work performed was limited to tests of the financial records of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan. The Audit Division did not perform an audit of the RNC.

addition to the campaign tour expenditures made by the Reagan Bush Committee itself. Without distinguishing between those amounts paid by the Reagan Bush Committee and those paid by the RNC, the Reagan Bush Committee billed the news media, Secret Service and its own compliance fund ("Compliance Fund") for their respective shares of the total campaign tour costs (transportation and related services).

As a result of these billings, the Committee obtained reimbursements from the news media, Secret Service and Compliance Fund in the amount of \$2,423,595.34. The Audit staff determined that \$1,138,891.24 of the total amount of such reimbursements received by the Reagan Bush Committee was based on the above-described expenditures made by the RNC. 6/ These reimbursements were retained by RBC and reported on FEC Form 3P, Schedule A-P, Line 21. 7/ As a result, the RBC's reported expenditures subject to the limitation of 2 U.S.C. Section 441a(b)(1)(B) were offset (reduced) by \$1,138,891.24.

It is the opinion of the Audit Division that the Reagan Bush Committee improperly retained the above-described reimbursements since the expenditures on which they were based had been made by the RNC and not the Reagan Bush Committee. In effect, the Audit Division's position is that the Reagan Bush Committee was "reimbursed" for amounts it had not expended. The Audit staff has also stated that such rebates should not have been applied as an offset to RBC expenditures to the extent that the related expense was paid by the RNC. According to this reasoning, to permit such an artificial "offset" would have the effect of increasing the expenditure limitation of the publicly-financed candidates under 2 U.S.C. Section 441a(b)(1)(B) by the amount of the "offset".

During the fieldwork and at the exit conference of March 27, 1981, the Audit staff informed Committee officials of their opinion that the Committee was not entitled to reimbursements based on RNC expenditures and that these reimbursements could not reduce RBC operating expenditures. On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim audit report that the Reagan Bush Committee be afforded 30 days from receipt of the interim report: to explain the circumstances surrounding its receipt of the \$1,138,891.24 in reimbursements received related to expenditures made by the Republican National Committee; and to demonstrate that the receipt and reporting of these amounts are consistent with the requirements of the Act and Chapter 95 of the Internal Revenue Code (26 U.S.C. Sections 9001 - 9012). Further recommendations were to be made after the Reagan Bush Committee had had an opportunity to respond within the 30 day period.

6/ This total includes \$8,733.07 in reimbursements which were billed but not collected as of 2/24/81. It was included in the above calculation based upon the Audit Division's review of reported activity subsequent to 2/24/81 which indicates that an amount in excess of \$8,733.07 was reported as being received by RBC.

7/ After completion of the audit fieldwork, the Committee filed an amendment showing a different treatment as to a portion of these monies. This is discussed at pages 7 and 8.

In its response to the Commission-approved interim audit report, the Committee did not dispute that it had obtained reimbursements from the news media, Secret Service and Compliance Fund based upon tour expenditures of the RNC. The Committee stated that the \$1,138,891.24 represented "a proper offset of expenditures incurred by the RBC and RNC in furtherance of Ronald Reagan's candidacy in conformity with an agency relationship that existed between the RBC and RNC." Briefly stated, the Committee claimed that: 1) it was acting as the RNC's agent in managing certain of the RNC's funds; 2) in its capacity as agent, the Committee obtained reimbursements due the RNC in connection with campaign tours; and 3) it expended, as RNC's agent, for purposes of 2 U.S.C. Section 441a(d), an amount of money corresponding to the amount obtained in behalf of the RNC in connection with these same campaign tours.

The Committee did not point to a specific agency agreement, but indicated that the "course of dealing" between RBC and the RNC demonstrated the existence of an agency relationship whereby the Reagan Bush Committee managed funds for the account of the RNC. The response also cited as authority for such an agency relationship Section 110.7(a)(4) of Title 11 of the Code of Federal Regulations which states that the national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

Finally, the RBC presented an analysis of these transactions with reference to Generally Accepted Accounting Principles (GAAP) which included the concept of offsetting assets against liabilities and the concept of proper financial presentation for entities under common, direct, or indirect control. The RBC indicated that given the agency relationship, the GAAP concept of offsetting suggests that the \$1,138,891.24 in reimbursements received by the RBC should be recorded as a liability to the RNC which could appropriately and preferably be offset against other costs incurred by the RBC for the RNC. Further, the RBC indicated that there is substantial support in the GAAP concept of proper financial presentation for entities under common, direct or indirect control to suggest the more meaningful presentation of the financial results of the Reagan Bush Presidential Election Campaign would be to combine the activities of the RBC and the RNC's Presidential Election Fund, based upon the common control through the agency relationship. The RBC's GAAP analysis is, of course, dependent upon the existence of common control and its permissibility under applicable law.

Were the Commission to sanction the type of agency relationship described by the Committee, the consequences would include the following:

1) The separate expenditure limitations for party committees under 2 U.S.C. Section 441a(d)(1) and (2) and publicly-financed candidate committees under 2 U.S.C. Section 441a(b)(1)(B) would be effectively eliminated in favor of a combined limit;

2) The limited right of a party committee under 2 U.S.C. Section 441a(d)(1) and (2) to make certain expenditures in connection with the general election campaign of that party's nominee for President would be expanded to permit the actual transfer of party committee funds to the publicly-financed candidate committee, effectively vitiating the distinction between expenditures and contributions; and

3) The limitation of 2 U.S.C. Section 441a(b)(1)(B) would effectively be increased, since the committees of publicly-financed candidates would be permitted to receive and expend private funds in the form of reimbursements, refunds and rebates due another entity.

In addition, there would be changes necessary to the disclosure provisions to correspond to the above-noted results.

The Commission is of the view that the two limits, the party's 441a(d) limit for expenditures from private funds and the candidate's 441a(b)(1)(B) limit on expenditures to the amount of the public financing grant, must be maintained and administered separately. Despite the fact that the RNC and Reagan Bush Committee shared the goal of electing a Republican President in 1980, the Federal Election Campaign Act and Commission Regulations treat them as separate and distinct legal entities.

It should also be noted that while section 441a(d) permits the party to coordinate its expenditures with the candidate without this being deemed a contribution, the funds must be party funds for whose expenditures the party is responsible; such party funds cannot be contributed to the publicly-financed candidate nor be given over to the candidate's control.

Since the Act, its legislative history and Commission Regulations recognize a distinction between an actual transfer of money to a candidate's committee by a party committee and an expenditure under section 441a(d), a publicly-financed candidate's committee cannot be the agent of the party committee for obtaining and using private funds despite the RBC's permissive reading of 11 C.F.R. Section 110.7(a)(4) which allows a party committee to designate an agent. The Reagan Bush Committee, therefore, should not have retained monies in the form of reimbursements which were due the RNC. While the Commission has permitted the use of section 441a(d) monies to pay for expenditures incurred by the candidate if the party so chooses, the effect of allowing reimbursement to the candidate for expenditures made by the party is to mingle private money with public money in a way not contemplated by the public financing system.

If a publicly-financed candidate committee were permitted to be the agent of a party committee with respect to the latter's expenditures under section 441a(d), the expenditure limits of both committees in the general election would effectively be combined. While it appears that the Reagan Bush Committee mistakenly viewed the transactions in this way, the committees did not exceed this "combined" limit by virtue of these transactions; had the RNC received the reimbursements in question, such amounts could have been deducted from its expenditures under Section 441a(d), thus allowing the RNC to expend an additional \$1,138,891.24 under this section. 8/ The Reagan Bush Committee, in effect, expended the RNC's \$1,138,891.24. The total expenditures of both committees were not increased by these transactions.

Amendments to Year-End Reports

One of the more significant aspects of the Reagan Bush Committee's receipt and expenditure of RNC funds concerns the current lack of clarity on the public record. This problem has been further complicated by amendments by both committees to reports which they had previously filed with the Commission.

During the fieldwork and at the exit conference of March 27, 1981, the Audit staff informed RBC officials that, in the Audit staff's opinion, the RBC was not entitled to reimbursements received based on RNC expenditures and that these reimbursements could not be used to offset RBC operating expenditures. While the Audit staff indicated that the reimbursements received relating to RNC expenditures approximated \$750,000, RBC officials were also informed that this figure was preliminary and might be substantially higher once the calculations were made final. Prior to the Audit staff's finalization which resulted in the figure of \$1,138,891.24, the Reagan Bush Committee filed an amendment apparently based on the conversations during the audit fieldwork and at the exit conference.

On April 1, 1981, the Reagan Bush Committee amended its 1980 Year-End report to delete \$748,163.16 in previously reported reimbursements (Line 21, FEC Form 3P) and \$748,163.16 in previously reported operating expenditures (Line 24, FEC Form 3P) from its reports and attributed these transactions to the Republican National Committee. This amendment showed a downward adjustment to the Reagan Bush Committee's reported reimbursements and operating expenditures.

8/ This assumes that 11 C.F.R. Section 9004.6 permits the party committee to receive reimbursements from the news media and Secret Service for transportation expenses which the party committee had made. It should be noted that the regulation speaks only in terms of an "authorized committee" being permitted to receive such reimbursements.

It appears the amendment was designed to show that RBC received and expended these amounts in behalf of the RNC under the latter's spending authority under 2 U.S.C. Section 441a(d). On July 21, 1981, the RNC amended its 1980 Year-End report to correspond to RBC's treatment of the above noted receipts and expenditures. The total reported expenditures of the RNC under section 441a(d) and RBC under section 441a(b)(1)(B) were not changed by these amendments.

As pointed out in the interim report, the aforementioned \$748,163.16 amendment did not involve a transfer of monies between RBC and the RNC, but rather, was merely a "paper" attribution of "the amount of tour reimbursements allocated to the RNC" and selected expenditures paid by RBC and later attributed via RBC disclosure reports to the RNC.

In effect, the amendments of both committees reflected the interim finding of the Audit Division that the Reagan Bush Committee could not be reimbursed for expenditures made by the RNC. The corresponding amendments were apparently designed to show that RBC was acting in behalf of the RNC; although the public record is by no means clear on this point, this reading of the amendments is consistent with the agency theory advanced by RBC in response to the interim report of the Audit Division. The discrepancy in the amount (the amendment's \$748,163.16 versus the audited figure of \$1,138,891.24) appears to have resulted from the RBC's use of the lower figure verbally presented to it by the Audit staff at the aforementioned exit conference, and the RBC's failure to update that figure after receiving the written calculation of \$1,138,891.24.

The interim report indicated that the Audit staff did not believe that the after-the-fact attribution of expenditures (actually made and originally reported by the Reagan Bush Committee) was permissible, and advised the RBC to make an appropriate amendment to the public record. To date the RBC has not filed the recommended amendment to its reports.

CONCLUSION

The Commission does not agree with the theory advanced by the RBC. The Commission is of the view that the two limits-- the party's 441a(d)(1) and (2) limit for expenditures from private funds and the candidate's 441a(b)(1)(B) limit of expenditures to the amount of the public financing grant--must be maintained and administered separately. While 441a(d) permits the party to coordinate its expenditures with the candidate without having that deemed a contribution, the funds must be party funds for whose expenditure the party is responsible; the funds cannot be contributed to the candidate nor given over into his control. In short, the Commission rejects the idea that the limits are interchangeable, or that the publicly-funded candidate can be the direct agent of the party for obtaining or using the private funds.

Having erroneously viewed the private funding limit and the public funding limit as combined, the committees, nevertheless, did not, through those transactions violate the combined limits; rather, the RNC counted the expenditures against its limit, and the combined total of expenditures was not increased by the transaction. While the Commission thus concludes for that reason that no action is to be taken against RBC, the Commission will in the future insist that the candidate committees and their associated party committee keep separate their funds and be responsible for making the expenditures under their respective ceilings.

Finally, the Commission concludes that the public record, amended after the initial exit conference with the auditors, does not at present accurately reflect the transactions which took place. While the RBC has shown, by its amendment, the desire to correct the public record, the public description leaves unexplained the nature of the reimbursement. Hence, the reports should be amended.

Recommendation

It is recommended that with respect to the tour reimbursements received by the Reagan Bush Committee relating to expenditures made by the RNC, an amendment is to be filed by the RBC within 30 days of receipt of this report. The correction to the public record may be accomplished by reclassifying from line 21 to line 22 of the Detailed Summary of Receipts and Expenditures (Page 2, FEC Form 3P) that portion of the \$1,138,891.24 received in 1980 and 1981 respectively. Line 22 of the summary should be retitled "Reimbursements Received Relating To Expenditures Made By The Republican National Committee". It should be noted that when filing this amendment the RBC does not have to file supporting FEC schedules A-P for line 22 detailing each reimbursement, but merely may disclose a "lump sum" amount being reclassified from line 21 to 22 for 1980 and 1981 activity. In addition, lines 14 and 15 (FEC Form 3P, Page 1) of the Reagan Bush Committee's Reports of Receipts and Expenditures for the 1980 Year-End Report and reports filed in 1981 should be corrected to reflect the changes to expenditures subject to the limitation resulting from the reclassifications noted above. In the alternative, the correction to the public record may be accomplished by placing an asterisk at line 21 of the Reagan Bush Committee report stating, "see the Federal Election Commission final audit report at pages three through nine."

With respect to the April 1, 1981 amendment (\$748,163.16), it is recommended that within the 30 day period the Reagan Bush Committee file an amendment to its 1980 Year-End Report of Receipts and Expenditures to reverse the transactions contained in the 4/1/81 amendment. Further, the RBC should advise the Republican National Committee to file a corresponding amendment to its 1980 Year-End Report within this recommended period so that the reports may properly reflect the transactions and their impact on both committees.

B. Disclosure of Debts and Obligations

Section 434(b) (8) of Title 2 of the United States Code requires disclosure of the amount and nature of debts and obligations owed by or to such political committee; and a statement as to the circumstances and conditions under which such debts or obligations were extinguished, and the consideration therefor.

The Audit staff noted that the following letters of credit were established with the Riggs National Bank in favor of three vendors. The amount and nature of these letters of credit were not disclosed in the Reagan Bush Committee's reports to the Commission.

(1) Pacific Telephone and Telegraph Co.

An irrevocable letter of credit was established in favor of the vendor pursuant to an agreement dated August 26, 1980. The credit, secured with certificates of deposit totaling \$300,000 (subsequently increased to \$500,000), guaranteed the satisfaction of all obligations owed to the vendor by the Reagan Bush Committee.

(2) United Airlines, Inc.

Two irrevocable letters of credit were established in favor of United Airlines on August 29, 1980 and September 11, 1980 pursuant to aircraft lease agreements. The credits, collateralized with certificates of deposit totaling \$425,000, guaranteed the satisfaction of indebtedness to the vendor by the Reagan Bush Committee.

(3) Trailways Leisure and Travel

An irrevocable letter of credit was established in favor of the vendor pursuant to an oral agreement of September 4, 1980, and payable upon written demand from Trailways. The credit was collateralized with certificates of deposit totaling \$20,000.

On April 15, 1981, the RBC filed its first Quarterly Report for 1981, which substantially disclosed the necessary information regarding these instruments.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

C. Transfer To and From Affiliated Committees

Sections 434(b)(2)(E) and 434(b)(4)(C) of Title 2 of the United States Code require the disclosure of the total amount of all transfers made to or received from affiliated committees.

The Audit staff noted a \$10,000 transfer made by the Reagan Bush Committee to Democrats For Reagan. The same amount was subsequently transferred from Democrats For Reagan to the Reagan Bush Committee. Democrats For Reagan disclosed the receipt and disbursement of the transfers. The Reagan Bush Committee considered the disbursement and receipt as inter-bank transfers and did not disclose this activity in its reports filed with the Commission.

On April 15, 1981, the RBC filed its first Quarterly Report for 1981 which properly disclosed these transfers.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

III. Findings Related to Title 26 of the United States Code and Repayment to the U.S. Treasury

A. Investment of Public Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states, in part, that investment of public funds is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

Further, 11 C.F.R. 9007.2(a)(6) states that the Commission shall notify the candidates of a political party that a repayment of money to the Fund will be required in an amount equal to any income received as a result of investment or other use of public funds pursuant to 11 C.F.R. 9004.5, less any Federal, State or local taxes paid on such income.

The Audit staff's analysis of activities through March 18, 1981, revealed that the Reagan Bush Committee received \$465,040.86 in interest income from the investment of public funds.

The Audit staff has determined that the interest income is subject to \$213,918.86 in Federal income taxes, and an unknown amount of State and local income taxes. The interest income and associated Federal income taxes were calculated through March 18, 1981. Therefore, these figures are subject to an adjustment based upon updated information regarding interest income and related taxes.

The Treasurer stated that the account would be closed on or about August 1, 1981, and the net income (after taxes) would be paid to the U. S. Treasury at that time.

On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim audit report that, absent a showing to the contrary, the value of interest income less applicable taxes (approximately \$251,122) be repaid in full to the U.S. Treasury within 30 days of receipt of the report.

The RBC has not provided any information concerning its liability for State and local income taxes, nor has the RBC made a repayment.

Recommendation

The Audit staff recommends that within 30 days of receipt of this report the RBC submit documentation to the Commission's Audit Division concerning any interest earned since March 18, 1981 as well as documentation supporting Federal, State and local taxes applicable to all interest income earned. Further, it is recommended that the RBC repay to the U.S. Treasury, within the 30 day period, \$251,122 plus an amount equal to any income received as a result of investment or other use of public funds pursuant to 11 C.F.R. 9004.5 since March 18, 1981 (less any Federal, State or local taxes paid on such income). During this 30 day period, the RBC may submit legal and factual materials to demonstrate that the repayment or any portion thereof is not required (see 11 C.F.R. 9007.2(c)).

B. Determination of Net Outstanding Qualified Campaign Expenses

On March 26, 1981, the Reagan Bush Committee presented an updated Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE") to the Audit staff depicting its financial position as of December 4, 1980. The Audit staff reviewed the books and records to verify the totals on the NOQCE. The following represents the financial position as determined by the Reagan Bush Committee and an audited version prepared by the Audit staff.

Reagan Bush Committee

Analysis of Net Outstanding Qualified Campaign Expenditures
As of December 4, 1980

	<u>Committee</u>	<u>Audit</u>
<u>Assets</u>		
Cash on Hand at 12/04/80	\$ 975,909.07	\$ 978,362.34
Accounts Receivable	1,650,703.44	1,664,034.93
Interest Receivable	23,643.16	23,643.16
Capital Assets	<u>16,378.90</u>	<u>46,617.93</u>
	\$2,666,634.57	\$2,712,658.36
Reimbursements Received Relating to Expenditures Made by the Republican National Committee		(1,138,891.24)
 Total Assets	 <u>\$2,666,634.57</u>	 <u>\$1,573,767.12</u>
<u>Liabilities</u>		
Accounts Payable for Qualified Campaign Expenses	\$2,042,699.25	\$2,073,796.54
Interest Repayable to the U.S. Treasury plus taxes payable	465,041.00	465,040.86
Reimbursement to Compliance Fund	<u>137,883.67</u> 9/	<u>137,883.67</u> 10/
 Total Liabilities	 <u>2,657,740.25</u>	 <u>2,676,721.07</u>
Net Outstanding Qualified Campaign Expenses - Surplus (Deficit)	 <u>\$ 8,894.32</u>	 <u>\$(1,102,953.95)</u> 11/

9/ Initially, the RBC showed an estimate of \$150,000; however, on March 31, 1981, the Reagan Bush Committee reported a reimbursement to the Compliance Fund totaling \$137,883.67 which the Treasurer believes is an accurate representation of the expenditures made from the Compliance Fund which benefited the Reagan Bush Committee.

10/ This amount is subject to an upward adjustment.

11/ Revisions to this deficit figure will be made as additional information becomes available.

(1) Cash on Hand - Difference \$2,453.27

The difference represents checks written prior to 12/5/80 and subsequently voided. The RBC has not adjusted (increased) its cash on hand to include these voided checks.

(2) Accounts Receivable - Difference \$13,331.49

The difference represents (a) a \$909.50 overstatement resulting from including two reimbursements (\$15.00 and \$894.50) not related to operating expenditures; (b) a \$2,137.91 overstatement resulting from the RBC's use of an estimated accounts receivable total at 3/26/81. The Audit staff calculated an actual total based upon a review of all available records; and (c) a \$16,378.90 understatement representing the balance owed to the RBC for assets sold prior to 12/4/80. The RBC included the \$16,378.90 in its capital assets total. However, since the assets were sold prior to 12/4/80 the Audit staff has included the amount as an account receivable as of 12/4/80.

(3) Capital Assets - Difference \$30,239.03

As previously stated in paragraph (2), the Reagan Bush Committee sold a portion of its assets prior to 12/4/80 for \$16,378.90. The Audit staff has classified the \$16,378.90 as an account receivable as of 12/4/80. In addition, the Audit staff has classified other assets on hand as of 12/4/80, totaling \$46,617.93, as capital assets. The RBC's NOQCE does not recognize these assets. The Treasurer stated he would review the staff's calculation of the fair market value of these assets.

(4) Reimbursements Received Relating to Expenditures Made By the Republican National Committee - Difference \$1,138,891.24

The RBC has not recognized as a contra asset ^{12/} reimbursements it received relating to expenditures made by the Republican National Committee. The Audit staff's adjustment offsets (reduces) the RBC's assets which are overstated by the amount of reimbursements received relating to expenditures by the RNC. (See Finding II.A.)

(5) Accounts Payable - Difference \$31,097.29

The difference represents (a) a \$14,296.50 overstatement resulting from including expenditures for which the checks were later voided and not reissued or reissued and included twice; and (b) a \$45,393.79 understatement resulting from the RBC's use of an estimated accounts payable. The Audit staff calculated an actual total based upon a review of all available records.

^{12/} Contra Asset - a credit balance account which offsets (reduces) a particular asset account.

C. Matter Referred to the Office of General Counsel

A certain other matter noted during the audit was referred to the Commission's Office of General Counsel for consideration on December 1, 1981.

IV. Repayment to the U.S. Treasury

Finding III.A. Investment of Public Funds \$251,122.00 13/ 14/

Recommendation

Pursuant to Section 9007.2(a)(6) of Title 11 of the Code of Federal Regulations, the amount noted above (\$251,122.00) is repayable to the U.S. Treasury within 30 days of receipt of this report. If the candidate disputes the Commission's determination that a repayment is required, he may submit in writing, within 30 days of receipt of this report, legal or factual materials to demonstrate that a repayment or any portion thereof is not required.

13/ This amount is subject to an upward adjustment based upon any interest earned subsequent to March 26, 1981.

14/ As previously noted, a certain other matter has been referred to the Commission's Office of General Counsel. Upon resolution of this matter, a further repayment may be required.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

HOLD FOR MESSENGER

December 10, 1981

Edward L. Weidenfeld, Esquire
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This will confirm our telephone conversation of this afternoon and will reduce its subject matter to writing.

Consistent with the action it took with respect to the files which had been generated in the course of the audit of the 1976 Carter-Mondale Committee, the Commission has decided to place on the public record the file developed during its audit of your client, the Reagan-Bush Committee.

Accordingly, we anticipate that, simultaneous with the public release of the Final Audit Report of the Reagan-Bush Committee, scheduled to occur at 10:00 a.m. tomorrow, we also will begin to make the audit documents available to the public.

The records which we will make available tomorrow are the following:


1. Interim Audit Report, approved by the Commission on June 16, 1981.*
2. Certification of Commission action by which Revised Interim Audit Report was approved. Certification dated June 17, 1981.
3. Cover letter to Scott Mackenzie, Treasurer, Reagan-Bush Committee, dated June 18, 1981, transmitting Interim Audit Report.
4. Acknowledgement of receipt of Interim Audit Report by E.L. Weidenfeld, dated June 19, 1981.
5. Memo, dated June 11, 1981, from C.N. Steele to R.J. Costa, re: Suggested Changes to Interim Audit Report.*

Ltr to E.L. Weidenfeld
December 10, 1981
Page 2

6. Memo, dated May 29, 1981, R. Costa to Commissioners, re: Interim Audit Report of the Reagan Bush Committee, et al., with draft Interim Audit Report attached.*
7. Memo, dated May 26, 1981, from C.N. Steele to R.J. Costa, re: Analysis of Interim Audit Report.*
8. Memo, dated April 13, 1981, from R. Costa to C.N. Steele, re: Interim Audit Report, Reagan-Bush Committee, et al., with draft Interim Audit Report attached.*
9. Memo, dated November 13, 1981, from R.J. Costa to Commission, re: Final Audit Report, with draft Final Audit Report attached.*
10. Memo, dated November 12, 1981, C.N. Steele to R.J. Costa, re: Comments on Revised Draft Report of the Audit Division.*
11. Memo, dated November 25, 1981, C.N. Steele to Commission, re: Additional Comments on Reagan-Bush Audit in light of the District Court's Opinion and Order of November 13, 1981.
12. Memo, dated October 13, 1981, from C.N. Steele to Commission, re: RBC Audit, Commission Directive of September 16, 1981.

As per our conversation, I understand that you will contact me in the morning with respect to the release of the above described records.

Sincerely,



Charles N. Steele
General Counsel

* Pursuant to U.S.C. §437g(a)(12)(A), all reference to matters being reviewed by the Commission in the enforcement track have deleted from these records.

2. Finding III B - Campaign Tour Reimbursements

Two components of Finding II A are upward adjustments to reported expenditures subject to the limitation at 2 U.S.C. 441a(b)(1)(B). The discussion at Finding III B details and supports these adjustments. Consistent with their recommendation for Finding II A, the Office of General Counsel recommends that Finding III B be deleted in its entirety from the interim report.

The Audit Division agrees with Office of General Counsel's recommendation provided that all other findings relating to the proposed MUR action be deleted in their entirety.

3. Finding III E - Determination of Net Outstanding Qualified Campaign Expenses

Consistent with Finding II A and III B this finding recognizes two liabilities. The first is reimbursements due the RNC (\$1,138,891.24) and secondly, income repayable from campaign tours (\$16,849.50). The Office of General Counsel has recommended that all references to the amount due the RNC and the income from campaign tours be deleted.

The Audit Division is of the opinion that selectively deleting these items materially understates and misrepresents the deficit spending position of the Reagan Bush Committee.

4. Finding IV - Repayment Summary

This finding is merely a recap of the matters noted in the interim report which may result in a repayment to the U.S. Treasury. The Office of General Counsel has concurred with the recommendation provided that the repayment from Section III A be reduced \$. and the repayment from Section III B.(1) (.) be deleted. These adjustments total \$. and reduce the recommended repayment amount from \$. to \$.

As an alternative to preparing the report as recommended by OGC, it is the recommendation of the Audit Division that the findings related to the proposed MUR action be completely excised from the interim report. To selectively remove portions of the affected findings would materially misstate and misrepresent the issues at hand.

To do otherwise would cause the issue of whether or not the Committee exceeded the 2 U.S.C. 441a(b)(1)(B) limitation to be dealt with separately, both in the audit report for part of the apparent overage and dealt with in the MUR track for the remainder.

In the place of these deleted findings, suggested language has been included at Section III B of the report prepared by the Audit Division for Commission consideration.

It is recommended that this interim report be place on the Executive Session agenda of June 4, 1981 for consideration.

Should you have any questions, please contact Tom Wurthen at extension 3-4155.

Attachments as stated

3 1 0 7 0 1 6 6 0 1 6

Memorandum to Robert Costa

Page Three

Suggested Changes to Revised Interim Audit Report of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats for Reagan

Part III. E. Determination of Net Outstanding
Qualified Campaign Expenses

The Office of General Counsel recommends that paragraph (4) on page 15 be expanded to fully explain: 1) why the monies received are considered a contra-asset; and 2) what a contra-asset is.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 29, 1981

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: *[Signature]* BOB COSTA

SUBJECT: INTERIM AUDIT REPORT OF THE
REAGAN BUSH COMMITTEE, REAGAN
BUSH COMPLIANCE FUND AND
DEMOCRATS FOR REAGAN

Attached is a copy of the subject report for your review and consideration. In addition, the legal analysis performed by the Office of General Counsel is attached at Exhibit A. Attached at Exhibit B is the cover memorandum and interim report forwarded to OGC. These documents are provided as background information and to facilitate reference between the legal analysis and the findings contained in the report reviewed by OGC.

It should be noted that the Audit Division and the Office of General Counsel are not in agreement regarding the presentation of certain findings in this report. The staffs have had several discussions regarding the subject. The areas of disagreement are discussed below. All references to findings pertain to matters contained in the interim report forwarded to OGC for analysis (see Exhibit B).

1. Findings II A - Limitation on Expenditures and III A - Expenditures in Excess of Limitation

The Office of General Counsel has concurred with the recommendations provided that certain matters noted in the findings be deleted and the amount in excess of the limitation be adjusted accordingly. Counsel recommends that all references in the findings concerning expenditures made by the RNC, and income realized from campaign tours be deleted and the matter referred for MUR treatment.

The Audit Division is of the opinion that selectively deleting these items materially understates and misrepresents the matter at hand.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 11, 1981

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director

THROUGH: B. Allen Clutter *BA*
Staff Director

FROM: Charles N. Steele *CNS*
General Counsel

SUBJECT: Suggested Changes to Revised Interim Audit
Report of the Reagan Bush Committee, Reagan
Bush Compliance Fund and Democrats for
Reagan

Pursuant to the Commission's direction, the Audit Division and the Office of General Counsel have discussed needed changes in the above-described report scheduled to be discussed in executive session on June 16, 1981. This office has reviewed the Audit Division's draft based upon these discussions, and has additional comments and suggested changes.

Part II.A. Limitation on Expenditures

It is the view of this office that the discussion of the Committee amendments of April 1, 1981 should be expanded. Due to the length and complexity of the facts discussed, the Office of General Counsel recommends that the following subheading precede the second paragraph on page 5: "Amendment to Year End Report Not Recognized"

After the first sentence in the second paragraph, the following language should be inserted:

The audit disclosed that the Republican National Committee ("RNC"), pursuant to 2 U.S.C. § 441a(d), made expenditures of \$1,633,239.89 for campaign tours of the presidential and vice-presidential candidates. These RNC expenditures were in addition to campaign tour expenditures of \$ _____ by the Reagan Bush Committee itself. As described more fully in Finding III.B.(2), the Reagan Bush Committee billed the news media, Secret Service and its own compliance fund for their respective shares of the total campaign tour costs without distinguishing between amounts paid by the RNC and those paid by the Reagan Bush Committee.

Received
6/11/81
4:55 P.M.
RJC

Memorandum to Robert Costa

Page Two

Suggested Changes to Revised Interim Audit Report of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats for Reagan

As a result of these billings, the Committee obtained \$ _____ in payments from the news media, Secret Service and the Compliance Fund. The audit staff determined that \$1,138,891.24 of this total represented payments to Reagan Bush based on the above-described RNC expenditures.

Again, without distinguishing between monies received related to expenditures made by the RNC and Reagan Bush, the Committee reported the total amount on Schedule A-P, Line 21, thereby showing a reduction of \$ _____ to the Committee's operating expenditures.

During the fieldwork and at the exit conference of March 27, 1981, the audit staff informed Committee officials that the Committee was not entitled to payments based on RNC expenditures and that these RNC-related payments could not reduce Committee operating expenditures. While the audit staff indicated to the Committee that its estimate of RNC-related payments approximated \$750,000, it also informed the officials that this figure might be substantially higher once the calculations were made final. Prior to the audit staff's arriving at the figure of \$1,138,891.24 in RNC-related payments, the Committee filed an amendment apparently based on conversations during the audit fieldwork and at the exit conference.

After the above insertion, begin a new paragraph with the second sentence. "One of the effects of this amendment, if the amendment is deemed permissible would be. . ." should be deleted. In its place, this office suggests that the following be inserted: "It appears that the amendment was filed to show . . ."

The first part of the first sentence on page 6 should be changed to read as follows: "This amendment attempted to show a . . ."

This Office also suggests that all the language after the first sentence of the second paragraph on page 6 be deleted as too speculative.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John file
Original
attached
Interim

June 18, 1981

Mr. Scott Mackenzie, Treasurer
Reagan Bush Committee
P. O. Box 4207
Arlington, Virginia 22204

Dear Mr. Mackenzie:

The attached is to formally advise you of the findings and recommendations of the Audit staff resulting from the audit of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan. These matters were discussed at the conclusion of the fieldwork in Washington D.C. on March 27, 1981.

You are requested to comply with the stated recommendations within 30 days of receipt of this interim report. After expiration of this 30 day period and receipt of your response, the Audit staff will present a final audit report to the Commission for approval and subsequent public release. If the recommendations contained in this report are followed, such efforts will be noted in the final report. However, adherence to these recommendations will not necessarily preclude the institution of enforcement proceedings with regard to apparent violations of the Federal Election Campaign Act of 1971, as amended.

If you have any questions regarding these matters, please do not hesitate to contact Tom Nurthen or Charlie Hanshaw at (202) 523-4155.

Sincerely,

Robert J. Costa
Assistant Staff Director
for the Audit Division

Attachment as stated

cc: The Honorable Ronald Reagan
President of the United States



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ACKNOWLEDGMENT RECEIPT OF INTERIM REPORT
ON THE
REAGAN BUSH COMMITTEE,
REAGAN BUSH COMPLIANCE FUND
AND
DEMOCRATS FOR REAGAN

I acknowledge receipt of the Committees' and Candidate's
copies of the Interim Audit Report on the above named Committees
which was approved by the Commission on June 16, 1981.

Edward L. Weidenfeld

Recipient for the
Reagan Bush Committees

June 19, 1981

Date

*Presented to Edward L. Weidenfeld in his
office 1575 Eye Street N.W. 9th Floor 2:45 PM 6-19-81*

K. Hoffmann

6-19-81

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Revised Interim Audit Report of)
the Reagan Bush Committee,)
Reagan Bush Compliance Fund)
and Democrats for Reagan)

Agenda Document # XB1-002

CERTIFICATION

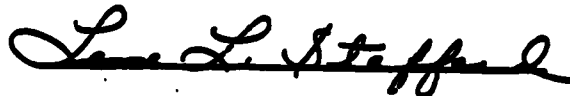
I, Lana L. Stafford, Recording Secretary for the Federal Election Commission Meeting on June 16, 1981, do hereby certify that the Commission decided in a vote of 5-1 to approve the Revised Interim Audit Report of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats for Reagan, as set forth in Agenda Document #81-002 and amended in the meeting.

Commissioners Harris, McGarry, Raiche, Thomson, and Tiernan voted affirmatively, and Commissioner Aikens dissented.

Attest:

6-17-81

Date



Recording Secretary



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION
ON THE

REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND

AND

THE DEMOCRATS FOR REAGAN

*Copy of
Commission
Approved
Report*

6-16-81

I. Background

A. Overview

This interim report is based on an audit of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan, to determine whether there has been compliance with provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26 of the United States Code 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, Section 9007.1 of Title 11 of the Code of Federal Regulations states, that after each Presidential election, the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate's authorized committee(s). Such examination and audit shall include, but shall not be limited to, expenses incurred pursuant to 11 C.F.R. 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 C.F.R. 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

The Reagan Bush Committee ("RBC") registered with the Federal Election Commission on May 29, 1980 (under the name Reagan for President General Election Committee*) and served as the principal campaign committee of the Honorable Ronald Reagan, Republican candidate for President of the United States. The Candidate designated the Reagan Bush Compliance Fund** ("the Compliance Fund") on July 7, 1980 (under the name Reagan for President Compliance Fund) and the Democrats for Reagan on

* On August 7, 1980, the Committee amended its statement of organization to conduct business as the Reagan For President General Election Committee and/or Reagan Bush Committee.

** The Reagan Bush Compliance Fund was established to defray legal and accounting costs associated with ensuring compliance with the FECA.

October 31, 1980 as authorized committees. The Reagan Bush Committee and the Reagan Bush Compliance Fund maintain their headquarters in Washington, D.C. and the Democrats for Reagan maintained its headquarters in Arlington, Virginia.

The audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the Committees at the time of the audit. During that period, the Committees reported the following activity:

<u>Committee</u>	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Reagan Bush Committee	-0-	\$32,516,345.37	\$31,647,351.55	\$868,993.82
Reagan Bush Compliance Fund	-0-	2,110,857.80	1,512,152.36	598,705.44
Democrats for Reagan	-0-	10,000.00*	10,000.00*	-0-

In addition, certain financial activity was reviewed through March 26, 1981.

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

B. Key Personnel

The principal officers of the Committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Reagan Bush Committee	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Reagan Bush Compliance Fund	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Democrats for Reagan	Mr. Leon Jaworski	Ms. Janine Perrignon

* Activity of Democrats For Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. Therefore, this activity is not subject to the overall limitation at 2 U.S.C. 441a(b)(1)(B). In addition, the Democrats For Reagan filed a termination report on January 30, 1981.

** On January 21, 1981, the Committees amended their statements of organization to disclose Mr. Scott Mackenzie as Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts, expenditures 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. Interim Audit Findings and Recommendations Relating to Title 2 of the United States Code*

Reagan Bush Committee

A. Limitation on Expenditures

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 (as adjusted for the change in the consumer price index since 1974), in the case of a campaign for election to such office. (also see 2 U.S.C. 441a(c)).

The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

The Audit staff's analysis of the Reagan Bush Committee's reports filed from May 1, 1980 through December 31, 1980, and available records relating to receipts and expenditures from January 1, 1981 through March 26, 1981 revealed the following with respect to expenditures subject to the \$29,440,000 limitation.

* There were no material findings with respect to either the Reagan Bush Compliance Fund or Democrats For Reagan relating to Title 2 of the United States Code.

Based upon the above analysis, it appears that the Reagan Bush Committee has exceeded the limitation at 2 U.S.C. 441a(b)(1)(B) in the amount of \$ (\$ less \$29,440,000). The Audit staff noted that the Reagan Bush Committee did not identify on its reports any amounts paid from its operating accounts which may be allocable to the Reagan Bush Compliance Fund (e.g., headquarters/field office overhead, etc.). Therefore, the Reagan Bush Committee may wish to review its overhead costs and reallocate, on a reasonable basis, an amount applicable to the Compliance Fund and obtain reimbursement for same.

Amendment to Year End Report Not Recognized.

It should be noted that the above analysis does not recognize an amendment filed by the Committee to its 1980 year end report. The audit disclosed that the Republican National Committee ("RNC"), pursuant to 2 U.S.C. Section 441a(d)(2), made expenditures of \$1,633,239.89 for campaign tours of the presidential and vice-presidential candidates. These RNC expenditures were in addition to campaign tour expenditures made by the Reagan Bush Committee. As described more fully in Finding III.B.(2), the Reagan Bush Committee billed the news media, Secret Service and its own compliance fund for their respective shares of the total campaign tour costs without distinguishing between amounts paid by the RNC and those paid by the Reagan Bush Committee.

As a result of these billings, the Committee obtained payments from the news media, Secret Service and the Compliance Fund. The Audit staff determined that \$1,138,891.24 represented payments to the Reagan Bush Committee based on the above described RNC expenditures.

Again, without distinguishing between monies received related to expenditures made by the Reagan Bush Committee and the RNC, the Reagan Bush Committee reported the total amount on Schedule A-P, Line 21(Refunds, rebates, returns of deposits), thereby reducing operating expenditures subject to the limitation.

During the fieldwork and at the exit conference of March 27, 1981, the audit staff informed Committee officials that the Committee was not entitled to payments based on RNC expenditures and that these payments could not reduce Committee operating expenditures. While the Audit staff indicated that the monies received relating to RNC expenditures approximated \$750,000, it also informed the officials that this figure may be substantially higher once the calculations were made final. Prior to the Audit staff's arriving at the figure of \$1,138,891.24 the Reagan Bush Committee filed an amendment apparently based on conversations during the audit fieldwork and at the exit conference.

On April 1, 1981, the Reagan Bush Committee amended its 1980 year end report to delete \$748,163.16 in previously reported refunds (Line 21, FEC Form 3P) and \$748,163.16 in previously reported operating expenditures (Line 24, FEC Form 3P) and attributed these transactions to the Republican National Committee. It appears that the amendment was filed to show a \$748,163.16 reduction of the Republican National Committee's previously reported expenditures on behalf of the candidate, thereby, establishing enough room within its 2 U.S.C. 441a(d)(2) limitation of \$4,637,653.76 to accommodate the additional \$748,163.16 in expenditures originally made by the Reagan Bush Committee.* As of June 15, 1981, the RNC had not amended its reports recognizing the above noted receipts and expenditures. Further, the RNC's disclosure reports filed to date indicated that it had made other expenditures pursuant to 2 U.S.C. 441a(d)(2) on behalf of the candidate totaling \$4,479,239.27 toward its limitation of \$4,637,653.76.

* Reported expenditures made by the RNC pursuant to 2 U.S.C. 441a(d)(2).	\$4,479,239.27
Less: Amount of reimbursements allocated to the RNC	<u>(748,163.16)</u>
Subtotal	\$3,889,490.60
Add: Expenditures made by the Reagan Bush Committee and attributed "after the fact" to the RNC	<u>748,163.16</u>
Expenditures subject to 2 U.S.C. 441a (d)(2) limit as adjusted by amendment	<u>\$4,479,239.27</u>

The aforementioned \$748,163.16 amendment did not involve a transfer of monies between the Reagan Bush Committee and the RNC, but rather was merely a "paper" attribution of "the amount of tour reimbursements allocated to the RNC" (see Finding III.B.(2)) and selected expenditures originally paid by the Reagan Bush Committee.

This amendment also attempts to show a downward adjustment to the Reagan Bush Committee's reported refunds and operating expenditures in the like amount of \$748,163.16, thereby reducing the \$ in expenditures subject to the limit as computed by the Audit staff on page 4 of this report.

The Audit staff does not believe that this "after the fact" attribution of expenditures (originally made and reported by the Reagan Bush Committee) to the PNC is permissible within the definition of 2 U.S.C. 441a(d)(2).

Recommendation

The Audit staff recommends that the Reagan Bush Committee be requested to show within 30 days of receipt of this report that the overall limitation has not been exceeded as set forth above. Further, if the Reagan Bush Committee reallocates any expenditures to the Compliance Fund, computational schedules detailing the reallocation should be provided to the Audit Division for review within the 30 day period. Further, it is recommended that the Reagan Bush Committee file an amended report and thereby properly disclose the \$748,163.16 in expenditures (originally made by the Reagan Bush Committee) as subject to the limitation contained at 2 U.S.C. 441a(b)(1)(B).*

Absent such a showing that the limitation has not been exceeded a determination will be made regarding an amount to be repaid to the U.S. Treasury (see Finding III.A. and repayment summary at Section IV.).

* Further amendments may be required to properly disclose expenditures subject to the limitation.

B. Disclosure of Debts and Obligations

Section 434(b) (8) of Title 2 of the United States Code requires disclosure of the amount and nature of debts and obligations owed by or to such political committee; and a statement as to the circumstances and conditions under which such debts or obligations were extinguished, and the consideration therefore.

The Audit staff noted that the following letters of credit were established with the Riggs National Bank in favor of three vendors. The amount and nature of these letters of credit were not disclosed in the Reagan Bush Committee's reports to the Commission.

(1) Pacific Telephone and Telegraph Co.

An irrevocable letter of credit was established in favor of the vendor pursuant to an agreement dated August 26, 1980. The credit, secured with certificates of deposit totaling \$300,000 (subsequently increased to \$500,000), guaranteed the satisfaction of all obligations owed to the vendor by the Reagan Bush Committee.

(2) United Airlines, Inc.

Two irrevocable letters of credit were established in favor of United Airlines on August 29, 1980 and September 11, 1980 pursuant to Aircraft lease agreements. The credits, collateralized with certificates of deposit totaling \$425,000, guaranteed the satisfaction of indebtedness to the vendor by the Reagan Bush Committee.

(3) Trailways Leisure and Travel

An irrevocable letter of credit was established in favor of the vendor pursuant to an oral agreement of September 4, 1980, and payable upon written demand from Trailways. The credit was collateralized with certificates of deposit totaling \$20,000.

On April 15, 1981, the Committee filed its first Quarterly Report for 1981, which substantially disclosed the necessary information regarding these instruments.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

C. Transfer To and From Affiliated Committee

Sections 434(b)(2)(E) and 434(b)(4)(C) of Title 2 of the United States Code require the disclosure of the total amount of all transfers made to or received from affiliated committees.

The Audit staff noted a \$10,000 transfer made by the Reagan Bush Committee to Democrats For Reagan. The same amount was subsequently transferred from Democrats For Reagan to the Reagan Bush Committee. Democrats For Reagan disclosed the receipt and disbursement of the transfers. The Reagan Bush Committee considered the disbursement and receipt as inter-bank transfers and did not disclose this activity in its reports filed with the Commission.

On April 15, 1981, the Committee filed its first Quarterly Report for 1981 which properly disclosed these transfers.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

III. Findings Related to Title 26 of the United States Code, Determination of Net Outstanding Obligations For Qualified Campaign Expenses and Repayment to the U.S. Treasury *

Reagan Bush Committee

A. Expenditures 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.

Except for the issues addressed in Finding III.C., no material Title 26 matters were noted relating to the Compliance Fund. Also, there were no material matters noted concerning Democrats For Reagan.

As previously noted in Finding II.A., the Audit staff identified expenditures which appear to be in excess of the overall limitation for the period 5/01/80 through 3/26/81 totaling \$

Recommendation

The Audit staff recommends that the Reagan Bush Committee be requested to show within 30 days of receipt of the audit report that the overall limitation has not been exceeded as set forth in this report. Absent such a showing, a determination will be made regarding an amount required to be repaid to the U.S. Treasury.

B. Campaign Tour Reimbursements

Section 9004.6(a) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for transportation made available to media, Secret Service or other staff authorized by law or required by national security to travel with a candidate is received by a committee, the amount of such reimbursement for each individual shall not exceed that individual's pro rata share of the actual cost of the transportation made available. Further, Section 9004.6(b) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for ground services and facilities is received by a committee, the amount of such reimbursement for each individual shall not exceed either the individual's pro rata share of the actual cost of the services and facilities made available; or a reasonable estimate of the individual's pro rata share of the cost of the services and facilities made available. If it is determined that reimbursements related to a trip have exceeded by 10% or more the actual cost of the services and facilities made available, such excessive amount shall be deemed income to the committee and shall be repaid to the Secretary.

Section 441a(d) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. 441a(e)).

Section 9007(b)(3) of Title 26 of the United States Code states, in part, that if the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than those allowed under Section 9006(c)) to defray qualified campaign expenses, it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

The Audit staff analyzed the campaign tours undertaken by the Presidential and Vice Presidential candidates for which the Reagan Bush Committee sought reimbursement from the news media, Secret Service and Reagan Bush Compliance Fund for a pro rata share of costs for air transportation and ground services and facilities.

(1) Reimbursements Based Solely on Costs Paid By The Reagan Bush Committee

The analysis of available records supporting the actual cost of services and facilities made available to the news media, United States Secret Service and Compliance Fund personnel disclosed that the Reagan Bush Committee realized income in conjunction with the tours of at least \$50,588.48 (\$1,284,704.10 reimbursements less actual cost \$1,234,115.62).

Recommendation

Since the above reimbursements have not exceeded by 10% or more the actual cost of the services and facilities as contained at 11 C.F.R. 9004.6(b), the Audit staff recommends no repayment action with respect to the associated income. However, since this income has an impact (understates reported expenditures subject to the limitation) on expenditures subject to the overall limitation, the entire amount (\$50,588.48) has been included in Finding II.A. as an upward adjustment.

(2) Reimbursements Based Solely On Costs Paid By The Republican National Committee

In addition to the matter in (1) above, the Audit staff noted that the Republican National Committee made seven expenditures totaling \$1,633,293.89 in conjunction with the tours and applied the amount to its 2 U.S.C. 441a(d)(2) limitation. The Audit staff's review of the Reagan Bush Committee records revealed that \$1,613,049.15 of the RNC expenditures were applied to air charges associated with presidential tours 6 through 15 and vice presidential tours 6 through 14. A pro rata share of these expenditures was billed by the Reagan Bush Committee to the news media, United States Secret Service and Reagan Bush Compliance Fund. The Reagan Bush Committee obtained \$1,138,891.24 in reimbursements associated with the Republican National Committee's expenditures. These reimbursements were retained and reported by

the Reagan Bush Committee on Schedule A-P Line 21. As a result, reported expenditures subject to the limitation (2 U.S.C. 441a (b)(1)(B)) were offset (reduced) by \$1,138,891.24 (see Finding II.A.). Copies of computational schedules depicting this situation, as well as the matter addressed in Finding III.B.1. were provided to the Reagan Bush Committee Treasurer during the exit conference.

Recommendation

The Audit staff recommends that the Reagan Bush Committee be afforded 30 days from receipt of this report to explain the circumstances surrounding its receipt of the \$1,138,891.24 in payments related to expenditures made by the Republican National Committee, and to demonstrate that the receipt and reporting of these amounts are consistent with the requirements of the Act and Chapter 95 of the Internal Revenue Code (26 U.S.C. Sections 9001 - 9013). Further recommendations will be made after the Reagan Bush Committee has had an opportunity to respond within the 30 day period.

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D. Investment of Public Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states, in part, that investment of public funds is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

The Audit staff's analysis of activities through March 18, 1981, revealed that the Reagan Bush Committee received \$465,040.86 in interest income from the investment of public funds. The Audit staff has determined that the interest income is subject to \$213,918.86 in Federal income taxes, and an unknown amount of State and local income taxes.

The Treasurer stated that the account will be closed on or about August 1, 1981, and the net income (after taxes) will be paid to the U. S. Treasury at that time.

Recommendation

Absent a showing to the contrary within 30 days of receipt of this report, the Audit staff will recommend to the Commission that the value of the interest earned less applicable taxes (approximately \$251,122), be repaid in full to the U.S. Treasury.

E. Determination of Net Outstanding Qualified Campaign Expenses

On March 26, 1981, the Reagan Bush Committee presented an updated Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE") to the Audit staff depicting its financial position as of December 4, 1980. The Audit staff reviewed the books and records to verify the totals on the NOQCE. The following represents the financial position as determined by the Reagan Bush Committee and an audited version prepared by the Audit staff:

Reagan Bush Committee

**Analysis of Net Outstanding Qualified Campaign Expenditures
As of December 4, 1980**

	<u>Committee</u>	<u>Audit</u>
<u>Assets</u>		
Cash on Hand at 12/04/80	\$ 975,909.07	\$ 978,362.34
Accounts Receivable	1,650,703.44	1,664,034.93
Interest Receivable	23,643.16	23,643.16
Capital Assets	<u>16,378.90</u>	<u>46,617.93</u>
	\$2,666,634.57	\$2,712,658.36
Monies Received Relating to Expenditures Made by the Republican National Committee		(\$1,138,891.24)
Total Assets	<u>\$2,666,634.57</u>	<u>\$1,573,767.12</u>
<u>Liabilities</u>		
Accounts Payable for Qualified Campaign Expenses	\$2,042,699.25	\$2,073,796.54
Interest Repayable to the U.S. Treasury plus taxes payable	465,041.00	465,040.86
Total Liabilities	<u>2,657,740.25</u>	
Net Outstanding Qualified Campaign Expenses-Surplus (Deficit)	<u>\$ 8,894.32</u>	

(1) Cash on Hand - Difference \$2,453.27

The difference represents checks written prior to 12/5/80 and subsequently voided. The Committee has not adjusted (increased) its cash on hand to include these voided checks.

(2) Accounts Receivable - Difference \$13,331.49

The difference represents (a) a \$909.50 overstatement resulting from including two reimbursements (\$15.00 and \$894.50) not related to operating expenditures; (b) a \$2,137.91 overstatement resulting from the Committee's use of an estimated accounts receivable total at 3/26/81. The Audit staff calculated an actual total based upon a review of all available records; and (c) a \$16,378.90 understatement representing the balance owed to the Committee for assets sold prior to 12/4/80. The Committee has included the \$16,378.90 in its capital assets total. However, since the assets were sold prior to 12/4/80 the Audit staff has included the amount as an account receivable as of 12/4/80.

(3) Capital Assets - Difference \$30,239.03

As previously stated in paragraph (2), the Reagan Bush Committee sold a portion of its assets prior to 12/4/80 for \$16,378.90. The Audit staff has classified the \$16,378.90 as an account receivable as of 12/4/80. In addition, the Audit staff has classified other assets on hand as of 12/4/80, totaling \$46,617.93, as capital assets. The Committee's NOOCE does not recognize these assets. The Treasurer stated he would review the staff's calculations of the fair market value of these assets. (see Attachment IHI)

(4) Monies Received Relating to Expenditures Made By the Republican National Committee - Difference \$1,138,891.24

The Committee has not recognized as a contra asset* monies it received relating to expenditures made by the Republican National Committee. The Audit staff's adjustment offsets (reduces) the Committee's assets which are overstated by the amount of monies received relating to expenditures by the RNC. (see Finding III.B. (2)).

(5) Accounts Payable - Difference \$31,097.29

The difference represents (a) a \$14,096.50 overstatement resulting from including expenditures which the checks were later voided and not reissued or reissued and included twice; and (b) a \$45,393.79 understatement resulting from the Committee's use of an estimated accounts payable. The Audit staff calculated an actual total based upon a review of all available records.

* Contra Assets - a credit balance account which offsets (reduces) a particular asset account.

IV. Repayments to the U.S. Treasury

Finding III.A. Expenditures in Excess of the Limitation	\$
Finding III.D. Investment of Public Funds	251,122.00
Total Recommended Repayment	\$ <u> </u>

Recommendation

Absent a showing to the contrary within 30 days of receipt of this report, the Audit staff will recommend to the Commission that the value of the amount detailed above (\$1,583,755.01) be repayable in full to the U.S. Treasury.

Schedule of Capital Assets on Hand at 12/4/80

<u>Description</u>	<u>Quantity</u>	<u>Total Price</u>	<u>Less Depreciation</u>	<u>Value of Assets on Hand 12/4/80</u>
Xerox machine (model 2400)	1	18,156.60	4,539.14	13,617.46
Pitney Bowes Copier	1	5,294.70	1,323.68	3,971.02
Autocrat Signature Machine	1	1,550.00	387.50	1,162.50
Motorola Commun. Equip.-CFTR	3	5,900.00	737.49	5,162.51
Pitney Bowes Postage Machine (5600)	2	4,229.40	1,057.36	3,172.04
Motorola equip.-walkie talkies	9	10,962.36	2,740.59	8,221.77
Olivetti tes 401 word processor	1	5,713.40	1,428.34	4,285.06
Pitney Bowes Mail Opener (LA)	1	1,761.72	440.42	1,321.30
Sony Video recording system	1	4,090.00	511.25	3,578.75
JVC 3/4 Video player	1	800.00	100.00	700.00
Mailing Machine (5600R)	1	1,629.16	203.64	1,425.52
Total		<u>60,087.34</u>	<u>13,469.41</u>	<u>46,617.93</u>



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION
ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND
THE DEMOCRATS FOR REAGAN

I. Background

A. Overview

This interim report is based on an audit of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan, to determine whether there has been compliance with provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26 of the United States Code 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, Section 9007.1 of Title 11 of the Code of Federal Regulations states that after each Presidential election, the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate's authorized committee(s). Such examination and audit shall include, but shall not be limited to, expenses incurred pursuant to 11 C.F.R. 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 C.F.R. 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

The Reagan Bush Committee ("RBC") registered with the Federal Election Commission on May 29, 1980 (under the name Reagan for President General Election Committee*) and served as the principal campaign committee of the Honorable Ronald Reagan, Republican candidate for President of the United States. The Candidate designated the Reagan Bush Compliance Fund** ("the

* On August 7, 1980, the Committee amended its statement of organization to conduct business as the Reagan For President General Election Committee and/or Reagan Bush Committee.

** The Reagan Bush Compliance Fund was established to defray legal and accounting costs associated with ensuring compliance with the FECA.

Compliance Fund") on July 7, 1980 (under the name Reagan for President Compliance Fund) and the Democrats for Reagan on October 31, 1980 as authorized committees. The Reagan Bush Committee and the Reagan Bush Compliance Fund maintain their headquarters in Washington, D.C. and the Democrats for Reagan maintained its headquarters in Arlington, Virginia.

The audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the Committees at the time of the audit. During that period, the Committees reported the following activity:

<u>Committee</u>	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Reagan Bush Committee	-0-	\$32,516,345.37	\$31,647,351.55	\$868,993.82
Reagan Bush Compliance Fund	-0-	2,110,857.80	1,512,152.36	598,705.44
Democrats for Reagan	-0-	10,000.00*	10,000.00*	-0-

In addition, certain financial activity was reviewed through March 26, 1981.

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

B. Key Personnel

The principal officers of the Committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Reagan Bush Committee	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Reagan Bush Compliance Fund	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Democrats for Reagan	Mr. Leon Jaworski	Ms. Janine Perrignon

* Activity of Democrats For Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. Therefore, this activity is not subject to the overall limitation at 2 U.S.C. 441a(b)(1)(B). In addition, the Democrats For Reagan filed a termination report on January 30, 1981.

** On January 21, 1981, the Committee amended its statement of organization to disclose Mr. Scott Mackenzie as Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts, expenditures 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. Interim Audit Findings and Recommendations Relating to Title 2 of the United States Code*

Reagan Bush Committee

A. Disclosure of Debts and Obligations

Section 434(b)(8) of Title 2 of the United States Code requires disclosure of the amount and nature of debts and obligations owed by or to such political committee; and a statement as to the circumstances and conditions under which such debts or obligations were extinguished, and the consideration therefore.

The Audit staff noted that the following letters of credit were established with the Riggs National Bank in favor of three vendors. The amount and nature of these letters of credit were not disclosed in the Reagan Bush Committee's reports to the Commission.

(1) Pacific Telephone and Telegraph Co.

An irrevocable letter of credit was established in favor of the vendor pursuant to an agreement dated August 26, 1980. The credit, secured with certificates of deposit totaling \$500,000, guaranteed the satisfaction of all obligations owed to the vendor by the Reagan Bush Committee.

(2) United Airlines, Inc.

Two irrevocable letters of credit were established in favor of United Airlines on August 29, 1980 and September 11, 1980 pursuant to Aircraft lease agreements. The credits, collateralized with certificates of deposit totaling \$425,000, guaranteed the satisfaction of indebtedness to the vendor by the Reagan Bush Committee.

* There were no material findings with respect to either the Reagan Bush Compliance Fund or Democrats For Reagan relating to Title 2 of the United States Code.

(3) Trailways Leisure and Travel

An irrevocable letter of credit was established in favor of the vendor pursuant to an oral agreement of September 4, 1980, and payable upon written demand from Trailways. The credit was collateralized with certificates of deposit totaling \$20,000.

On April 15, 1981, the Committee filed its first Quarterly Report for 1981, which substantially disclosed the necessary information regarding these instruments.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

B. Transfer To and From Affiliated Committee

Sections 434(b)(2)(E) and 434(b)(4)(C) of Title 2 of the United States Code require the disclosure of the total amount of all transfers made to or received from affiliated committees.

The Audit staff noted a \$10,000 transfer made by the Reagan Bush Committee to Democrats For Reagan. The same amount was subsequently transferred from Democrats For Reagan to the Reagan Bush Committee. Democrats For Reagan disclosed the receipt and disbursement of the transfers. The Reagan Bush Committee considered the disbursement and receipt as inter-bank transfers and did not disclose this activity in its reports filed with the Commission.

The Treasurer stated that the transfers will be disclosed in the report of receipts and expenditures for the period ending March 31, 1981.

On April 15, 1981, the Committee filed its first Quarterly Report for 1981 which properly disclosed these transfers.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

**III. Findings Related to Title 26 of the United States Code,
Determination of Net Outstanding Obligations For
Qualified Campaign Expenses and Repayment to the
U.S. Treasury ***

Reagan Bush Committee

A. Investment of Public Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states, in part, that investment of public funds is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

The Audit staff's analysis of activities through March 18, 1981, revealed that the Reagan Bush Committee received \$465,040.86 in interest income from the investment of public funds. The Audit staff has determined that the interest earned is subject to \$213,918.86 in Federal income taxes, and an unknown amount of State and local income taxes.

The Treasurer stated that the account will be closed on or about August 1, 1981, and the net income (after taxes) will be paid to the U. S. Treasury at that time.

Recommendation

Absent a showing to the contrary within 30 days of receipt of this report, the Audit staff will recommend to the Commission that the value of the interest earned less applicable taxes (approximately \$251,122), be repaid in full to the U.S. Treasury.

B. Limitation on Expenditures and Qualified Campaign Expenses

Certain matters noted in the audit were referred to the Commission's Office of General Counsel on June 4, 1981.

* Except for the issues addressed in Finding III.B., no material Title 26 matters were noted relating to the Compliance Fund. Also, there were no material matters noted concerning Democrats For Reagan.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

11:18
5/27/81
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May 26, 1981

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director

THROUGH: E. Allen Clutter *EA*
Staff Director

FROM: Charles N. Steele *CNS*
General Counsel

SUBJECT: Analysis of the Interim Audit Report of the
Reagan Bush Committee, Reagan Bush Compliance
Fund and Democrats for Reagan - A-924

The Office of General Counsel has reviewed the above-described report on the authorized committees of Reagan Bush ("Committee", "Reagan Bush" "Compliance Fund"), and Audit and General Counsel staff have discussed specific findings and recommendations. Based upon this review and discussion, this office has the following comments.

Campaign Tour Payments - Republican National
Committee

The Audit Division has reported that both Reagan Bush and the Republican National Committee ("RNC") made expenditures for campaign tours, the RNC's apparently made as part of its expenditures under 2 U.S.C. § 441a(d). Although the details of the arrangement between Reagan Bush and the RNC are sketchy, the Audit Division has indicated that the RNC made direct payments of approximately \$1.6 million to United Airlines after bills had been received by Reagan Bush. While this activity, taken alone, appears to comport with the applicable statutory and regulatory

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Memorandum to Robert J. Costa

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provisions, related transactions raise serious questions concerning potentially substantial repayments by Reagan Bush and violations of the Act and Chapter 95 by both committees.

As a result of tour charges to the media, Secret Service, and its own Compliance Fund, Reagan Bush obtained in excess of \$2.2 million in payments. This amount was reported on the Committee's filings as reductions to its operating expenditures subject to the limitation of 2 U.S.C. § 441a (b)(1)(B). According to the Audit Division's calculations, Reagan Bush obtained \$1,138,891.24 of the over \$2.2 million total based upon tour expenditures of the RNC. It is the Audit Division's contention that: 1) Reagan Bush cannot be reimbursed for expenditures allocable to the RNC; and 2) Reagan Bush operating expenditures should be adjusted upwards in the amount of \$1,138,891.24, since the Committee cannot reduce its own operating expenditures based upon RNC expenditures.

The interim report recommends that Reagan Bush reimburse the \$1,138,891.24 to the RNC within 30 days of receipt of the report, and further states that a recommendation will be made to the Commission to treat that amount as a contribution subject to repayment under 26 U.S.C. § 9007(b)(3) in the event that the Committee does not so reimburse the RNC. In addition, Finding II A indicates that Reagan Bush has expended \$ substantially in excess of the limitation of 2 U.S.C. § 441a(b)(1)(B). The calculation on page 4 of the report includes the amount of these RNC-based payments in the total amount of operating expenditures. Parts III A and IV indicate that the amount in excess of the expenditures limit (approximately \$.) be repaid to the U.S. Treasury.

Having reviewed the Audit Division's findings and recommendations in this area, the Office of General Counsel recommends that the matter be treated as a referral to this office. This matter raises a number of complex legal and factual issues which can be better handled within the context of an investigation under 2 U.S.C. § 437g. Moreover, it appears at this juncture that there may have been multiple violations of the Act and Chapter 95 by Reagan Bush and the RNC. Even the potential repayment under 26 U.S.C. § 9007(b)(3), noted above, is dependent upon a Commission determination that the Act has been

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violated. Awaiting the Committee's response to the interim report, under these circumstances, is unlikely to have any affect on the recommendation of this office to initiate a MUR. Proceeding with an investigation at this time will achieve the dual purpose of affording the parties involved the procedural safeguards of 2 U.S.C. § 437g and helping refine the issues so that further repayment recommendations will have a solid legal and factual basis.

Given the interrelatedness of Reagan Bush and RNC expenditures in the campaign tour area, this office further recommends that all reference to income realized from campaign tours also be treated as a referral. References to these matters should be deleted from pages 4, 5, 8, 9, 10, 13 and 15. In addition, adjustments will have to be made to figures on pages 4, 5, 8, 13 and 15.

In order that the Committee be given written notice that further repayments could result from an analysis of the matters referred, a footnote should be added to the "Total Recommended Repayment" figure on page 15. It should read as follows:

As previously noted, certain matters have been referred to the Office of General Counsel. Upon their resolution, further repayments may be required.

Finding II. A. Limitation on Expenditures

The Office of General Counsel concurs in those parts of the finding and recommendation not involving the matters to be deleted.

Finding II. B. Debts and Obligations

The audit report indicates that the Reagan Bush Committee did not comport with the requirements of 2 U.S.C. § 434(b)(8) when it failed to disclose the amount and nature of letters of credit established at the Riggs National Bank in favor of three vendors. Hence, the audit staff recommends that within 30 days of receipt of the interim audit report, the Reagan Bush committee file an amended report disclosing the dates, amounts, interest and collateral associated with these instruments.

A recent report filed by the Reagan Bush Committee (April 10 Quarterly) reveals that the Committee has complied with the audit recommendation pertaining to

Memorandum to Robert J. Costa

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Analysis of the Interim Audit Report of the Reagan Bush Committee, the Reagan Bush Compliance Fund and Democrats for Reagan - A-924

this finding. It is the understanding of this office that the audit report will be updated to include a statement regarding the recent disclosure and that the recommendation will be changed to propose that the Commission take no further action with respect to this finding.

Finding II. C. Transfer To and From Affiliated Committee

The audit report indicates that the activity of Democrats For Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. While the Democrats for Reagan disclose the receipt and disbursement of these transfers, the Reagan Bush reports failed to disclose such information in accordance with 2 U.S.C. § 434(b)(2)(E) and § 434(b)(4)(C). Accordingly, the audit staff recommends that within 30 days of receipt of the interim report, the Reagan Bush Committee amend its reports to reflect the activity between the committee and the Democrats for Reagan.

A recent report filed by the Reagan Bush Committee (April 10 Quarterly) reveals that the Committee has complied with the recommendation pertaining to this finding. It is the understanding of this office that the audit report will be updated to include a statement regarding this most recent disclosure and that the recommendation will be changed to propose that the Commission take no further action with respect to this finding.

Finding III. A. Expenditures In Excess of the Limitation

Consistent with the treatment of this matter in Finding II. A., the Office of General Counsel concurs in the finding and recommendation of the Audit Division. As noted above, the figures will have to be adjusted given the deletion of the campaign tour issues from the report.

Finding III. B. Campaign Tour Reimbursements

This matter should be deleted in its entirety.

Memorandum to Robert J. Costa

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Committee, Reagan Bush Compliance Fund and Democrats
for Reagan - A-924

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Finding III. D. Investment of Public Funds

The Office of General Counsel concurs in the finding and recommendation of the Audit Division.

Finding III. E. Determination of Net Outstanding Qualified Campaign Expenses

This office recommends that the first paragraph on page 12 be deleted in its entirety. In the comparative analysis of Committee and Audit figures on page 13, all reference to the campaign years should be deleted. Given the latter deletion,

Memorandum to Robert J. Costa

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Analysis of the Interim Audit Report of the Reagan Bush
Committee, Reagan Bush Compliance Fund and Democrats
for Reagan - A-924

the Audit Division may want to indicate that certain items
are missing from the analysis pursuant to a referral to
this office.

On page 14, paragraph (2), it is recommended that the
Audit Division indicate that the "actual total" calculated
by audit staff is based upon a review of all available
records. It is also recommended that a similar statement be
included in paragraph (4) on the same page.

Finally, this office recommends that paragraph (3)
indicate either the major capital assets involved, or attach
a schedule to the interim report which lists them.

Finding IV

The Office of General Counsel concurs in the Audit
Division's recommendation to the extent that the III.A.
repayment is reduced pursuant to the deletion of campaign
tour questions.

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The factual situation is a bit more complicated as it involves several types of transactions as described below.

- during the general election campaign, the RNC paid pursuant to 2 U.S.C. 441a(d)(2) \$1,633,293.89 in costs related to the campaign tours undertaken by the presidential and vice-presidential candidates.

- as a result of billings to the media, Secret Service and the Reagan Bush Compliance Fund relating to tours financed by the RNC, the Reagan Bush Committee obtained \$1,138,891.24 in reimbursements. While the payments made by the RNC on behalf of the Reagan Bush Committee were charged against the RNC's 2 U.S.C. 441a(d)(2) limit, the reimbursements received by the Reagan Bush Committee were treated as reductions to its 2 U.S.C. 441a(b)(1)(B) limit as reported in disclosure reports thru the 1980 year-end report.

- on April 1, 1981, the Reagan Bush Committee filed an amendment to its 1980 year-end report which covered the period from 10/25/80 thru 12/31/80. The purpose of this amendment was to revise previously reported figures in two areas.

(1) Reduction of Reported Refunds - Line 21 - \$748,163.16

The Reagan Bush Committee stated in the amendment that the \$748,163.16 reduction in reported refunds received represented "the amount of tour reimbursements allocated to the RNC." It should be noted that there were no funds actually transferred to the RNC. This was merely a "paper" transaction. As noted above, the Audit staff has calculated the amount of refunds/reimbursements received by the Reagan Bush Committee relating to tours paid for by the RNC to be \$1,138,891.24. At present, the Audit staff does not have an explanation as to why the Reagan Bush Committee chose to "allocate" only \$748,163.16 to the RNC instead of the entire \$1,138,891.24.

(2) Reduction of Reported Operating Expenditures - Line 24 - \$748,163.16

The Reagan Bush Committee filed Schedules B-P showing the payee, purpose, date and amount of 30 expenditures totaling \$748,163.16 which the Reagan Bush Committee paid for out of its federal fund account(s). The payments relating to these expenditures occurred between 10/16/80 and 12/31/80 (see Attachment #1). Although not specifically stated in the amendments, our discussion with the Treasurer indicated that it was the Committee's intention in the filing the amendment to show the assignment of these expenditures to the RNC for attribution against the RNC's 2 U.S.C. 441a(d)(2) limit. As stated with respect to the allocation of refunds, no money was actually exchanged as a result of this transaction, rather it was merely a "paper" transaction.

The Committee apparently believes that the above two reclassifications/assignments are permissible under 2 U.S.C. 441a(d) (2). The Audit staff disagrees with the Committee's apparent position for the reasons discussed below.

Allocation of Refunds (\$748,163.16) to RNC

It is the opinion of the Audit staff that at the very minimum, the entire \$1,138,891.24 must be returned to the RNC since the acceptance of RNC refunds by the Reagan Bush Committee was, in effect, an impermissible contribution/loan by the RNC to the Reagan Bush Committee. Support for the Audit staff's position can be found in Agenda Document #80-195, dated May 30, 1980 - General Election Public Financing Regulations: Issues to be Resolved at Meeting of June 5, 1980 (Memorandum from Charles N. Steele/Patricia Ann Fiori to the Commission). The issue requiring resolution was whether or not a National Committee may loan funds to a party candidate and/or nominee to pay expenses incurred before the beginning of the expenditure report period. Alternative A on page 5 of the aforementioned agenda document set forth the General Counsel's basis for not allowing a National Committee to make such a loan. This alternative was adopted by the Commission on June 5, 1980 by a vote of 4-2 and incorporated into the General Election Regulations.

Alternative A

The current draft of 9003.4(a) does not permit a candidate to obtain a loan from the national committee to pay for expenditures incurred before the receipt of federal funds. By definition, any loan which is not a loan from a bank or similar lending institution is a contribution. Since major party candidates who receive full federal funding are prohibited from receiving any private contributions, statutory provisions appear to prohibit a loan from the national committee. The national committee would, of course, be permitted to pay directly for expenditures incurred by the candidate. Any such payments would count against the national committee's 2 U.S.C. Section 441a(d) limitation.

Additional support for the Audit staff's contention relating to 2 U.S.C. 441a(d) (2) expenditures by a national committee is found at page - 15 of the Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing (General Election).

"The national committee cannot make a loan to the candidate for subsequent reimbursement from the candidate or his or her committee. However, the national committee would be allowed to make a refundable vendor deposit on behalf of the candidate's campaign in accordance with 2 U.S.C. 441a(d), for subsequent reimbursement to the national committee by the vendor." (Emphasis added).

Thus, it is apparent that the amount of refunds received and deposited by the Reagan Bush Committee which resulted from payments made by the RNC constitutes a loan/contribution by the RNC to the Reagan Bush Committee which is clearly prohibited.

Payments Made by the Reagan Bush Committee
Attributed "after the fact" to the RNC

As noted above the Reagan Bush Committee made expenditures from its Federal fund account(s) totaling \$748,163.16 during the period 10/16/80 thru 12/31/80. The Committee filed an amendment to its 1980 year-end report wherein 30 expenditures totaling \$748,163.16 were deducted from reported operating expenditures - Line 24, and, as a result of discussions with the Committee Treasurer, are to be attributed to the RNC's 2 U.S.C. 441a(d)(2) limit.

The Audit staff does not believe that this "after the fact" attribution to the RNC is permissible under the 2 U.S.C. 441a(d)(2) provision. Language contained in Alternative A (Agenda Document #80-195) cited above supports our position:

"The national committee would, of course, be permitted to pay directly for expenditures incurred by the candidate. Any such payments would count against the national committee's 2 U.S.C. 441a(d) limitation" (Emphasis added).

However, neither the Statute or the Regulations contains any language suggesting that national committee expenditures be other than "in connection with" the general election campaign of any candidate for President of the United States who is affiliated with such party (see 2 U.S.C. 441a(d)(2) and 11 C.F.R. 110.7(a)(1)).

Any questions regarding matters contained in the report should be directed to Tom Nurthen or Charles Hanshaw at extension 3-4155.

Attachments as stated



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION
ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND
THE DEMOCRATS FOR REAGAN

I. Background

A. Overview

This interim report is based on an audit of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan, to determine whether there has been compliance with provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26 of the United States Code 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, Section 9009(b) of Title 26 of the United States Code states, in relevant part, that the Commission is authorized to conduct examinations and audits and to require the keeping and submission of books, records, and information, as it deems necessary.

The Reagan Bush Committee ("RBC") registered with the Federal Election Commission on May 29, 1980 (under the name Reagan for President General Election Committee*) and served as the principal campaign committee of the Honorable Ronald Reagan, Republican candidate for President of the United States. The Candidate designated the Reagan Bush Compliance Fund** ("the Compliance Fund") on July 7, 1980 (under the name Reagan for President Compliance Fund) and the Democrats for Reagan on

* On August 7, 1980, the Committee amended its statement of organization to conduct business as the Reagan For President General Election Committee and/or Reagan Bush Committee.

** The Reagan Bush Compliance Fund was established to defray legal and accounting costs associated with ensuring compliance with the FECA.

October 31, 1980 as authorized committees. The Reagan Bush Committee and the Reagan Bush Compliance Fund maintain their headquarters in Washington, D.C. and the Democrats for Reagan maintained its headquarters in Arlington, Virginia.

The audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the Committees at the time of the audit. During that period, the Committees reported the following activity:

<u>Committee</u>	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Reagan Bush Committee	-0-	\$32,516,345.37	\$31,647,351.55	\$868,993.82
Reagan Bush Compliance Fund	-0-	2,110,857.80	1,512,152.36	598,705.44
Democrats for Reagan	-0-	10,000.00*	10,000.00*	-0-

In addition, certain financial activity was reviewed through March 26, 1981.

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

B. Key Personnel

The principal officers of the Committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Reagan Bush Committee	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Reagan Bush Compliance Fund	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Democrats for Reagan	Mr. Leon Jaworski	Ms. Janine Perrignon

* Activity of Democrats For Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. Therefore, this activity is not subject to the overall limitation at 2 U.S.C. 441a(b)(1)(B). In addition, the Democrats For Reagan filed a termination report on January 30, 1981.

** On January 21, 1981, the Committee amended its statement of organization to disclose Mr. Scott Mackenzie as Treasurer.

C. Scope

The audit included such tests as verification of total reported receipts, expenditures 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. Interim Audit Findings and Recommendations Relating to Title 2 of the United States Code*

Reagan Bush Committee

A. Limitation on Expenditures

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 as adjusted for the change in the consumer price index since 1974, in the case of a campaign for election to such office (also see 2 U.S.C. 441a(c)).

The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

The Audit staff's analysis of the Reagan Bush Committee's reports filed from May 1, 1980 through December 31, 1980, and available records relating to receipts and expenditures from January 1, 1981 through March 26, 1981 revealed the following with respect to expenditures subject to the \$29,440,000 limitation.

* There were no material findings with respect to either the Reagan Bush Compliance Fund or Democrats For Reagan relating to Title 2 of the United States Code.

Audit Analysis - Overall Limit (2 U.S.C.441a(b)(1)(B))

Reported expenditures subject to limitation from 5/1/80 through 12/31/80. \$29,012,404.02

Adjustments to the above reported totals:

Add: Expenditures subject to limitation from 1/1/81 through 3/26/81. 270,431.52

Add: Debts and obligations owed by RBC at 3/26/81 75,393.79

Add: Amount due the Republican National Committee (see Finding III.B(2)). 1,138,891.24

Add: Income realized from campaign tours (see Finding III.B(1)). 50,588.48

Less: Voided checks included in operating expenditures from 5/1/80 through 12/31/80. (15,438.18)

Less: Capital assets on hand to be liquidated. (47,988.27)

Less: Debts and obligations owed to RBC at 3/26/81. (29,208.09)*

Total Expenditures Subject to Limitation from 5/1/80 through 3/26/81. S. _____

* This amount includes outstanding tour reimbursements (\$12,862.09) and accounts receivable (\$16,346).

Based upon the above analysis, it appears that the Reagan Bush Committee has exceeded the limitation at 2 U.S.C. 441a(b)(1)(B) in the amount of \$. . . (\$. . . less \$29,440,000). The Audit staff noted that the Reagan Bush Committee did not identify on its reports any amounts paid from its operating accounts which may be allocable to the Reagan Bush Compliance Fund (e.g., headquarters/field office overhead, etc.). Therefore, the Reagan Bush Committee may wish to review its overhead costs and reallocate, on a reasonable basis, an amount applicable to the Compliance Fund and obtain reimbursement for same.

It should be noted that the analysis does not include a downward adjustment for expenditures subject to limitation totaling \$748,163.16. On April 1, 1981, the Reagan Bush Committee amended its reports to delete these expenditures (originally made by RBC) in order for the Republican National Committee to amend its reports and disclose the expenditures (\$748,163.16) as being made (by the RNC) pursuant to 2 U.S.C. 441a(d)(2). As of April 8, 1981, the RNC has not amended its reports recognizing the above noted expenditures. Further, the RNC's year end disclosure report indicated that it has made other expenditures pursuant to 2 U.S.C. 441a(d)(2) on behalf of the candidate totaling \$4,479,239.27 toward its limitation of \$4,637,653.76.

It is the opinion of the Audit staff that the assignment of expenditures (originally made and reported by the Reagan Bush Committee) to the RNC is not permissible within the definition of 2 U.S.C. 441a(d)(2).

Recommendation

The Audit staff recommends that the Reagan Bush Committee be requested to show within 30 days of receipt of this report that the overall limitation has not been exceeded as set forth above. Further, if the Reagan Bush Committee reallocates any expenditures to the Compliance Fund, computational schedules detailing the reallocation should be provided to the Audit Division for review within the 30 day period. Further, it is recommended that the Reagan Bush Committee withdraw its amended year end report (filed April 1, 1981) and thereby properly disclose the \$748,163.16 in expenditures (originally made by the Reagan Bush Committee) as subject to the limitation contained at 2 U.S.C. 441a(b)(1)(B).

Absent such a showing that the limitation has not been exceeded, a determination will be made regarding an amount to be repaid to the U.S. Treasury (see repayment summary at Section IV.).

B. Disclosure of Debts and Obligations

Section 434(b)(8) of Title 2 of the United States Code requires disclosure of the amount and nature of debts and obligations owed by or to such political committee; and a statement as to the circumstances and conditions under which such debts or obligations were extinguished, and the consideration therefore.

The Audit staff noted that the following letters of credit were established with the Riggs National Bank in favor of three vendors. The amount and nature of these letters of credit were not disclosed in the Reagan Bush Committee's reports to the Commission.

(1) Pacific Telephone and Telegraph Co.

An irrevocable letter of credit was established in favor of the vendor pursuant to an agreement dated August 26, 1980. The credit, secured with certificates of deposit totaling \$500,000, guaranteed the satisfaction of all obligations owed to the vendor by the Reagan Bush Committee.

(2) United Airlines, Inc.

Two irrevocable letters of credit were established in favor of United Airlines on August 29, 1980 and September 11, 1980 pursuant to Aircraft lease agreements. The credits, collateralized with certificates of deposit totaling \$425,000, guaranteed the satisfaction of indebtedness to the vendor by the Reagan Bush Committee.

(3) Trailways Leisure and Travel

An irrevocable letter of credit was established in favor of the vendor pursuant to an oral agreement of September 4, 1980, and payable upon written demand from Trailways. The credit was collateralized with certificates of deposit totaling \$215,000.

Recommendation

The Audit staff recommends that within 30 days of receipt of this report the Reagan Bush Committee file an amended report disclosing the dates, amounts, interest, collateral, etc. associated with these instruments.

C. Transfer To and From Affiliated Committee

Sections 434(b) (2) (E) and 434(b) (4) (C) of Title 2 of the United States Code require the disclosure of the total amount of all transfers made to or received from affiliated committees.

The Audit staff noted a \$10,000 transfer made by the Reagan Bush Committee to Democrats For Reagan. The same amount was subsequently transferred from Democrats For Reagan to the Reagan Bush Committee. Democrats For Reagan disclosed the receipt and disbursement of the transfers. The Reagan Bush Committee considered the disbursement and receipt as inter-bank transfers and did not disclose this activity in its reports filed with the Commission.

The Treasurer stated that the transfers will be disclosed in the report of receipts and expenditures for the period ending March 31, 1981.

Recommendation

The Audit staff recommends that the Reagan Bush Committee amend its filings within 30 days of receipt of this report properly disclosing the transfer.

III. Findings Related to Title 26 of the United States Code, Determination of Net Outstanding Obligations For Qualified Campaign Expenses and Repayment to the U.S. Treasury *

Reagan Bush Committee

A. Expenditures 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.

* Except for the issues addressed in Finding III.C., no material Title 26 matters were noted relating to the Also, there were no material matters noted concerning Democrats For Reagan.

As previously noted in Finding II.A., the Audit staff identified expenditures which appear to be in excess of the overall limitation for the period 5/01/80 through 3/26/81 totaling \$.

Recommendation

The Audit staff recommends that the Reagan Bush Committee be requested to show within 30 days of receipt of the audit report that the overall limitation has not been exceeded as set forth in this report. Absent such a showing, a determination will be made regarding an amount required to be repaid to the U.S. Treasury.

B. Campaign Tour Reimbursements

Section 9004.6(a) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for transportation made available to media, Secret Service or other staff authorized by law or required by national security to travel with a candidate is received by a committee, the amount of such reimbursement for each individual shall not exceed that individual's pro rata share of the actual cost of the transportation made available. Further, Section 9004.6(b) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for ground services and facilities is received by a committee, the amount of such reimbursement for each individual shall not exceed either the individual's pro rata share of the actual cost of the services and facilities made available; or a reasonable estimate of the individual's pro rata share of the cost of the services and facilities made available. If it is determined that reimbursements related to a trip have exceeded by 10% or more the actual cost of the services and facilities made available, such excessive amount shall be deemed income to the committee and shall be repaid to the Secretary.

Section 441a(d) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. 441a(e)).

Section 9007(b)(3) of Title 26 of the United States Code states, in part, that if the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than those allowed under Section 9006(c)) to defray qualified campaign expenses, it shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary of the Treasury an amount equal to such amount.

The Audit staff analyzed the campaign tours undertaken by the Presidential and Vice Presidential candidates which the Reagan Bush Committee sought reimbursement from the media, Secret Service and Reagan Bush Compliance Fund for a pro rata share of costs for air transportation and ground services and facilities.

(1) Reimbursements Based Solely on Costs Paid By The Reagan Bush Committee

The reimbursements associated with the ground services and facilities appear to be reasonable. However, it appears that the Reagan Bush Committee realized income in conjunction with the airfare reimbursements pertaining to the tours of at least \$50,588.48. The Audit staff has determined that this amount (\$50,588.48) exceeded by 15% the actual cost of the services provided by the Reagan Bush Committee (\$50,588.48 divided by \$336,989.81). Therefore, \$16,849.50 (\$336,989.81 X 5%) is repayable to the U.S. Treasury. It should be noted that the entire amount (\$50,588.48) has been included as an upward adjustment to expenditures subject to the limitation (see Finding II.A.).

Recommendation

The Audit staff recommends that within 30 days of receipt of this report the Reagan Bush Committee be requested to demonstrate that no income was realized. Absent a showing to the contrary, a repayment determination will be made.

(2) Reimbursements Based Solely on Costs Paid By The Republican National Committee

In addition to the matter in (1) above, the Audit staff noted that the Republican National Committee paid \$1,633,293.89 in conjunction with the tours. Of this amount, \$1,613,049.15 represented payments of air charges for which a pro rata share was billed to the media, Secret Service and Reagan Bush Compliance Fund. However, the Reagan Bush Committee obtained \$1,138,891.24 in reimbursements associated with the Republican National Committee's

expenditures. These reimbursements were reported by the Reagan Bush Committee on Schedule A-P Line 21. As a result, the Reagan Bush Committee's reported expenditures subject to the limitation (2 U.S.C. 441a(b)(1)(B)) were offset (reduced) by \$1,138,891.24.

It should be noted that in conjunction with assigning \$748,163.16 in expenditures to the RNC (see Finding II.A.), the Reagan Bush Committee has also reduced refunds and rebates (line 21) by \$748,163.16. It is the Audit staff's opinion that this reduction does not effect the recommendation which follows.

Recommendation

The Audit staff recommends that, absent a showing to the contrary, within 30 days of receipt of this report the Reagan Bush Committee reimburse the entire \$1,138,891.24 to the Republican National Committee and adjust its expenditures subject to the overall limitation accordingly. Absent such reimbursement the Audit staff will recommend to the Commission that the entire value of the reimbursements (\$1,138,891.24) be viewed as a contribution and thus repayable in full to the U.S. Treasury in accordance with 26 U.S.C. 9007(b)(3).

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D. Investment of Public Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states, in part, that investment of public funds is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

The Audit staff's analysis of activities through March 18, 1981, revealed that the Reagan Bush Committee received \$465,040.86 in interest income from the investment of public funds. The Audit staff has determined that the interest earned is subject to \$213,918.86 in Federal income taxes, and an unknown amount of State and local income taxes.

The Treasurer stated that the account will be closed on or about August 1, 1981, and the net income (after taxes) will be paid to the U. S. Treasury at that time.

Recommendation

Absent a showing to the contrary within 30 days of receipt of this report, the Audit staff will recommend to the Commission that the value of the interest earned less applicable taxes (approximately \$251,122), be repaid in full to the U.S. Treasury.

E. Determination of Net Outstanding Qualified Campaign Expenses

Section 9007(b)(1) of Title 26 of the United States Code states that if the Commission determines that any portion of the payments made to the eligible candidates of a political party under Section 9006 was in excess of the aggregate payments to which candidates were entitled under Section 9004, it shall so notify such candidates, and such candidates shall pay to the Secretary of the Treasury an amount equal to such portion.

On March 26, 1981, the Reagan Bush Committee presented an updated Statement of Net Outstanding Qualified Expenses ("NOQCE") to the Audit staff depicting its financial position as of December 4, 1980. The Audit staff reviewed the books and records to verify the totals on the NOQCE. The following represents the financial position as determined by the Reagan Bush Committee and an audited version prepared by the Audit staff.

Reagan Bush Committee

Analysis of Net Outstanding Qualified Campaign Expenditures
As of December 4, 1980

	<u>Committee</u>	<u>Audit</u>
<u>Assets</u>		
Cash on Hand at 12/04/80	\$ 975,909.07	\$ 978,362.34
Accounts Receivable	1,650,703.44	1,664,034.93
Interest Receivable	23,643.16	23,643.16
Capital Assets	<u>16,378.90</u>	<u>47,988.27</u>
Total Assets	\$2,666,634.57	\$2,714,028.70
<u>Liabilities</u>		
Accounts Payable for Qualified Campaign Expenses	\$2,042,699.25	\$2,073,796.54
Interest Repayable to the U.S. Treasury plus taxes payable	465,041.00	465,040.86
Reimbursement to Compliance Fund	150,000.00*	
Income Repayable From Campaign Tours	- 0 -	16,849.50
Reimbursement to RNC	<u>- 0 -</u>	<u>1,138,891.24</u>
Total Liabilities	<u>2,657,740.25</u>	
Net Outstanding Qualified Campaign Expenses-Surplus (Deficit)	<u>\$ 8,894.32</u>	

* Based on a telephone conversation with the Treasurer, he believes \$137,883.67 is more representative of the expenditures which benefited the Reagan Bush Committee.

(1) Cash on Hand - Difference \$2,453.27

The difference represents checks written prior to 12/5/80 and subsequently voided. The Committee has not adjusted (increased) its cash on hand to include these voided checks.

(2) Accounts Receivable - Difference \$13,331.49

The difference represents (a) a \$909.50 overstatement resulting from including two reimbursements (\$15.00 and \$894.50) not related to operating expenditures; (b) a \$2,137.91 overstatement resulting from the Committee's use of an estimated accounts receivable total at 3/26/81 rather than an actual total; and (c) a \$16,378.90 understatement representing the balance owed to the Committee for assets sold prior to 12/4/80. The Committee has included the \$16,378.90 in its capital assets total. However, since the assets were sold prior to 12/4/80 the Audit staff has included the amount as an account receivable as of 12/4/80.

(3) Capital Assets - Difference \$31,609.37

As previously stated in paragraph (2), the Reagan Bush Committee sold a portion of its assets prior to 12/4/80 for \$16,378.90. The Audit staff has classified the \$16,378.90 as an account receivable as of 12/4/80. In addition, the Audit staff has classified other assets on hand as of 12/4/80, totaling \$47,988.27, as capital assets. The Committee's NOQCE does not recognize these assets. The Treasurer stated he would review the staff's calculations of the fair market value of these assets.

(4) Accounts Payable - Difference \$31,097.29

The difference represents (a) a \$14,296.50 overstatement resulting from including expenditures which the checks were later voided and not reissued or reissued and included twice; and (b) a \$45,393.79 understatement resulting from the Committee's use of an estimated accounts payable total rather than an actual total.

(6) Income Repayable from Campaign Tours -
Difference \$16,849.50

Committee officials have stated, that no profit has been realized from the campaign tour operation. The Audit staff has determined that the Committee has realized a profit of \$50,588.48 from the tours, of which \$16,849.50 is repayable to the U.S. Treasury. (see Finding III.B.).

(7) Reimbursement to the RNC - Difference \$1,138,891.24

The Committee has not recognized an obligation owed to the Republican National Committee for tour related refunds erroneously received. The Audit staff has determined that \$1,138,891.24 is due the RNC. (see Finding III.B.(2)).

It is the Audit staff's opinion that no unspent U.S. Treasury funds exist. Further, the deficit position noted in the NOQCE Statement prepared by the Audit staff supports its previous finding (III.A.) that the Reagan Bush Committee appears to have exceeded the limitation at 2 U.S.C. 441a(b)(1)(B). Revisions to this deficit figure will be made as additional information becomes available.

IV. Repayments to the U.S. Treasury

Repayment from Section III.A.	\$	
Repayment from Section III.B.(1).		16,849.50
Repayment from Section III.D.		251,122.00
Total Recommended Repayment	\$	<u> </u>

Recommendation

Absent a showing to the contrary within 30 days of receipt of this report, the Audit staff will recommend to the Commission that the value of the amount detailed above is repayable in full to the U.S. Treasury.

HAND DELIVERED

FEC Form 2P
September 1978
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

REPORT OF RECEIPTS AND EXPENDITURES
By a Candidate or Authorized Committee of
a Candidate Seeking Nomination or Election
to the Office of President or Vice President
of the United States

AMENDED
YEAR-END REPORT
APR 1 1980
Attachment 1
Page 1 of 7

NOTE: This report is to be used by a candidate or authorized committee of a candidate seeking nomination or election to the Office of President or Vice President of the United States whether or not public funds are used.

1 (a) NAME OF CANDIDATE OR COMMITTEE IN FULL <input type="checkbox"/> Check if name or address is changed REAGAN BUSH COMMITTEE		2 IDENTIFICATION NUMBER C00129007
(b) ADDRESS (Number and Street) 901 South Highland Street		3 Is this report of receipts and expenditures for: <input type="checkbox"/> PRIMARY <input checked="" type="checkbox"/> GENERAL
(c) CITY, STATE AND ZIP CODE Arlington, Virginia 22204		
4 TYPE OF REPORT (Check appropriate box and complete, if applicable)		
(a) <input checked="" type="checkbox"/> Amendment for <u>Year-End</u> (which report) (b) <input type="checkbox"/> April 10 Quarterly Report (c) <input type="checkbox"/> July 10 Quarterly Report (d) <input type="checkbox"/> October 10 Quarterly Report (e) <input type="checkbox"/> January 31 Year End Report (f) <input type="checkbox"/> Monthly Report (state month) (g) <input type="checkbox"/> Termination Report (h) <input type="checkbox"/> Tenth day report preceding _____ Election on _____ in the State of _____ (i) <input type="checkbox"/> Thirtieth day report following _____ Election on _____ in the State of _____		

CANDIDATE OR COMMITTEE SUMMARY OF RECEIPTS AND EXPENDITURES

5 COVERING PERIOD: FROM 10/25/80 THROUGH 12/31/80

Section A - Cash Balance Summary	Column A This Period	Column B Calendar Year-to-Date
6 Cash on Hand January 1, 1980		\$ -0-
7 Cash on Hand at Beginning of Reporting Period	\$885,851.01	
8 Total Receipts (from Line 23)	\$217,499.95	\$31768182.21
(a) Subtotal (Add Lines 7 and 8)	\$1103350.96	\$31768182.21
9 Total Expenditures (from Line 28)	\$234,357.14	\$30899188.39
10 Cash on Hand at Close of Reporting Period (Subtract Line 9 from Line 8a)	\$868,993.82	\$868,993.82
11 Contributed Items on Hand to be Liquidated (Attach Itemized List) ... \$ -0-		
DEBTS AND OBLIGATIONS		
12 Debts and Obligations Owed TO the Committee (Itemize all on Schedule C-P)	\$124,009.33	
13 Debts and Obligations Owed BY the Committee (Itemize all on Schedule C-P)	\$408,300.62	
Section B - Summary of Expenditures Subject to Limitation		
14 Expenditure Total (Add Lines 24c and 28b)	\$234,357.14	\$30429188.39
15 Refunds and Rebates (from Line 21d)	\$217,499.95	\$ 1416784.37
(a) Expenditures Subject to Limitation (Subtract Line 15 from Line 14)	\$ 16,857.19	\$29012404.02
(b) Expenditures from Prior Years Subject to Limitation		\$ -0-
(c) Total Expenditures Subject to Limitation (Add Lines 15a and 15b)		\$29012404.02

I certify that I have examined this Report, and to the best of my knowledge and belief it is true, correct and complete.

Scott B. Mackenzie

(Typed Name of Treasurer or Candidate)

Scott Mackenzie
(Signature of Treasurer or Candidate)

3/19/81

(Date)

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g, §441j; and 26 U.S.C. §9012, §9042.

For further information Contact:



Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
or Call 800/424-9530

Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

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DETAILED SUMMARY OF RECEIPTS AND EXPENDITURES

(Page 2, FEC Form 3P)

Page 2 of 7

Name of Candidate or Committee		REPORT COVERING THE PERIOD	
REAGAN BUSH COMMITTEE		FROM: 10/25/80 TO: 12/31/80	
RECEIPTS		COLUMN A This Period	COLUMN B Calendar Year 1980
16	FEDERAL FUNDS (Itemize on Schedule A-P)	\$ -0-	\$ 044,000-
17	Contributions from Individuals (including contributions in-kind):		
(a)	Itemized (use Schedule A-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal of Contributions from Individuals (including contributions in-kind)	\$ -0-	\$ -0-
18	Transfers In from Political Committees (including contributions in-kind):		
(a)	From Affiliated/Authorized Committees (Itemize on Schedule A-P Regardless of Amount)	\$	\$
(b)	From Other Committees (Itemize on Schedule A-P Regardless of Amount)	\$	\$
(c)	Subtotal of Transfers In from Political Committees (including contributions in-kind)	\$ -0-	\$ -0-
19	Other Income:		
(a)	Itemized (use Schedule A-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal of Other Income	\$ -0-	\$ 41,257-
20	Loans and Loan Repayments Received:		
(a)	Itemized (use Schedule A-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal of Loans and Loan Repayments Received	\$ -0-	\$ 70,000-
21	Refunds, Rebates, Returns of Deposits:		
(a)	Itemized (use Schedule A-P)	\$ 965,663.11	\$
(b)	Unitemized	\$ 748,163.16	\$
(c)	Subtotal of Refunds, Rebates, Returns of Deposits	\$ 217,499.95	\$ 217,499.95
22	Refunds and Rebates Relating to Exempt Fundraising, Legal and Accounting Fees:		
(a)	Itemized (use Schedule A-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal	\$ -0-	\$ -0-
23	TOTAL RECEIPTS	\$ 217,499.95	\$ 217,499.95
EXPENDITURES			
24	Operating Expenditures:		
(a)	Itemized (use Schedule B-P)	\$ 962,520.30	\$
(b)	Unitemized	\$ 748,163.16	\$
(c)	Subtotal of Operating Expenditures	\$ 234,357.14	\$ 234,357.14
25	Exempt Fundraising, Legal and Accounting Expenditures:		
(a)	Itemized (use Schedule B-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal of Exempt Fundraising, Legal and Accounting Expenditures	\$ -0-	\$ -0-
26	Transfers Out:		
(a)	To Affiliated Committees (Itemize on Schedule B-P Regardless of Amount)	\$	\$
(b)	To Other Committees (Itemize on Schedule B-P Regardless of Amount)	\$	\$
(c)	Subtotal of Transfers Out	\$ -0-	\$ -0-
27	Loans, Loan Repayments, and Contribution Refunds Made:		
(a)	Itemized (use Schedule B-P)	\$	\$
(b)	Unitemized	\$	\$
(c)	Subtotal of Loans, Loan Repayments, and Contribution Refunds	\$ -0-	\$ 70,000-
28	TOTAL EXPENDITURES	\$ 234,357.14	\$ 234,357.14
RECEIPTS AND EXPENDITURES, NET OF TRANSFERS TO AND FROM AFFILIATED COMMITTEES			
29	TOTAL RECEIPTS (from Line 23)	\$ 217,499.95	\$
30	TRANSFERS IN (from Line 18a)	\$ -0-	\$
31	NET RECEIPTS (Subtract Line 30 from Line 29)	\$ 217,499.95	\$
32	TOTAL EXPENDITURES (from Line 28)	\$ 234,357.14	\$
33	TRANSFERS OUT (from Line 26a)	\$ -0-	\$
34	NET EXPENDITURES (Subtract Line 33 from Line 32)	\$ 234,357.14	\$

ITEMIZED RECEIPTS
 (Contributions, Transfers, Contributions In Kind,
 Federal Funds, Other Income, Loans, Refunds)

LINE NUMBER _____
 (Use separate sheet for each numbered line)

Supporting Lines 16, 17a, 18a, 18b, 19a, 20a, 21a and 22a
 of FEC Form 3P

Attachment 1
 Page 3 of 7

NOTE: Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any other political purpose.

Name of Candidate or Committee in Full

REAGAN BUSH COMMITTEE

A. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Republican National Committee 310 First Street, S.E. Washington, D. C. 20003		2/31/80	748,163.16
Principal Place of Business	Occupation		
This transfer represents the amount of tour reimbursements allocated to the above.			
Aggregate Year-To-Date ... > \$		N/A	
B. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Principal Place of Business	Occupation		
Aggregate Year-To-Date ... > \$			
C. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Principal Place of Business	Occupation		
Aggregate Year-To-Date ... > \$			
D. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Principal Place of Business	Occupation		
Aggregate Year-To-Date ... > \$			
E. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Principal Place of Business	Occupation		
Aggregate Year-To-Date ... > \$			
F. Full Name, Mailing Address and ZIP Code		Date (month, day, year)	Amount of each receipt this period
Principal Place of Business	Occupation		
Aggregate Year-To-Date ... > \$			
SUBTOTAL of Receipts This Page (optional)			\$
TOTAL This Period (last page this line number only)			748,163.16

(Covering) ing, Exempt Fundraising, Legal and Accounting,
 Transfers Out, Contributions In-Kind, Loans, Loan
 Repayments and Refunds Made)
 Supporting Lines 24a, 25a, 26a, 26b, and 27a
 of FEC Form 3P

NOTE: Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions for any commercial purpose.

Name of Candidate or Committee in Full			
REAGAN BUSH COMMITTEE			
A. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
IMERO FIORENTINO & ASSOCIATES 10 W. 66th St. New York, NY 10023	Professional Serv.	12/19/80	26,866.22
B. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
WILLIAM CARRUTHERS COMPANY 6235 Hollywood Blvd. Suite 1019 Hollywood, CA 90028	Advertising	12/19/80	14,317.57
C. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
WINKLER VIDEO ASSOCIATES 248 E. 48th St. New York, NY 10017	Professional Serv.	12/19/80	45,506.44
D. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
IMERO FIORENTINO & ASSOCIATES 10 W. 66th St. New York, NY 10023	Professional Serv.	12/31/80	19,090.50
E. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
C & P TELEPHONE 200 N Glebe Rd. Arlington, VA 22203	Telephone charges	12/31/80	12,547.74
F. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
NEW YORK TELEPHONE 1166 Ave. of the Americas New York, NY 10036	Telephone charges	12/31/80	13,709.35
G. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
H. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
SUBTOTAL of Expenditures This Page (optional)			\$132,037.82
TOTAL This Period (last page (this line number only)			\$748,163.10

(Optional) 3. Exempt Fundraising, Legal and Accounting, Travel, Out-of-Pocket Contributions In-Kind, Loans, and Repayments and Refunds Made)

(Use separate sheets for each contribution)

Supporting Lines 24a, 25a, 26a, 26b, and 27a of FEC Form 3P

Attachment 1
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NOTE: Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or for any commercial purpose.

Name of Candidate or Committee in Full
REAGAN BUSH COMMITTEE

A. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period	
WINKLER VIDEO ASSOCIATES 248 E. 48th St New York, NY 10017	Professional Serv	11/25/80	46,466.23	CR
IMERO FIORENTINO & ASSOCIATES 10 W. 66th St New York, NY 10023	Professional Serv	12/2/80	29,991.53	CR
WINKLER VIDEO ASSOCIATES 248 E. 48th St. New York, NY 10017	Professional Serv	12/3/80	23,456.94	CF
IMERO FIORENTINO & ASSOCIATES 10 W. 66th St. New York, NY 10023	Lighting	12/5/80	17,327.81	CF
IMERO FIORENTINO & ASSOCIATES 10 W. 66th St. New York, NY 10023	Professional Serv	12/12/80	25,937.89	CF
WINKLER VIDEO ASSOCIATES 248 E. 48th St. New York, NY 10017	Professional Serv	12/12/80	25,771.37	CF
C & P TELEPHONE 703 E. Grace St. Richmond, VA 23219	Phone	12/16/80	59,419.55	C:
NEW YORK TELEPHONE 1166 Ave. of the Americas New York, NY 10036.	Telephone Serv.	12/19/80	10,380.71	C
SUBTOTAL of Expenditures This Page (optional)			\$ 238,752.03	C
TOTAL This Period (list page and line number only)			\$	

(Covering Exempt Fundraising, Legal and Accounting,
 Transfers Out, Contributions In-Kind, Loans, Loan
 Repayments and Refunds Made)

Use separate sheets for
 each numbered line

Attachment 1
 Page 6 of 7

Supporting Lines 24a, 25a, 26a, 26b, and 27a
 of FEC Form 3P

NOTE: Any information reported herein may not be copied for sale or use by any person for purposes of soliciting contributions or
 for any commercial purpose.

Name of Candidate or Committee in Full REAGAN BUSH COMMITTEE			
A. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
CORPORATE TRAVEL 1700 N. Moore St. Arlington, VA 22209	Air Travel	10/27/80	23,694.37
BELL OF PENNSYLVANIA P.O. Box 280 Conshohocken, PA 19429	Phone- PA	10/28/80	13,345.73
C & P TELEPHONE 703 E. Grace St. Richmond, VA 23219	Phone-Admin.	10/28/80	73,682.82
CALL & POST 1949 E. 105th St. Cleveland, OH 44108	Printing	10/28/80	11,463.06
DECISION MAKING INFORMATION 2760 N. Main St. Santa Anna, CA 92701	Professional Serv	11/3/80	19,226.80
NORTHEAST JET COMPANY 2030 Tilghman St. Suite 101 Allentown, PA 18104	Air Travel	12/04/80	17,044.00
S P COMMUNICATIONS P.O. BOX 15709 Baltimore, MD 21263	Sprint charge	12/5/80	15,490.87
WETA P.O. BOX 2625 Washington, DC 20012	Media Consulting	12/12/80	18,319.29
SUBTOTAL of Expenditures This Page (optional)			\$ 192,266.94
TOTAL This Period (last page this line number only)			\$

Contributing, Except For Political, Legal and Accounting,
Transfers Out, Contributions In-Kind, Loans, Loan
Repayments and Refunds Made)
Supporting Lines 24a, 25a, 25b, and 27a
of FEC Form 2P

NOTE: All information reported herein may not be available for use by any person for purposes of soliciting contributions or for any commercial purpose.

Name of Candidate or Committee in Full
REAGAN BUSH COMMITTEE

A. Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
C & P TELEPHONE 703 E. Grace St Richmond, VA 23219	Phone- HQ	10/16/80	52,964.27
B. Full Name, Mailing Address and ZIP Code CORNELIUS GRAPHIC SERVICE 3331 75th Ave. Lansover, MD 20785	Printing	10/16/80	11,570.00
C. Full Name, Mailing Address and ZIP Code DELANCY PRINTING & PLS. COMPANY 444 Swann Ave. Alexandria, VA 22301	Printing	10/16/80	11,900.00
D. Full Name, Mailing Address and ZIP Code W.L. BARNES, INC. 114 MacArthur Blvd. Washington, DC 20016	Campaign Material	10/18/80	27,163.00
E. Full Name, Mailing Address and ZIP Code CORPORATE TRAVEL 1700 N. Moore St. Arlington, VA 22209	Air Travel	10/20/80	32,890.00
F. Full Name, Mailing Address and ZIP Code CORPORATE TRAVEL 1700 N. Moore St. Arlington, VA 22209	Air Travel	10/23/80	15,751.33
G. Full Name, Mailing Address and ZIP Code IMERO FIORENTINO & ASSOC. 10 W. 66th Street New York, NY 10023	Advertising	10/23/80	18,665.00
H. Full Name, Mailing Address and ZIP Code WAT M. NICHOLS, INC. 4530 Madison Ave. Kansas City, MO 64111	Polling	10/23/80	14,200.00
TOTAL of Expenditures This Page (see note)			285,106.37
TOTAL This Period (last page this line only)			\$

18109162015



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 25, 1981

MEMORANDUM

TO: The Commission

THROUGH: B. Allen Clutter
Staff Director

FROM: Charles N. Steele
General Counsel *[Signature]*

SUBJECT: Additional Comments on the Reagan Bush Committee
Audit in Light of the District Court's Opinion
and Order of November 17, 1981

On November 17, 1981, the United States District Court for the District of Columbia issued a Memorandum Order and Opinion in Reagan Bush Committee, et al. v. Federal Election Commission, C.A. No. 81-1893 (D.D.C. Nov. 17, 1981). In bringing the suit, the Reagan Bush Committee ("RBC", "Reagan Bush") sought to enjoin the Commission from: 1) withholding certain documents assertedly required to be disclosed under the Freedom of Information Act ("FOIA"); and (2) making any public disclosure of FEC audit reports of RBC before affording RBC an adequate hearing before the Commission.

In affirming that final audit reports in general, and the Reagan Bush report in particular, must be publicly released, the court has vindicated the Commission's position. The opinion draws heavily on Chairman McGarry's letter of August 4, 1981 to RBC's counsel setting forth the Commission's consistent position that: 1) A publicly-released audit report may, but need not necessarily, contain an initial repayment determination under 11 C.F.R. § 9007.2; and 2) If the Commission pursues a violation under 2 U.S.C. § 437g, there will be no mention of the putative violation in the publicly-released report.

Memorandum to the Commission

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Additional Comments on the Reagan Bush Committee Audit

The court's opinion does not directly address the situation where an audit report discusses actions which apparently violate applicable law, but which the Commission chooses not to pursue under 2 U.S.C. § 437g. With respect to this feature of the Commission's practice, the most sensitive aspect of the court's opinion involves the proposed report's treatment of the monies obtained by Reagan Bush based on expenditures by the Republican National Committee.

1. Background

A brief history of this issue may be helpful. This issue was first presented in the draft audit report. The General Counsel recommended that the RBC/RNC transactions be pursued in the context of a MUR. The Audit Division agreed and made the recommendation to the Commission. At its meeting of June 4, 1981, the Commission rejected the recommendation to treat the issue as a MUR and directed that the audit report be re-written to give Reagan Bush an opportunity to address the issue within the audit process.

The Commission next considered the issue at its Executive Session of September 16, 1981 in its consideration of the draft final audit report prepared by the Audit Division and concurred in by this Office.^{1/} As was the case with the first draft of the interim report, the issue involving the RNC/RBC transactions had been recommended as a referral to the Office of General Counsel; no mention of the issue was in this draft report. At this meeting, the Commission expressed its uncertainty that the circumstances warranted MUR treatment, and directed this Office to prepare a legal memorandum on the issue in question.

On October 14, 1981, the Commission considered the issue once again, deciding that the matter be discussed in the audit report to be released to the public rather than being referred for MUR treatment. The Commission further

^{1/} By the time of this meeting, Reagan Bush had been given additional time to supplement its response to the interim report, had supplemented its initial response, had made five requests of the Commission under FOIA, and had brought suit against the Commission.

Memorandum to the Commission

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Additional Comments on the Reagan Bush Committee Audit

decided that, given the circumstances surrounding the transactions, no repayment would be sought. At the present time, the Commission has before it a draft report prepared by the Audit Division which discusses the issue within the overall treatment of its finding on "Limitation on Expenditures" (pages 4-23 of Agenda Document X81-108). It is the view of this Office, particularly in light of the court's opinion, that the Commission will encounter substantial legal difficulty if it issues the audit report as structured and written.

2. Analysis

The court has relied upon the Commission's stated distinctions between the audit and repayment process under 2 U.S.C. § 437g. The opinion's language with respect to the contents of publicly released audit reports emphasizes the detriment to the parties unless they are afforded the statutory process for contesting legal determinations that they have violated the relevant statutes. In light of the court's opinion, the Commission should be careful not to determine in the course of the audit report that violations have occurred, even if no action is to be taken. For example, the opinion states at page 11:

Moreover, by law the final audit report cannot contain assertions of violations of election laws. As noted above, violations of FECA and PECFA, as distinguished from repayment determinations, are enforced under FECA, at 2 U.S.C. § 437g. (Emphasis supplied)

At page 16, the court states that the only interest of RBC that could be affected by publication of the report is its concern about its reputation. In this connection, the opinion states:

However, this interest is not sufficient to warrant keeping the audit report in question secret, especially when this particular report will not contain information implicating RBC with violations of law. (Emphasis supplied)

As currently structured, the draft report before the Commission discusses the RBC/RNC transactions within its "Limitation on Expenditures" finding. The overall

Memorandum to the Commission

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Additional Comments on the Reagan Bush Committee Audit

recommendation for this finding, at page 23 of the Agenda Document, is that "the Commission determine that the Reagan Bush Committee, absent a showing to the contrary within 30 days of this report, has exceeded the 2 U.S.C. § 441a(b)(1)(B) limitation in the amount of . . . as set forth above." For the Commission to approve the recommendation by making such a determination, would be to fly in the face of the court's opinion. Indeed, even the placement of the discussion itself under the heading "Limitation on Expenditures" serves to highlight as a violation something for which the Commission has determined not to seek either repayment or enforcement.

Given the Commission's decision, affirmed as recently as October 14, 1981, to discuss the reimbursement matter in the audit report, the General Counsel strongly recommends that the issue should be treated as a discussion separate from the expenditures limitation issue. Our comments of November 12, 1981, appended to the audit report, recommended that course. The court's decision, in our view, makes that course even more necessary. If the Commission were to find an apparent violation without the full-fledged briefing of legal issues, the court might find that the Commission had not afforded appropriate process for contesting the conclusion; jeopardizing the basically favorable court decision by such action would not be in the interest of the Commission.

The Commission can, however, affirm its previous conclusion that it will insist in the future that each of the two entities be responsible for making the expenditures under its own ceiling and for maintaining the observation of the separate limitations, for the reasons outlined in the October 13, 1981 memorandum to the Commission. Consistent with the Commission's direction of October 14, 1981, we submit that the discussion in the audit report should be limited to the following outline.

The Reagan Bush Committee (RBC), as set forth in its response to the interim audit report, claims to have operated with the Republican National Committee (RNC) on a theory that they were mutual agents and could combine their expenditure limitations. In accord with that theory, they engaged in a number of transactions which the Commission has questioned. A summary of these transactions and the Commission's position with respect to them is presented below.

Memorandum to the Commission

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Additional Comments on the Reagan Bush Committee Audit

1. Pursuant to its spending authority under 2 U.S.C. § 441a(d), the RNC made a number of direct payments to vendors in connection with the campaign tours of the Presidential and Vice Presidential candidates.

2. Reagan Bush, on the basis of these RNC expenditures, billed the media, Secret Service and its own Compliance Fund for their respective shares of the transportation expenses.

3. Based on these billings, Reagan Bush received approximately \$1.1 million in "reimbursements."

4. Reagan Bush was not entitled to these reimbursements, since RNC made the initial outlay.

5. The Reagan Bush Committee originally reported these "RNC reimbursements" as offsets to their operating expenditures.

6. Since Reagan Bush was not entitled to the "RNC reimbursements", it improperly offset its operating expenditures by approximately \$1.1 million.

7. To properly report its receipt and expenditures of the monies in question, the Reagan Bush Committee's amended reports would show an increase in its operating expenditures of approximately \$1.1 million thus putting the Committee over the limit of 2 U.S.C. § 441a(b)(1)(B).

8. Were the RNC to file a corresponding amendment, the RNC's reports would show a decrease in its expenditures of approximately \$1.1 million under 2 U.S.C. 441a(d).

9. If the separate limitations of the RNC and Reagan Bush are viewed as a single, combined limit, there is no net expenditure in excess of the limit by virtue of the transactions in question.

The Commission has not agreed with the theory put forth by the RNC. The Commission has always considered that the two limits--the party's 441a(d) limit for expenditures from private funds and the candidate's 441a(a) limit of expenditures to the amount of the public financing grant--must be maintained and administered separately. While 441a(d) permits the party to coordinate its expenditures with the

candidate, without having that deemed a contribution, the funds must be party funds for whose expenditure the party is responsible; the funds cannot be raised directly by the candidate or given over into his control. In short, the Commission has rejected the idea that the limits are interchangeable, or that the publicly funded candidate can be the direct agent of the party for obtaining or using the private funds.

Having erroneously viewed the private funding limit and the public funding limit as combined, the committees, nevertheless, did not, through those transactions violate the overall limit; rather, the RNC counted the expenditures against its limits, and the total of expenditures was not increased by the transaction. While the Commission has thus concluded that for that reason no action is to be taken against either RBC or RNC, the Commission will in the future insist that the two entities keep separate the funds and be responsible for making the expenditures under their respective ceilings.

Finally, the Commission concludes that the public record, amended after the initial exit conferences with the auditors, does not presently reflect accurately the nature of the transactions. While the Committee has shown, by its amendment, the desire to conform the public record, the public description leaves unexplained the nature of the reimbursements; the reports should be amended to indicate that the \$1.1 million, while reimbursed to the RBC, are to be offset against the RNC's 441a(d) limitations.

As a suggestion for how the issue could be appropriately dealt with in the audit report, we have appended a draft for discussion (Appendix A) which sets forth these matters.

3. Additional Issues

a) Introduction to Findings and Recommendations

In the comments to the Audit Division of November 12, 1981, this Office suggested that the above-titled discussion be deleted from the audit report in its entirety. Although the Audit Division deleted that part of the discussion dealing with FOIA, the remainder of the discussion was retained. It remains the view of this Office that the entire introduction be deleted.

b) Reimbursements Received Related to Campaign
Tours Paid by the RNC

The Commission's adoption of the suggested language in Appendix A would obviate the need for the above-entitled discussion raised by the Audit Division in its cover memorandum to the draft report for the Commission. However, the Office of General Counsel reasserts its position contained in its comments to the Audit Division of November 12, 1981 that there should be no upward adjustment to RBC's operating expenditures based on receipts from the media and Secret Service which exceed "actual costs" by less than 10%.

Recommendations

1. Substitute Appendix A for the draft report's discussion in Part II entitled "Monies Received Relating to Expenditures Made by the Republican National Committee."
2. Delete from the draft report the finding in Part II entitled "Limitation on Expenditures."
3. Retain the findings in Part II entitled "Disclosure of Debts and Obligations" and "Transfer To and From Affiliated Committees."
4. Delete from the draft report the finding in Part II entitled "Expenditures in Excess of the Limitation."
5. Retain the finding in Part III entitled "Investment of Public Funds."
6. Conform the remainder of the report, including the finding in Part III entitled "Determination of Net Outstanding Qualified Campaign Expenses", to the above recommendations.

Appendix A - Substitute Finding

Monies Received by the Reagan Bush Committee Relating
to Expenditures Made by the Republican National Committee

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 (as adjusted for the change in the consumer price index since 1974), in the case of a campaign for election to such office (also see 2 U.S.C. § 441a(c)). The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

Section 441a(d)(1) and (2) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. § 441a(e)).

Section 9004.6(a) and (b) permits an authorized committee of a publicly-funded candidate to receive reimbursements for expenses for transportation and related ground services made available to the media, Secret Service and other staff authorized by law or required by national security to travel with a candidate.

The audit staff analyzed the campaign tours of the Presidential and Vice-Presidential candidates for which the Reagan Bush Committee sought reimbursement from the news media, Secret Service and Reagan Bush Compliance Fund. Based on a review of Committee records, and disclosure reports filed by the Republican National Committee, the Audit staff has found that the RNC made seven expenditures totalling \$1,633,293.89 in connection with the campaign tours; the RNC applied this amount to its expenditure limit under 2 U.S.C. § 441a(d)(2). 1/ These RNC expenditures were made directly

1/ The RNC's limitation in 1980 was \$4,523,789.27. It should be noted that although there are several references in this report to certain financial activities of the RNC, the scope of the audit work performed was limited to tests of the financial records of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan. Since the Audit Division did not perform an audit of the RNC, it expresses no opinion as to the accuracy or completeness of the financial information disclosed by the RNC in its reports of receipts and expenditures filed with the Commission. Unless otherwise stated, the figures relating to the RNC contained in this report were taken from the RNC disclosure reports on file with the Commission.

to the vendors and were in addition to the campaign tour expenditures made by the Reagan Bush Committee itself. Without distinguishing between those amounts paid by the Reagan Bush Committee and those paid by the RNC, the Reagan Bush Committee billed the news media, Secret Service and its own compliance fund ("Compliance Fund") for their respective shares of the total campaign tour costs (transportation and related services).

As a result of these billings, the Committee obtained payments from the news media, Secret Service and Compliance Fund in the amount of \$2,281,149.00. The Audit staff determined that \$1,138,891.24 of the total amount of such payments received by the Reagan Bush Committee was based on the above-described expenditures made by the RNC. 2/ These receipts were retained and reported on FEC Form 3p, Schedule A-P, Line 21. 3/ As a result, the RBC's reported expenditures subject to the limitation of 2 U.S.C. § 441a(b)(1)(B) were offset (reduced) by \$1,138,891.24.

It is the opinion of the Audit Division that the Reagan Bush Committee improperly retained the above-described payments, since the expenditures on which they were based had been made by the RNC and not Reagan Bush. In effect, the Audit Division's position is that the Reagan Bush Committee was "reimbursed" for amounts it had not expended. The Audit staff has also stated that such payments should not have been classified and reported by Reagan Bush as refunds or rebates, and thereby applied as an "offset" to the original expense, since the original expense was the RNC's. According to this reasoning, to permit such an artificial "offset" would have the effect of increasing the expenditure limitations of the publicly-financed candidates under 2 U.S.C. § 441a(b)(1)(B) by the amount of the "offset".

During the field work and at the exit conference of March 27, 1981, the Audit staff informed Committee officials of their opinion that the Committee was not entitled to payments based on RNC expenditures and that these payments could not reduce Committee operating expenditures. On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim audit report that the Reagan Bush Committee be afforded 30 days from

2/ This total includes \$8,733.07 in reimbursements which were billed but not collected as of 2/24/81. It was included in the above calculation based upon the Audit Division's review of reported activity subsequent to 2/24/81 which indicates that an amount in excess of \$8,733.07 was reported as being received by RBC.

3/ After completion of the audit fieldwork, the Committee filed an amendment showing a different treatment to a portion of these monies. This is discussed at pages ___ and ___.

receipt of the interim report: to explain the circumstances surrounding its receipt of the \$1,138,891.24 in reimbursements received related to expenditures made by the Republican National Committee; and to demonstrate that the receipt and reporting of these amounts are consistent with the requirements of the Act and Chapter 95 of the Internal Revenue Code (26 U.S.C. Sections 9001 - 9012). Further recommendations were to be made after the Reagan Bush Committee had had an opportunity to respond within the 30 day period.

In its response to the Commission-approved interim audit report, the Committee did not dispute that it had obtained payments from the news media, Secret Service and Compliance Fund based upon tour expenditures of the RNC. The Committee stated that the \$1,138,891.24 represented "a proper offset of expenditures incurred by the RBC and RNC in furtherance of Ronald Reagan's candidacy in conformity with an agency relationship that existed between the RBC and RNC." Briefly stated, the Committee has claimed that: 1) it was acting as the RNC's agent in managing certain of the RNC's funds; 2) in its capacity as agent, the Committee obtained reimbursements due the RNC in connection with campaign tours; and 3) it expended, as RNC's agent, for purposes of 2 U.S.C. § 441a(d), an amount of money corresponding to the amount obtained in behalf of the RNC in connection with these same campaign tours.

The Committee did not point to a specific agency agreement, but indicated that the "course of dealing" between Reagan Bush and the RNC demonstrated the existence of an agency relationship whereby the Reagan Bush Committee managed funds for the account of the RNC. The response also cited as authority for such an agency relationship Section 110.7(a)(4) of Title 11 of the Code of Federal Regulations which states that the national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

Finally, the Committee presented an analysis of these transactions with reference to Generally Accepted Accounting Principles (GAAP) which included the concept of offsetting assets against liabilities and the concept of proper financial presentation for entities under common, direct, or indirect control. The RBC indicated that given the agency relationship, the GAAP concept of offsetting suggests that the \$1,138,891.24 in reimbursements received by the RBC should be recorded as a liability to the RNC which could be appropriately and preferably offset against other costs incurred by the RBC for the RNC. Further, the RBC indicated that there is substantial support in the GAAP concept of proper financial presentation for entities under common, direct or indirect control to suggest the more meaningful presentation of the financial results of the Reagan Bush Presidential Election Campaign would be to combine the activities of the RBC and the RNC's Presidential election Fund, based upon the common control through the agency

relationship. The Committee's GAAP analysis is, of course, dependent upon the existence of common control and its permissibility under applicable law.

Were the Commission to sanction the type of agency relationship described by the Committee, the consequences would include the following:

1) The separate expenditure limitations for party committees under 2 U.S.C. § 441a(d)(1) and (2) and publicly-financed candidate committees under 2 U.S.C. § 441a(b)(1)(B) would be effectively eliminated in favor of a combined limit; and

2) The limited right of a party committee under 2 U.S.C. § 441a(d)(1) and (2) to make certain expenditures in connection with the general election campaign of that party's nominee for President would be expanded to permit the actual transfer of party committee funds to the publicly-financed candidate committee, effectively vitiating the distinction between expenditure and contribution; and

3) The limitation of 2 U.S.C. § 441a(b)(1)(B) would effectively be increased, since the committees of publicly-financed candidates would be permitted to receive and expend private funds in the form of reimbursements, refunds and rebates due another entity.

In addition, there would be changes necessary to the disclosure provisions to correspond to the above-noted results.

The Commission has always considered that the two limits, the party's 441a(d) limit for expenditures from private funds and the candidate's 441a(b)(1)(B) limit on expenditures to the amount of the public financing grant, must be maintained and administered separately. Despite the fact that the RNC and Reagan Bush Committee shared the goal of electing a Republican President in 1980, the Federal Election Campaign Act and Commission Regulations treat them as separate and distinct legal entities.

It should also be noted that while section 441a(d) permits the party to coordinate its expenditures with the candidate, without this being deemed a contribution, the funds must be party funds for whose expenditures the party is responsible; such funds cannot be raised by the publicly-financed candidate nor be given over to the candidate's control.

Since the Act, its legislative history and Commission Regulations recognize a distinction between an actual transfer of money to a candidate's committee by a party committee and an expenditure under section 441a(d), a publicly-financed candidate's committee cannot be the agent of the party committee for obtaining and using private funds despite the Committee's permissive reading of 11 C.F.R. § 110.7(a)(c) which allows a party committee to designate an agent.

The Reagan Bush Committee, therefore, should not have obtained monies in the form of reimbursements, rebates and refunds which were due the RNC. While the Commission has permitted the use of section 441a(d) monies to pay for expenditures incurred by the candidate if the party so chooses, the effect of allowing reimbursement to the candidate for expenditures made by the party is to mingle private money with public money in a way not contemplated by the public financing system.

If a publicly-financed candidate committee were permitted to be the agent of a party committee with respect to the latter's expenditures under Section 441a(d), the expenditure limits of both committees in the general election would effectively be combined. While it appears that the Reagan Bush Committee mistakenly viewed the transactions in this way, the committees did not exceed this "combined" limit by virtue of these transactions; had the RNC received the reimbursements in question, such amounts could have been deducted from its expenditures under section 441a(d), thus allowing the RNC to expend an additional \$1,138,891.24 under this section. 4/ The Reagan Bush Committee, in effect, expended the RNC's \$1,138,891.24. The total expenditures of both committees were not increased by these transactions.

Amendments to Year-End Reports

One of the more significant aspects of the Reagan Bush Committee's receipt and expenditures of RNC funds concerns the current lack of clarity on the public record. This problem has been further complicated by amendments by both committees to reports which they had previously filed with the Commission.

During the fieldwork and at the exit conference of March 27, 1981, the Audit staff informed Committee officials that, in the Audit staff's opinion, the Committee was not entitled to reimbursements received based on RNC expenditures and that these reimbursements could not be used to offset Committee operating expenditures. While the Audit staff indicated that the monies received relating to RNC expenditures approximated \$750,000, Committee officials were also informed that this figure was preliminary and may be substantially higher once the calculations were made final. Prior to the Audit staff's finalization which resulted in the figure of \$1,138,891.24, the Reagan Bush Committee filed an amendment apparently based on the conversations during the audit fieldwork and at the exit conference.

4/ This assumes that 11 C.F.R. § 9004.6 permits the party committee to receive reimbursements from the news media and Secret Service for transportation expenses which the party committee had made. It should be noted that the regulation speaks only in terms of an "authorized committee" being permitted to receive such reimbursements.

On April 1, 1981, the Reagan Bush Committee amended its 1980 Year-End report to delete \$748,163.16 in previously reported refunds (Line 21, FEC Form 3P) and attributed these refunds to the Republican National Committee. This amendment showed a downward adjustment to the Reagan Bush Committee's reported reimbursements and operating expenditures and a corresponding reduction to the Republican National Committee's previously reported expenditures on behalf of the candidate. The amendment was designed to show that RBC received and expended these amounts in behalf of the RNC under the latter's spending authority under 2 U.S.C. § 441a(d). On July 21, 1981, the RNC amended its 1980 Year-End report to correspond to RBC's treatment of the above noted receipts and expenditures. The total reported expenditures of the RNC under section 441a(d) and RBC under section 441a(b)(1)(B) were not changed by these amendments.

As pointed out in the interim report, the aforementioned \$748,163.16 amendment did not involve a transfer of monies between Reagan Bush and the RNC, but rather, was merely a "paper" attribution of "the amount of tour reimbursements allocated to the RNC" and selected expenditures paid by Reagan Bush and later attributed via Reagan Bush disclosure reports to the RNC.

In effect, the amendment of both committees reflected the interim finding of the Audit Division that the Reagan Bush Committee could not be reimbursed for expenditures made by the RNC. The corresponding amendments were apparently designed to show that Reagan Bush was acting in behalf of the RNC; although the public record is by no means clear on this point, this reading of the amendments is consistent with the agency theory advanced by Reagan Bush in response to the interim report of the Audit Division. The discrepancy in the amount (the amendment's \$748,163.16 versus the audited figure of \$1,138,891.24) appears to have resulted from the Committee's use of the lower figure verbally presented to it by the Audit staff at the aforementioned exit conference, and the Committee's failure to update that figure after receiving the written calculation of \$1,138,891.24.

The interim report indicated that the Audit staff did not believe that the after-the-fact attribution of expenditures (actually made and originally reported by the Reagan Bush Committee) was permissible, and advised the Committee to make an appropriate amendment to the public record. To date the Committee has not filed the recommended amendment to its reports.

CONCLUSION

The Commission does not agree with the theory put forth by the RBC. The Commission has always considered that the two limits --the party's 441a(d) limit for expenditures from private funds and the candidate's 441a(a) limit of expenditures to the amount of the public financing grant--must be maintained and administered

separately. While 441a(d) permits the party to coordinate its expenditures with the candidate, without having that deemed a contribution, the funds must be party funds for whose expenditure the party is responsible; the funds cannot be raised directly by the candidate or given over into his control. In short, the Commission rejects the idea that the limits are interchangeable, or that the publicly funded candidate can be the direct agent of the party for obtaining or using the private funds.

Having erroneously viewed the private funding limit and the public funding limit as combined, the committees, nevertheless, did not, through those transactions violate the overall limit; rather, the RNC counted the expenditures against its limits, and the total of expenditures was not increased by the transaction. While the Commission thus concludes that for that reason no action is to be taken against either RBC or RNC, the Commission will in the future insist that the two entities keep separate the funds and be responsible for making the expenditures under their respective ceilings.

Finally, the Commission concludes that the public record, amended after the initial exit conference with the auditors, does not presently reflect accurately the nature of the transactions. While the Committee has shown, by its amendment, the desire to correct the public record, the public description leaves unexplained the nature of the reimbursements. The reports should be amended to indicate that the \$1.1 million, while reimbursed to the RBC, are to be offset against the RNC's 441a(d) limitations.

Recommendation

It is the Audit staff's recommendation that with respect to the tour reimbursements received by the Reagan Bush Committee relating to expenditures made by the RNC, an amendment is to be filed by the RBC within 30 days of receipt of this report. The correction to the public record may be accomplished by reclassifying from line 21 to line 22 of the Detailed Summary of Receipts and Expenditures (Page 2, FEC Form 3P) that portion of the \$1,138,891.24 received in 1980 and 1981 respectively. Line 22 of the summary should be retitled "Reimbursements Received Relating To Expenditures Made By The Republican National Committee". It should be noted that when filing this amendment the RBC does not have to file supporting FEC schedules A-P for line 22 detailing each reimbursement, but merely may disclose a "lump sum" amount being reclassified from line 21 to 22 for 1980 and 1981 activity. In addition, lines 14 and 15 (FEC Form 3P, Page 1) of the Reagan Bush Committee's Reports and reports filed in 1981 should be corrected to reflect the changes to expenditures subject to the limitation resulting from the reclassifications noted above.

With respect to the April 1, 1981 amendment (\$748,163.16) the Audit staff recommends that within the 30 day period the Reagan Bush Committee file an amendment to its 1980 Year-End Report and Receipts and Expenditures to reverse the transactions contained in the 4/1/81 amendment. Further, the RBC should inform the Republican National Committee to file a corresponding amendment to its 1980 Year-End Report within this recommended period so that the reports may properly reflect the transactions and their impact on both committees.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 13, 1981

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: ROBERT J. COSTA *RJC*

SUBJECT: FINAL AUDIT REPORT - REAGAN BUSH
COMMITTEE, REAGAN BUSH COMPLIANCE FUND
AND DEMOCRATS FOR REAGAN (Revised per
11/12/81 comments from the Office of
General Counsel)

Please find attached the above subject report for your review and consideration. Also attached at Exhibit A are the comments received from the Office of General Counsel.

The Audit Division has incorporated the OGC's comments, where appropriate. However, it should be noted that in certain areas OGC's suggestions were not incorporated.

1) The OGC's comments at page 2 suggest that the issue related to reimbursements received by the RBC related to expenditures made by the RNC should be set forth as a separate finding. While the Audit staff has done a significant amount of restructuring in an effort to clearly present the reimbursements issue, it is our belief that this issue is an integral part of Finding II.A. "Limitation on Expenditures." Therefore, the reimbursements issue has been made a subsection of the limitation finding with its own set of recommendations.

2) The OGC's comments, at page 9, discuss the applicability of 11 C.F.R. § 9004.6(b) to the situation addressed in Finding II.A.2. entitled "Reimbursements Received Related to Campaign Tours Paid by the RBC." In its analysis, Counsel states that:

"It would be anomalous to seek a repayment on the basis that the excessive amount less than 10% helped put the committee over the limit. Since the Reagan Bush Committee did not receive reimbursements 10% or more in excess of the actual costs, there should be no adverse effect on the Committee."

It appears that the Counsel's interpretation of 11 C.F.R. § 9004.6(b) concludes that any amount of reimbursements over cost up to 10% is viewed as a permissible subsidization of a campaign by the media or other individuals through the charging of higher than pro rata share for the use of candidate-supplied transportation.

The Audit staff disagrees with this interpretation. The main purpose of 11 C.F.R. § 9004.6 was to preclude a situation occurring in the general election similar to that which occurred in the primary campaigns of Senator Kennedy and Governor Reagan. In those cases, the media was charged between 150% and 225% of first class airfare (the 50% was intended to cover ground costs paid by the Committees) which resulted in reimbursements received by the respective committees in excess of actual costs. Admittedly, in the final assessment no determination regarding a reclassification of the excess reimbursement was made, since both committees had sufficient room in the 2 U.S.C. § 441a(b)(1)(A) limitation to absorb or render immaterial any reclassification. However, that fact does not negate the fundamental principle that it is inconsistent to charge against an expense an amount greater than the expense itself.

Furthermore, the Explanation and Justification portion of the General Election regulations pertaining to 11 C.F.R. § 9004.6 state

"The purpose of this provision is to eliminate the possibility for the subsidizing of a campaign by the media or other individuals through the charging of higher than pro rata shares for the use of candidate - supplied transportation"

(Federal Register/Vol. 45, No. 126/6-27-80, page 43376)

Finally, the regulation only discusses the determination of income realized and not any possible effect on expenditures subject to the limit. Accordingly, the Audit staff prepared Finding II.A. 2. with a recommendation that the RBC adjust their reported expenditures subject to the limit by the amount of reimbursements in excess of costs.

It is recommended that this matter be placed on the next Executive Session agenda for Commission consideration.

If you have any questions, please contact Charles Hanshaw or Tom Nurthen at extension 3-4155.

Attachment as stated

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION
ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND
THE DEMOCRATS FOR REAGAN

I. Background

A. Overview

This report is based on an audit of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan, to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 9007(a) of Title 26 of the United States Code 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, Section 9007.1 of Title 11 of the Code of Federal Regulations states that after each Presidential election, the Commission shall conduct a thorough examination and audit of the receipts, disbursements, debts and obligations of each candidate's authorized committee(s). Such examination and audit shall include, but shall not be limited to, expenses incurred pursuant to 11 C.F.R. 9003.4 prior to the beginning of the expenditure report period, contributions to and expenditures made from the legal and accounting compliance fund established under 11 C.F.R. 9003.3(a), contributions received to supplement any payments received from the Fund, and qualified campaign expenses.

The Reagan Bush Committee ("RBC") registered with the Federal Election Commission on May 29, 1980 (under the name Reagan for President General Election Committee*) and served as the principal campaign committee of the Honorable Ronald Reagan, Republican candidate for President of the United States. The Candidate designated the Reagan Bush Compliance Fund** ("the

* On August 7, 1980, the Committee amended its statement of organization to conduct business as the Reagan For President General Election Committee and/or Reagan Bush Committee.

** The Reagan Bush Compliance Fund was established to defray legal and accounting costs associated with ensuring compliance with the FECA.

Compliance Fund") on July 7, 1980 (under the name Reagan for President Compliance Fund) and the Democrats for Reagan on October 31, 1980 as authorized committees. The Reagan Bush Committee and the Reagan Bush Compliance Fund maintained their headquarters in Washington, D.C. and the Democrats for Reagan maintained its headquarters in Arlington, Virginia.

The audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the Committees at the time of the audit. During that period, the Committees reported the following activity:

<u>Committee</u>	<u>Beginning Cash</u>	<u>Total Receipts</u>	<u>Total Expenditures</u>	<u>Ending Cash</u>
Reagan Bush Committee	-0-	\$32,516,345.37	\$31,647,351.55	\$868,993.82
Reagan Bush Compliance Fund	-0-	2,110,857.80	1,512,152.36	598,705.44
Democrats for Reagan	-0-	10,000.00*	10,000.00*	-0-

In addition, certain financial activity was reviewed through March 26, 1981.

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

-B. Key Personnel

The principal officers of the Committees during the period audited were:

<u>Committee</u>	<u>Chairman</u>	<u>Treasurer</u>
Reagan Bush Committee	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Reagan Bush Compliance Fund	U.S. Senator Paul Laxalt	Ms. Bay Buchanan**
Democrats for Reagan	Mr. Leon Jaworski	Ms. Janine Perrignon

* Activity of Democrats for Reagan was comprised solely of a transfer received from and made to the Reagan Bush Committee. Therefore, this activity is not subject to the limitation at 2 U.S.C. 441a(b)(1)(B). In addition, the Democrats for Reagan filed a termination report on January 30, 1981.

** On January 21, 1981, these Committees amended their statements of organization to disclose Mr. Scott Mackenzie as Treasurer.

C. Scope

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

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

Introduction to Findings and Recommendations

On June 16, 1981, the Commission approved the interim audit report on the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan which contained interim findings and recommendations developed during the audit fieldwork conducted during January-March, 1981. The Committees were afforded 30 days from receipt of the report to respond to the interim findings. The Committees received the interim report on June 19, 1981, hence, the response was due on or before July 20, 1981.

On July 2, 1981, Legal Counsel for the Committees requested and obtained from the Audit Division photocopies of the Audit staff's working papers (originally provided to the RBC Treasurer on March 27, 1981) in support of certain findings contained in the interim report.

On July 6, 1981, the Committees submitted a written request to the Commission for an extension of 30 days to respond to the interim audit report. The Committees cited the following reasons in the request:

"1. It has been extremely difficult to locate the financial records of the Reagan campaign which are relevant to findings and recommendations set forth in the FEC's interim audit report. The campaign committee is no longer staffed and obtaining interviews and information from former staff members has proved to be a time-consuming task. In addition, due to the fact that many of the matters highlighted in the audit report occurred quite some time ago, it has been particularly difficult to acquire the information necessary to prepare a response to the FEC.

2. A Freedom of Information Act request was recently submitted to the FEC requesting the disclosure and inspection and copying of the auditors' work papers generated or relied upon with respect to several of the findings and recommendations contained in the interim audit report. The Committee will not be able to prepare an adequate response to the audit report until the requested materials have been reviewed."

On July 14, 1981, the Commission voted to deny the 30 day extension of time requested by the Committees. In so doing, the Commission stated that it has consistently taken the position during the 1980 election cycle that such requests for extensions by committees of publicly-financed candidates be denied in order that the public release of the audit reports be made in as timely a manner as possible. The Commission officially informed the Committees of its decision on July 17, 1981.

On July 20, 1981, the Committees submitted their initial response to the interim audit report and requested (1) a stay of further Commission actions on certain matters, (2) an opportunity to supplement the initial response, (3) a hearing before the Commission regarding certain matters in dispute and (4) a reconsideration of the Commission's denial noted above.

On July 28, 1981, the Commission granted a two week extension of time (until August 11, 1981) for the Committees to submit a supplemental response to the interim audit report. The Commission notified the Committees of its decision by letter dated August 4, 1981, and also notified the Committees that a hearing would be premature at this time, given the statutory and regulatory provisions and safeguards.

On August 11, 1981, the Commission received the Committees' supplemental response to the interim report.

Although several references are contained in this report regarding certain financial activities undertaken by the Republican National Committee ("RNC"), the scope of the audit work performed was limited to tests of the financial records of the Reagan Bush Committee, Reagan Bush Compliance Fund, and Democrats For Reagan, and no audit was performed relative to the RNC. Therefore, the Audit staff expresses no opinion as to the accuracy or completeness of the financial information disclosed by the RNC in its "Reports of Receipts and Expenditures" filed with the Commission. The figures relating to the RNC contained in this report were taken from the RNC disclosure reports on file with the Commission, unless otherwise stated.

A. Limitation on Expenditures

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 (as adjusted for the change in the consumer price index since 1974), in the case of a campaign for election to such office (also see 2 U.S.C. 441a(c)).

The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

This finding addresses four matters relative to expenditures subject to the 2 U.S.C. 441a(b)(1)(B) limitation incurred by the RBC during the period May 1, 1980 through March 26, 1981. Specific recommendations, where appropriate, follow the discussion of each matter. A financial summary and recommendation relative to the expenditure limitation is contained on page 22 of this report.

Reimbursements
1. Monies Received Relating To Expenditures Made By the Republican National Committee

Section 441a(d)(2) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. 441a(e)).

The Audit staff analyzed the campaign tours undertaken by the Presidential and Vice Presidential candidates for which the Reagan Bush Committee sought reimbursement from the news media, Secret Service and Reagan Bush Compliance Fund, for a pro rata share of costs for air transportation, ground services and facilities.

The analysis revealed that the Republican National Committee made seven expenditures totaling \$1,633,293.89 in conjunction with the tours and applied the amount to its 2 U.S.C. 441a(d)(2) limitation. The Audit staff's review of the Reagan Bush Committee records revealed that \$1,613,049.15 of the RNC expenditure were applied to air charges associated with presidential tours 6 through 15 and vice presidential tours 6 through 14. A pro rata share of these expenditures was billed by the Reagan Bush Committee to the news media, Secret Service and Reagan Bush Compliance Fund. The Reagan Bush Committee obtained \$1,138,891.24* in reimbursements associated with the Republican National Committee's expenditures. These reimbursements were retained and reported by the Reagan Bush Committee on FEC Form 3P, Schedule A-P, Line 21. As a result, the RBC's reported expenditures subject to the limitation (2 U.S.C. 441a(b)(1)(B)) were offset (reduced) by \$1,138,891.24. Copies of computational schedules depicting this situation were provided to the Reagan Bush Committee Treasurer.

* This total includes \$8,733.07 in reimbursements which were billed but not collected as of 2/24/81; however, our review of reported activity subsequent to 2/24/81 indicates that an amount in excess of \$8,733.07 was reported as being received by RBC, a portion of which may be associated with the 2/24/81 amount calculated by the Audit staff.

During the fieldwork and at the exit conference of March 27, 1981, the Audit staff informed Committee officials that, in the Audit staff's opinion, the Committee was not entitled to reimbursements received resulting from RNC expenditures and that these reimbursements could not be used to offset Committee operating expenditures. While the Audit staff indicated that the reimbursements received relating to RNC expenditures approximated \$750,000, Committee officials were also informed that this figure was preliminary and may be substantially higher once the calculations were made final. Prior to the Audit staff's finalization, the RBC, on April 1, 1981, filed an amendment deleting \$748,163.16 in previously reported refunds and \$748,163.16 in previously reported operating expenditures from its reports and attributed these transactions to the RNC. Subsequently, the Audit staff calculated that the total amount of reimbursements received resulting from expenditures made by the RNC was \$1,138,891.24.

On July 21, 1981, the RNC amended its 1980 Year-End report to show a \$748,163.16 reduction of previously reported expenditures on behalf of the candidate, thereby establishing enough room within its 2 U.S.C. 441a(d)(2) limitation of \$4,637,653.76 to accommodate the additional \$748,163.16 in expenditures made by the RBC. The aforementioned \$748,163.16 amendment did not involve a transfer of monies between the RBC and the RNC, but rather, was merely a "paper" attribution of "the amount of tour reimbursements allocated to the RNC" and selected expenditures paid by the RBC and later attributed via the RBC's disclosure reports to the RNC. Further, the RNC's disclosure reports filed as of that date indicated that it had made expenditures pursuant to 2 U.S.C. 441a(d)(2) on behalf of the candidate totaling \$4,523,789.27 toward its limitation of \$4,637,653.76.

The interim report indicated that the Audit staff does not believe that this "after the fact" attribution of expenditures (made and originally reported by the Reagan Bush Committee) to the RNC is permissible within the definition of 2 U.S.C. 441a(d)(2).

Thus the issue presented is whether or not it was appropriate within the constraints of the Act and Chapter 95 of the Internal Revenue Code for the Reagan Bush Committee to obtain reimbursements related to expenditures that were actually paid by the Republican National Committee and also as a result offset (reduced) RBC operating expenditures subject to the limitation, and whether or not the "after the fact" attribution of certain reimbursements and expenditures to the RNC was permissible.

On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim report that the Reagan Bush Committee be afforded 30 days from receipt of the audit report to explain the circumstances surrounding its receipt of the \$1,138,891.24 in reimbursements received related to expenditures made by the Republican National Committee, and to demonstrate that the receipt and reporting of these amounts are consistent with the requirements of the Act and Chapter 95 of the Internal Revenue Code (26 U.S.C. Sections 9001 - 9013), and that further recommendations would be made after the Reagan Bush Committee had an opportunity to respond within the 30 day period.

With respect to the April 1, 1981 amendment, the Audit staff recommended that the RBC file an amended report to properly disclose the transactions as receipts and expenditures of the RBC (i.e., rescind the April 1, 1981 amendment).

Analysis of Committee Response

The RBC responded to the interim report by stating that at the outset of the 1980 presidential campaign the committees (RNC and RBC) made a commitment to spend the legally permissible amount to promote the candidacy of the nominee of the Republican party. The RBC explained that in coordinating their expenditures, it was agreed by the committees that the RNC would assume responsibility for certain costs incurred by the RBC during the campaign and that to this end, certain designated air fare invoices received by the RBC were sent to the RNC for payment directly to the airlines. The response further stated that the RBC billed the paying passengers, primarily Secret Service and the press, for their pro rata share of the transportation costs. The reimbursements from these passengers were received and retained by RBC and used to offset RBC expenses that otherwise would have been paid by the RNC. With respect to the billings and reimbursements, the RBC stated that

"Initially, the RBC presented the RNC with invoices for expenses incurred by the RBC. The RNC would in turn make payment to the designated vendor. In order to provide an appropriate treatment for the reimbursements, it was determined that the same result would be achieved if RBC credited reimbursements received against expenses incurred on behalf of the RNC and paid by the RBC. The RBC billed the RNC for air charges, receiving travel reimbursements on RNC's account. In turn, these reimbursements were credited against expenses the RBC incurred on behalf of the RNC.

All of the expenditures were coordinated by the Committees pursuant to their commitment to further the candidacy of the Republican nominee."

In its July 20, 1981 response to the interim report, the RBC stated that "the \$1,138,891.24 added by the audit (staff) to RBC expenditures subject to limitation because they 'represented payments to the Reagan Bush Committee based on ... RNC expenditures,' in actuality represent a proper offset of expenditures incurred by the RBC and the RNC in furtherance of Ronald Reagan's candidacy in conformance with the agency relationship that existed between the RBC and the RNC." In the August 11, 1981 response, it was stated that the RBC acted as the RNC's agent in managing RNC's campaign expenditures. RNC, in the role of the principal, raised funds and paid expenses of the RBC, its agent, with the RNC ultimately retaining the power to control how and where its funds would be spent.

The RBC stated its belief that the agency relationship is authorized by law and cited numerous legal precedents which it felt supported this theory.

Further, the RBC referred to Section 110.7(a)(4) of Title 11 of the Code of Federal Regulations which states that the national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

In addition, the RBC stated that Section 441a(a)(4) of Title 2 of the United States Code provides that the limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district or local committees (including any subordinate committee thereof) of the same political party.

In the opinion of the Audit staff, the RBC appears to conclude that Section 110.7(a)(4) of Title 11 of the Code of Federal Regulations permits the designation of a principal campaign committee of a candidate to act as an agent of the national committee with transfer authority within the limitation contained at Section 441a(d)(2) of Title 2 of the United States Code.

The RBC response fails to elaborate on the fact that 2 U.S.C. 441a(d) (1)* clearly restricts the making of so called 441a(d) expenditures to/through only party committees (State committees of a political party, including any subordinate committee of a State committee).

Further, in the Audit staff's opinion, since the Act, its legislative history, and the Commission Regulations recognize a distinction between an actual transfer of money to a candidate's committee by a party committee and an expenditure under section 441a(d), a publicly-financed candidate's committee cannot be the agent of the party committee for obtaining and using private funds despite the Committee's permissive reading of 11 C.F.R. Section 110.7(a) (4) which allows a party committee to designate an agent. The Reagan Bush Committee, therefore, should not have obtained reimbursements, rebates and refunds which were due the RNC. While the Commission has permitted the use of section 441a(d) monies to pay for expenditures incurred by the candidate if the party so chooses, the effect of allowing reimbursement to the candidate for expenditures made by the party is to mingle private money with public money in a way not contemplated by the public financing system.

In the August 11, 1981 response to the interim report, the RBC reiterated its conclusion that, based upon the agency relationship, it was appropriate for the RBC to offset tour reimbursements against other costs incurred by the RBC for the Republican National Committee (as portrayed in the April 1, 1981 amendment). The RBC presented a definitive analysis of these transactions in accordance with Generally Accepted Accounting Principles (GAAP) which included the concept of offsetting assets against liabilities and the concept of proper financial presentation for entities under the common, direct, or indirect control.

* Section 441a(d) (1) of Title 2 of the United States Code states that notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

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The RBC indicated that given the agency relationship, the GAAP concept of offsetting suggests that the \$1,138,891 in reimbursements received by the RBC should be recorded as a liability to the RNC which could be appropriately and preferably offset against other costs incurred by the RBC for the RNC. Further, the RBC indicated that there is substantial support in the GAAP concept of proper financial presentation for entities under common, direct or indirect control to suggest the more meaningful presentation of the financial results of the Reagan Bush Presidential Election Campaign would be to combine the activities of the RBC and the RNC's Presidential Election Fund, based upon common control through the agency relationship. Finally, the RBC stated that these amounts were attributed to the RNC to account for various campaign costs incurred by the RBC on behalf of the RNC, and that this amendment accurately reflects the underlying transactions between the committees.

The Audit staff believes that the amendments filed by the RBC and RNC contain transactions which did not occur as currently portrayed on the public record.

Conclusion

The Commission has determined that the Act and Regulations do not permit an agency relationship such as that which, according to the RBC, existed between the RBC and RNC. Therefore, the GAAP analysis presented, based on the existence of the agency relationship, is not relevant in this case. Further, that the RBC limit on expenditures (2 U.S.C. 441a(b)(1)(B)) must be kept separate from the RNC limit (2 U.S.C. 441a(d)(2)). Finally, that the expenditures totaling \$748,163.16 made by the Reagan Bush Committee could not properly be regarded as 2 U.S.C. 441a(d)(2) expenditures by the RNC because the RNC did not retain control over the expenditures and did not pay the vendors itself.

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Recommendation

It is the Audit staff's recommendation that with respect to the tour reimbursements received by the Reagan Bush Committee relating to expenditures made by the RNC, an amendment is to be filed by the RBC within 30 days of receipt of this report. The correction to the public record may be accomplished by reclassifying from line 21 to line 22 of the Detailed Summary of Receipts and Expenditures (Page 2, FEC Form 3P) that portion of the \$1,138,891.24 received in 1980 and 1981 respectively. Line 22 of the summary should be retitled "Reimbursements Received Relating To Expenditures Made By The Republican National Committee". It should be noted that when filing this amendment the RBC does not have to file supporting FEC schedules A-P for line 22 detailing each reimbursement, but merely may disclose a "lump sum" amount being reclassified from line 21 to 22 for 1980 and 1981 activity. In addition, lines 14 and 15 (FEC Form 3P, Page 1) of the Reagan Bush Committee's Reports of Receipts and Expenditures for the 1980 Year-End Report and reports filed in 1981 should be corrected to reflect the changes to expenditures subject to the limitation resulting from the reclassifications noted above.

With respect to the April 1, 1981 amendment (\$748,163.16) the Audit staff recommends that within the 30 day period the Reagan Bush Committee file an amendment to its 1980 Year-End Report of Receipts and Expenditures to reverse the transactions contained in the 4/1/81 amendment. Further, the RBC should inform the Republican National Committee to file a similar amendment to its 1980 Year-End Report within this recommended period so that the reports may properly reflect the transactions and their impact on both committees.

For the discussion regarding the Commission's determination relating to any repayment, please refer to Finding III.A. at pages 25-26.

2. Reimbursements Received Related to Campaign Tours Paid By RBC

Section 9004.6(a) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for transportation made available to media, Secret Service or other staff authorized by law or required by national security to travel with a candidate is received by a committee, the amount of such reimbursement for each individual shall not exceed that individual's pro rata share of the actual cost of the transportation made available. Further, Section 9004.6(b) of Title 11 of the Code of Federal Regulations states, in part, that if reimbursement for ground services and facilities is received by a committee, the amount of such reimbursement for each individual shall not exceed

either the individual's pro rata share of the actual cost of the services and facilities made available; or a reasonable estimate of the individual's pro rata share of the cost of the services and facilities made available. If it is determined that reimbursements related to a trip have exceeded by 10% or more the actual cost of the services and facilities made available, such excessive amount shall be deemed income to the committee and shall be repaid to the Secretary.

The analysis of available records supporting the actual cost of services and facilities made available to the news media, United States Secret Service and Compliance Fund personnel disclosed that the Reagan Bush Committee realized reimbursements in excess of costs documented in conjunction with the tours of at least \$15,238.53* (\$1,284,704.10 reimbursements less actual cost \$1,269,465.57). Included in the total for reimbursements is an estimated \$21,559.82 in tour reimbursements due the Reagan Bush Committee as of February-24, 1981. Our review of the RBC's disclosure reports for the periods ending March 31, 1981 and June 30, 1981 indicates that the RBC has received \$33,228.25 a portion of which is in reimbursements, apparently associated with the 2/24/81 figure calculated for tour reimbursements due. During the course of the follow-up audit work planned to commence at the end of the 30 day period afforded the RBC to respond to this report, the Audit staff will verify these reported figures to underlying documentation and, if it is determined that the RBC has received or expects to receive an amount which differs from the Audit staff's calculation, an adjustment will be made.

On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim report that, since the above reimbursements have not exceeded by 10% or more the actual cost of the services and facilities as contained at 11 C.F.R. 9004.6(b), no repayment would be recommended with respect to the associated income. However, since this amount has an impact on expenditures subject to the limitation (understates said expenditures), the entire amount (\$15,238.53)* has been included in Finding II.A. as an upward adjustment.

* The interim report placed the figure at \$50,588.48; however, information relating to certain ground costs contained in the RBC's response resulted in the figure being reduced to \$15,238.53.

Analysis of Committee Response

On July 20, 1981 and August 11, 1981 the RBC responded to the interim report and concluded that the Regan Bush Committee had in fact incurred a loss on the campaign tours totaling \$18,429.10 rather than a profit as determined by the Audit staff. According to the RBC, during the general election, daily records were maintained as to the actual expenses incurred by the press and secret service and a great effort was executed to ensure that these parties were accurately and equitably billed. A final review at the end of the campaign clearly indicates that these parties were not overcharged, as actual tour costs incurred by the campaign exceeded reimbursements.

The Audit staff plans to review the records in support of the final review performed by the RBC at the end of the campaign, during follow-up work planned to occur during the 30 day response period, and discuss the differences with RBC officials. However, it appears that the differences primarily result from the approach in determining the net amount realized from the tours.

First, the RBC's computation showing the loss figure indicated that the RBC aggregated total expenditures and reimbursements in conjunction with the tours without separating the expenditures made by the RNC and the associated reimbursements; whereas the Audit staff's calculation separated the RNC activity from the RBC activity and computed a pro rata amount of reimbursements accordingly.

Secondly, it appears that the RBC in its review did not include an amount for reimbursements due the RBC as of February 24, 1981, whereas the analysis performed by the Audit staff did include an amount for reimbursements due the RBC as of February 24, 1981. The Audit staff's subsequent review of reports filed by the Reagan Bush Committee for the periods ending March 31, 1981 and June 30, 1981, indicates that the RBC has received \$33,228.25 in reimbursement a portion of which is associated with the amount calculated by the Audit staff as tour reimbursements due. This will be verified by reviewing RBC records during the follow-up fieldwork.

In conclusion, an adjustment of \$15,238.53 is included at the summary of expenditures subject to the limitation (see page 22) in order to account for the reimbursements received in excess of costs. If no adjustment is made, the effect would be to increase the \$29,440,000 spending limitation by the \$15,238.53 since the RBC applied this amount of reimbursements as an offset to its operating expenses.

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Recommendation

It is the Audit staff's recommendation that the RBC, within 30 days of receipt of this report, file an amendment in order to properly account for the \$15,238.53 in reimbursements received in excess of costs. This amendment may be accomplished by reclassifying the \$15,238.53 from Line 2/ to Line 22 in the same fashion as noted in Finding II.A.1. During the 30 day period, the RBC may submit documentation to show that tour reimbursements received did not exceed tour costs paid solely by the RBC.

3. Miscellaneous Adjustments

The Audit staff analyzed the RBC records in support of its receipts and expenditures from January 1, 1981 through March 26, 1981 and its updated Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE") presented March 26, 1981. This analysis resulted in a net upward adjustment of \$301,178.02 in expenditures subject to limitation as follows:

Add: Expenditures subject to limitation from 1/1/81 through 3/26/81	\$270,431.52
Add: Debts and obligations owed by RBC at 3/26/81	75,393.79
Less: Debts and obligations owed to RBC at 3/26/81	(29,208.09)
Less: Voided checks included in operating expenditures from 5/1/80 through 12/31/80	(15,439.20)
	<hr/>
Total	<u>\$301,178.02</u>

(a) Expenditures Subject to Limitation from
January 1, 1981 through March 26, 1981 -
\$270,431.52

The Audit staff reviewed checks written during this period and underlying invoices and other documentation in support of expenditures to determine whether these expenditures were qualified campaign expenses. The review indicated that the RBC made expenditures for qualified campaign expenses totaling \$1,266,421.50.

Not included in this amount were disbursements totaling \$105,000 to the Internal Revenue Service for taxes on interest earned which were not chargeable to the expenditure limitation. Further, our review of the receipts records revealed that the RBC received \$995,989.98 in refunds and reimbursements. This amount was subtracted from total qualified campaign expenses yielding net expenditures of \$270,431.52 subject to the limitation for the period 1/1/81 through 3/26/81.

Analysis of Committee Response

In the August 11, 1981 response, the RBC stated that there was no evidence to indicate whether the auditors reviewed individual expenditures to determine whether they were compliance related and should have been charged to the Compliance Fund.

Although expenditure documentation was in fact reviewed, it was not necessary to determine whether or not the expenditures were compliance related, in view of the fact that the RBC elected to classify these expenditures as operating, having paid them from the Federal funds account. The Commission's Regulations at 11 C.F.R. 9002.11(b)(5) clearly state that a committee has the option of paying for compliance expenses from either the Federal funds account(s) or if the expenses were solely for the purpose of ensuring compliance with the Act, they may be paid from a privately funded compliance account. The purpose of the review was to ensure that the expenditures were for qualified campaign expenses and to identify additional amounts chargeable to the spending limitation. Further, in response to the interim report, the RBC was provided an opportunity to show that any of these expenditures were for compliance.

(b) Debts and Obligations Owed By The Reagan Bush Committee at March 26, 1981 \$75,393.79

The Audit staff reviewed unpaid invoices and discussed with the Treasurer the amounts owed by the RBC. As a result, it was determined that the RBC had accounts payable of \$75,393.79. Therefore, this amount was added as an adjustment to expenditures subject to the limitation.

Analysis of Committee Response

In the August 11, 1981 response, the RBC stated that

"We found no evidence to indicate whether the auditors reviewed individual item expenditures to determine whether they were compliance related.

We also found no evidence that the auditors had taken steps to determine whether all unpaid invoices had been recorded."

With respect to whether a review of individual item expenditures regarding compliance or non-compliance was necessary, the Audit staff reiterates its previous statement that the RBC elected to designate these expenditures as non-compliance under 11 C.F.R. 9002.11(b) (5). Further, the review was conducted as outlined above. Finally, as indicated in an explanatory note in the interim report:

"Adjustments to these figures may be necessary upon review of the actual receipt and expenditure activity relating to debts and obligations"
(emphasis added)

(c) Debts and Obligations Owed To The Reagan Bush Committee at March 26, 1981 - \$29,208.09

The Audit staff reviewed the records in support of debts and obligations owed to the RBC and discussed the debts and obligations with the Treasurer. As a result, it was determined that the RBC had accounts receivable of \$29,208.09. Therefore, this amount was deducted from expenditures subject to the limitation.

Analysis of Committee Response

In the August 11, 1981 response, the RBC stated that

"We found no evidence that the FEC auditors traced the amounts in the schedules to the source documents. We also found no evidence that the auditors examined cash receipts subsequent to March 26, 1981 to determine whether (1) all receivables had been recorded as of that date and (2) receivables recorded were at the proper amounts."

With respect to tracing the amounts in the schedules to source documents, this trace was in fact performed. As is the Audit Division's practice for Federally financed committees, all estimates (i.e., projected winding down costs or open items (accounts payable or accounts receivable)) are verified by evidence of payment, collection, or other disposition as the case may be during the initial or follow-up audit work. As previously indicated, the follow-up audit work is planned to commence near the end of the 30 day period afforded to respond to this report.

(d) Voided Checks Included In Operating Expenditures
From May 1, 1980 Through December 31, 1980 - \$15,439.20

The Audit staff's review of RBC bank records and reports disclosed checks totaling \$15,439.20 were written in payment of expenditures and subsequently voided. Although the RBC had not adjusted its reports and records for these checks, the Audit staff acknowledged them by reducing expenditures subject to limitation by that amount.

Analysis of Committee Response

In the August 11, 1981 response, the RBC stated that

"The working papers did not indicate the source from which this data was obtained. There is no indication that (1) the check register was examined to ensure that all voided checks had been recorded on the schedule or that (2) voided checks had been examined."

The above statement is correct insofar as the working papers reviewed by the RBC in preparing its response. However, other working papers referenced on the working paper schedules in support of the voided check figure of \$15,439.20 were inadvertently excluded from the materials forwarded to Counsel for the Committees and thus not available for review. These working papers which detail our examination of all bank accounts are responsive to the points made in the response and document the adequacy of the procedures employed by the Audit staff.

Conclusion

Based upon the issues noted in the response ((a) through (d) above), the Audit staff believes that the amounts used to arrive at expenditures subject to limitation for the period 1/1/81 through 3/26/81 as noted on page 22 of this report are an accurate reflection of RBC's financial activity. At the close of the 30 day response period, the Audit staff will perform additional fieldwork to update the analysis for activity from 3/26/81 to the present.

4. Capital Assets

Introduction

During the fieldwork it was apparent that the RBC may have exceeded the expenditure limitation at 2 U.S.C. 441a(b)(1)(B). It was also apparent that the RBC intended to liquidate as many assets as possible since the proceeds from the sale would reduce expenditures subject to the limitation for those asset costs originally charged to the limitation. Therefore, in addition to calculating the dollar value of capital assets on hand as of 12/4/80 for NOQCE purposes the Audit staff included this amount as an estimated downward adjustment to expenditures subject to the above mentioned limitation, pending actual data on the sale/disposition of these capital assets. The RBC calculated the value of capital assets to be \$16,378.90, whereas, the Audit staff determined the value to be \$46,617.93, a difference of \$30,239.03.

The Reagan Bush Committee sold a portion of its assets prior to 12/4/80 for \$16,378.90. In view of the fact that payment for these assets had not been received by the RBC as of 12/4/80, the Audit staff classified the \$16,378.90 as an account receivable. In addition, as noted above, the Audit staff identified other assets on hand as of 12/4/80, totaling \$46,617.93, as capital assets. The Treasurer stated he would review the Audit staff's calculations of the fair market value of these assets (see Attachment 1).

Analysis of Committee Response

In both its initial response (7/20/81) and its supplemental response (8/11/81) the RBC maintained that:

- (a) Certain of the assets were no longer RBC property as of December 4, 1980; and
- (b) An improper method was used to assign a valuation to these assets.

In addition, the RBC stated that "We could not determine, based on our review of the FEC working papers, the following:

- whether a physical inventory was conducted;
- the RBC records used to compile the list of capital assets on hand;

- the procedures performed to determine the completeness of the schedules of assets on hand;
- the procedures to relate the valuation determined by the auditors (cost, less two years straight line depreciation based on an eight year life) to subsequent realization in cash upon disposition".

Further, the RBC stated that each of the items was subject to a rapid loss of value upon commencement of use.

With respect to the RBC's assertion that certain assets were no longer RBC property as of 12/4/80, it should be noted that during the Audit staff's review of capital assets it was determined that all of these assets were, in fact, on hand at December 4, 1980. This fact was confirmed with the RBC person in charge of them. He identified certain capital assets as being in use at the transition office and inaugural headquarters.

Furthermore, as noted previously, the RBC calculated a value for capital assets of \$16,378.90. However, these assets were, in fact, sold by the RBC prior to December 4, 1980. As stated above, the Audit staff classified the \$16,378.90 as an account receivable. Therefore, it is the Audit staff's position that the RBC did not recognize the existence of any capital assets on the Statement of Net Outstanding Qualified Campaign Expenses (as of 12/4/80) provided to the FEC Audit staff on March 26, 1981.

Regarding the RBC's contention that an improper method was used to assign a valuation to these assets, certain background information is appropriate at this point in the discussion. During the post-primary audit of the Reagan For President (Primary Committee), documentation reviewed by the Audit staff disclosed that the Primary Committee initially assigned a value to its capital assets based on an 18 month life expectancy and with depreciation computed using the straight line method. The Audit staff questioned this valuation method initially used by the Primary Committee as evidenced by Finding III.D. "Valuation of Committee Assets" contained in the Report of the Audit Division on Reagan For President (release date 2/2/81). The Audit staff recommended that the Primary Committee prepare a revised valuation of the items. On December 22, 1980, the Primary Committee submitted a revised valuation for the capital assets in question. The Primary Committee, in calculating the revised valuation, assigned an 8 year life expectancy and computed depreciation (1 year) using the straight line method. The Commission deemed this method to be reasonable.

Since many of these capital assets were purchased by the RBC from the Primary Committee, the Audit staff continued to use the assigned 8 year life and computed depreciation (2 years) using the straight line method.

With respect to the procedures employed by the Audit staff, it should be noted that the description of certain procedures performed was not initially provided to the RBC. However, in general, the procedures employed were as follows:

- review of documentation maintained by the RBC regarding the purchase of materials, including RBC records and FEC working papers relating to assets purchased by the RBC from the Reagan For President (Primary Committee);
- physical inspection of assets located in the Committees' offices, in Washington, D.C.;
- discussion with a knowledgeable RBC employee concerning the existence and location or disposition of certain capital assets; and
- verification, using RBC records available, of any representations made by RBC personnel.

As a result of these procedures, the Audit staff identified certain capital assets on hand as of December 4, 1980, and calculated the value for these assets to be \$46,617.93.

If the RBC is able to produce evidence which substantiates its assertion that there was a rapid loss of value upon commencement of use of the assets, or there was a market decline after December 4, 1980, the Audit staff will review such evidence, and, if necessary, make appropriate adjustments to the capital asset valuation and corresponding adjustments to the expenditure limitation.

Finally, it must be emphasized that the calculation made by the Audit staff is an estimate of the fair market value of the identified capital assets. Should the proceeds from the sale of these capital assets upon liquidation be less than the estimated value (\$46,617.93), then obviously the effect (i.e., reduction of expenditures subject to the limitation) is lessened.* In the same vein, should the Committee elect to contribute these items (in accordance with applicable laws and regulations) and realize no proceeds at disposition, then there would be no adjustment whatsoever to expenditures subject to the limitation.

5. Summary-Limitation on Expenditures
(2 U.S.C. 441a(b)(1)(B))

The Audit staff's analysis of the Reagan Bush Committee and Reagan Bush Compliance Fund reports and available records from May 1, 1980 through December 31, 1980, and available records from January 1, 1981 through March 26, 1981 with respect to expenditures subject to the \$29,440,000 limitation is presented below. With the exception of the \$137,883.67 reported reimbursement made by the RBC to its Compliance Fund, all other audit adjustments to the RBC's reported expenditures subject to the limitation (5/1/80-12/31/80) are explained on the preceding pages of this report.

* The effect on the Determination of Net Outstanding Qualified Campaign Expenses is discussed at Section III.C. of this report.

Audit Analysis - Limitation on Expenditures
(2 U.S.C. 441a(b)(1)(B))

Reported expenditures subject to the limitation from 5/1/80 through 12/31/80. \$29,012,404.02

Adjustments to the above reported totals:

Add: Reimbursements received relating to expenditures made by the Republican National Committee	1,138,891.24
Add: Reimbursements received related to campaign tours paid by RBC	15,238.53
Add: Expenditures subject to limitation from 1/1/81 through 3/26/81	270,431.52
Add: Debts and obligations owed by RBC at 3/26/81	75,393.79 */
Add: 3/31/81 Reimbursement made to the Compliance Fund (as reported by the RBC)	137,883.67 */
Less: Debts and obligations owed to RBC at 3/26/81	(29,208.09) */
Less: Voided checks included in operating expenditures from 5/1/80 through 12/31/80	(15,439.20)
Less: Capital Assets on hand to be liquidated	(46,617.93)
Total Expenditures Subject to Limitation from 5/1/80 through 3/26/81 per Audit Analysis	<u>\$30,558,977.55 */ **</u>

* Adjustments to these figures may be necessary upon review of the actual receipt and expenditure activity during the follow-up field work planned to commence at the end of the 30 day period afforded the Committee to respond to this report.

** In addition, as noted in Finding III.D., a certain other matter has been referred to the Commission's Office of General Counsel. Upon resolution, a further adjustment may be required.

Based upon the above analysis, it appears that the RBC has exceeded the limitation at 2 U.S.C. 441a(b)(1)(B) in the amount of \$1,118,977.55 (\$30,558,977.55 less \$29,440,000). *

Recommendation

It is the Audit staff's recommendation that the Commission determine that the Reagan Bush Committee, absent a showing to the contrary within 30 days of receipt of this report, has exceeded the 2 U.S.C. 441a(b)(1)(B) limitation in the amount of \$1,118,977.55* as set forth above.

B. Disclosure of Debts and Obligations

Section 434(b)(8) of Title 2 of the United States Code requires disclosure of the amount and nature of debts and obligations owed by or to such political committee; and a statement as to the circumstances and conditions under which such debts or obligations were extinguished, and the consideration therefore.

The Audit staff noted that the following letters of credit were established with the Riggs National Bank in favor of three vendors. The amount and nature of these letters of credit were not disclosed in the Reagan Bush Committee's reports to the Commission.

(1) Pacific Telephone and Telegraph Co.

An irrevocable letter of credit was established in favor of the vendor pursuant to an agreement dated August 26, 1980. The credit, secured with certificates of deposit totaling \$300,000 (subsequently increased to \$500,000), guaranteed the satisfaction of all obligations owed to the vendor by the Reagan Bush Committee.

(2) United Airlines, Inc.

Two irrevocable letters of credit were established in favor of United Airlines on August 29, 1980 and September 11, 1980 pursuant to aircraft lease agreements. The credits, collateralized with certificates of deposit totaling \$425,000, guaranteed the satisfaction of indebtedness to the vendor by the Reagan Bush Committee.

* Please refer to Finding III.A. on pages 25-26 for the discussion regarding the Commission's determination relating to resolution of repayment issues.

(3) Trailways Leisure and Travel

An irrevocable letter of credit was established in favor of the vendor pursuant to an oral agreement of September 4, 1980, and payable upon written demand from Trailways. The credit was collateralized with certificates of deposit totaling \$20,000.

On April 15, 1981, the RBC filed its first Quarterly Report for 1981, which substantially disclosed the necessary information regarding these instruments.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

C. Transfer To and From Affiliated Committees

Sections 434(b)(2)(E) and 434(b)(4)(C) of Title 2 of the United States Code require the disclosure of the total amount of all transfers made to or received from affiliated committees.

The Audit staff noted a \$10,000 transfer made by the Reagan Bush Committee to Democrats For Reagan. The same amount was subsequently transferred from Democrats For Reagan to the Reagan Bush Committee. Democrats For Reagan disclosed the receipt and disbursement of the transfers. The Reagan Bush Committee considered the disbursement and receipt as inter-bank transfers and did not disclose this activity in its reports filed with the Commission.

On April 15, 1981, the RBC filed its first Quarterly Report for 1981 which properly disclosed these transfers.

Recommendation

Based on the above, the Audit staff recommends no further action on this matter.

III. Findings Related to Title 26 of the United States Code and Repayment to the U.S. Treasury

A. Expenditures In Excess of the Limitation

Section 9007(b)(2) of Title 26 of the United States Code states 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.

As previously noted in Finding II.A. of this report, page 23, the Audit staff's analysis indicates that the RBC appears to have exceeded the expenditure limitation at 2 U.S.C. 441a(b)(1)(B) for the period May 1, 1980 through March 26, 1981 by \$1,118,977.55. The Commission determined that the RBC could not properly offset (reduce) its expenditures subject to the limitation by including the \$1,138,891.24 in reimbursements received by the RBC relating to expenditures made by the Republican National Committee (see Finding II.A.1. for a detailed discussion).

The Audit staff's recommendation on page 23 of this report states, absent a showing to the contrary within 30 days of receipt of this report, the Commission determine that the Reagan Bush Committee exceeded the expenditure limitation by \$1,118,977.55, and that, as noted in Finding II.A.1. and 2., certain amendments should be filed to correct the public record.

With respect to the repayment aspect of this finding, as noted above, the amount in excess of the limitation is directly attributable to the reimbursements received by the RBC relating to expenditures made by the Republican National Committee. Regarding this issue, the Commission does not agree with the agency relationship theory described by the RBC (see Finding II.A.1.). Further, the Commission is of the opinion that the spending limitation relative to the RNC (2 U.S.C. 441a(d)(2)) and the RBC limit (2 U.S.C. 441a(b)(1)(B)) must be kept separate. The Commission also concluded that the expenditures totaling \$748,163.16 originally made by the Reagan Bush Committee could not be properly regarded as expenditures subject to the provisions of 2 U.S.C. 441a(d)(2) by the RNC since the RNC did not retain control over the expenditures and did not pay the vendors itself, but, in fact, according to the amendment filed, attempted to classify certain expenditures under its 2 U.S.C. 441a(d)(2) authority that had already been incurred and paid by the RBC.

Upon consideration of this issue, the Commission determined that since it appears from the audit and from the reports filed by the RNC, there was no exceeding the total (combined) expenditure limitations of the Reagan Bush Committee (2 U.S.C. 441a(b)(1)(B) - \$29,440,000) and the Republican National Committee (2 U.S.C. 441a(d)(2) - \$4,637,653.76), totaling \$34,077,653.76, solely by virtue of the \$1,138,891.24 in reimbursements received by the RNC relating to expenditures made by the RNC, it would be inappropriate to request a repayment to the U.S. Treasury with regard to the \$1,138,891.24. However, the Commission will, in the future, insist that the separate limitations be observed and that national party committees and authorized candidate committees be responsible for making expenditures within their own respective spending limitations.

Conclusion

The Commission's decision regarding the \$1,138,891.24 results in no repayment obligation on the part of the Reagan Bush Committee.

B. Investment of Public Funds

Section 9004.5 of Title 11 of the Code of Federal Regulations states, in part, that investment of public funds is permissible, provided that an amount equal to all net income derived from such investments, less Federal, State and local taxes paid on such income, shall be repaid to the Secretary.

Further, 11 C.F.R. 9007.2(a)(6) states that the Commission shall notify the candidates of a political party that a repayment of money to the Fund will be required in an amount equal to any income received as a result of investment or other use of public funds pursuant to 11 C.F.R. 9004.5, less any Federal, State or local taxes paid on such income.

The Audit staff's analysis of activities through March 18, 1981, revealed that the Reagan Bush Committee received \$465,040.86 in interest income from the investment of public funds. The Audit staff has determined that the interest income is subject to \$213,918.86 in Federal income taxes, and an unknown amount of State and local income taxes. The interest income and associated Federal income taxes were calculated through March 18, 1981. Therefore, these figures are subject to an adjustment based upon updated information regarding interest income and related taxes.

The Treasurer stated that the account will be closed on or about August 1, 1981, and the net income (after taxes) will be paid to the U. S. Treasury at that time.

On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim audit report that, absent a showing to the contrary, the value of interest income less applicable taxes (approximately \$251,122) be repaid in full to the U.S. Treasury within 30 days of receipt of the report.

The RBC has not provided any information concerning its liability for State and local income taxes, nor has the RBC made a repayment.

Recommendation

The Audit staff recommends that within 30 days of receipt of this report the RBC submit documentation to the Commission's Audit Division concerning any interest earned since March 18, 1981 as well as documentation supporting Federal, State and local taxes applicable to all interest income earned. Further, it is recommended that the RBC repay to the U.S. Treasury, within the 30 day period, \$251,122 plus an amount equal to any income received as a result of investment or other use of public funds pursuant to 11 C.F.R. 9004.5 since March 18, 1981 (less any Federal, State or local taxes paid on such income). During this 30 day period, the RBC may submit legal and factual materials to demonstrate that the repayment is not required (see 11 C.F.R. 9007.2(c)).

C. Determination of Net Outstanding Qualified Campaign Expenses

On March 26, 1981, the Reagan Bush Committee presented an updated Statement of Net Outstanding Qualified Campaign Expenses ("NOQCE") to the Audit staff depicting its financial position as of December 4, 1980. The Audit staff reviewed the books and records to verify the totals on the NOQCE. The following represents the financial position as determined by the Reagan Bush Committee and an audited version prepared by the Audit staff.

Reagan Bush Committee

Analysis of Net Outstanding Qualified Campaign Expenditures
As of December 4, 1980

	<u>Committee</u>	<u>Audit</u>
<u>Assets</u>		
Cash on Hand at 12/04/80	\$ 975,909.07	\$ 978,362.34
Accounts Receivable	2,650,703.44	1,664,034.93
Interest Receivable	23,643.16	23,643.16
Capital Assets	<u>16,378.90</u>	<u>46,617.93</u>
	\$2,666,634.57	\$2,712,658.36
Reimbursements Received Relating to Expenditures Made by the Republican National Committee		(1,138,891.24)
Total Assets	<u>\$2,666,634.57</u>	<u>\$1,573,767.12</u>
<u>Liabilities</u>		
Accounts Payable for Qualified Campaign Expenses	\$2,042,699.25	\$2,073,796.54
Interest Repayable to the U.S. Treasury plus taxes payable	465,041.00	465,040.86
Reimbursement to Compliance Fund	<u>137,883.67*</u>	<u>137,883.67 **</u>
Total Liabilities	<u>2,657,740.25</u>	<u>2,676,721.07</u>
Net Outstanding Qualified Campaign Expenses - Surplus (Deficit)	<u>\$ 8,894.32</u>	*** <u>(\$1,102,953.95)</u>

* Initially, the RBC showed an estimate of \$150,000, however, on March 31, 1981, the Reagan Bush Committee reported a reimbursement to the Compliance Fund totaling \$137,883.67 which the Treasurer believes is an accurate representation of the expenditures made from the Compliance Fund which benefited the Reagan Bush Committee.

** This amount is subject to an upward adjustment.

*** The deficit amount depicted above differs from the amount that the Reagan Bush Committee has apparently exceeded the 2 U.S.C. 441a(b)(1)(B) limitation as depicted on page 22 of this report, primarily because the above analysis does not include an overstatement of reimbursements related to campaign tours paid by RBC.

(1) Cash on Hand - Difference \$2,453.27

The difference represents checks written prior to 12/5/80 and subsequently voided. The RBC has not adjusted (increased) its cash on hand to include these voided checks.

(2) Accounts Receivable - Difference \$13,331.49

The difference represents (a) a \$909.50 overstatement resulting from including two reimbursements (\$15.00 and \$894.50) not related to operating expenditures; (b) a \$2,137.91 overstatement resulting from the RBC's use of an estimated accounts receivable total at 3/26/81. The Audit staff calculated an actual total based upon a review of all available records; and (c) a \$16,378.90 understatement representing the balance owed to the RBC for assets sold prior to 12/4/80. The RBC included the \$16,378.90 in its capital assets total. However, since the assets were sold prior to 12/4/80 the Audit staff has included the amount as an account receivable as of 12/4/80.

(3) Capital Assets - Difference \$30,239.03

As previously stated in paragraph (2), the Reagan Bush Committee sold a portion of its assets prior to 12/4/80 for \$16,378.90. The Audit staff has classified the \$16,378.90 as an account receivable as of 12/4/80. In addition, the Audit staff has classified other assets on hand as of 12/4/80, totaling \$46,617.93, as capital assets. The RBC's NOQCE does not recognize these assets. The Treasurer stated he would review the staff's calculations of the fair market value of these assets. (see Attachment I)

(4) Reimbursements Received Relating to Expenditures Made By the Republican National Committee - Difference \$1,138,891.24

The RBC has not recognized as a contra asset* reimbursements it received relating to expenditures made by the Republican National Committee. The Audit staff's adjustment offsets (reduces) the RBC's assets which are overstated by the amount of reimbursements received relating to expenditures by the RNC. (See Finding II.A.1.)

(5) Accounts Payable - Difference \$31,097.29

The difference represents (a) a \$14,296.50 overstatement resulting from including expenditures for which the checks were later voided and not reissued or reissued and included twice; and (b) a \$45,393.79 understatement resulting from the RBC's use of an estimated accounts payable. The Audit staff calculated an actual total based upon a review of all available records.

* Contra Assets - a credit balance account which offsets (reduces) a particular asset account.

Conclusion

It is the Audit staff's opinion that no unspent U.S. Treasury funds exist. Further, the deficit position noted in the NOQCE Statement prepared by the Audit staff supports its previous finding (II.A.) that the Reagan Bush Committee appears to have exceeded the limitation at 2 U.S.C. 441a(b) (1) (B). Revisions to this deficit figure will be made as additional information becomes available.

D. Matter Referred to the Office of General Counsel

A certain other matter noted during the audit was referred to the Commission's Office of General Counsel for consideration on November 17, 1981.

IV. Repayment to the U.S. Treasury

Finding III.B. Investment of Public Funds \$251,122.00 */ **/

Recommendation

Pursuant to Sections 9007.2(a) (2) and (6) of Title 11 of the Code of Federal Regulations, the amount noted above (\$251,122.00) is repayable to the U.S. Treasury within 30 days of receipt of this report. If the candidate disputes the Commission's determination that a repayment is required, he may submit in writing, within 30 days of receipt of this report, legal or factual materials to demonstrate that a repayment is not required.

* This amount is subject to an upward adjustment based upon any interest earned subsequent to March 26, 1981.

** As previously noted, a certain other matter has been referred to the Commission's Office of General Counsel. Upon resolution of this matter, a further repayment may be required.

Schedule of Capital Assets on Hand at 12/4/80

<u>Description</u>	<u>Quantity</u>	<u>Total Price</u>	<u>Less Depreciation</u>	<u>Value of Assets on Hand 12/4/80</u>
Xerox machine (model 2400)	1	18,156.60	4,539.14	13,617.46
Pitney Bowes Copier	1	5,294.70	1,323.68	3,971.02
Autocrat Signature Machine	1	1,550.00	387.50	1,162.50
Motorola Commun. Equip.-CFTR	3	5,900.00	737.49	5,162.51
Pitney Bowes Postage Machine (5600)	2	4,229.40	1,057.36	3,172.04
Motorola equip.-walkie talkies	9	10,962.36	2,740.59	8,221.77
Divetti tes 401 ord processor	1	5,713.40	1,428.34	4,285.06
Pitney Bowes Mail Opener (LA)	1	1,761.72	440.42	1,321.30
Sony Video recording system	1	4,090.00	511.25	3,578.75
JVC 3/4 Video player	1	800.00	100.00	700.00
Mailing Machine (5600R)	1	1,629.16	203.64	1,425.52
Total		<u>60,087.34</u>	<u>13,469.41</u>	<u>46,617.93</u>



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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November 12, 1981

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: B. Allen Clutter *BA*
Staff Director

FROM: Charles N. Steele *CS*
General Counsel

SUBJECT: Comments on the Revised Draft Report of the
Audit Division on the Reagan Bush Committee,
Reagan Bush Compliance Fund and Democrats
for Reagan

The Office of General Counsel has reviewed the above-described report which was prepared by the Audit Division pursuant to Commission instructions at its executive session of October 14, 1981. The purpose of this memorandum is to point out the areas of the report which should either be deleted or amended to more accurately reflect the legal underpinnings of Commission decisions. The major areas are discussed under the numbered paragraphs below.

1. Introduction to Findings and Recommendations

The Office of General Counsel suggests that the above-titled discussion on pages 3 through 6 of the draft report be deleted in its entirety. It is our view that the full blown discussion of the Freedom of Information Act ("FOIA") requests is inappropriate to include in an audit report and does not substantively add to the audit findings which ensue. Likewise, we feel that any discussion relative to the litigation should not be included. This Office suggests that any necessary reference to "FOIA", e.g. in describing the Committee's response to an interim finding, can be accomplished by briefly explaining its relationship to a particular point. This will serve to limit the discussion of FOIA as it relates to a particular finding and will make the entire report more succinct.

2. Monies Received by the Reagan Bush Committee Relating to Expenditures Made by the Republican National Committee

The draft report's Finding II-A - "Limitation on Expenditures" spans 30 pages, approximately 9 of which are devoted to the above-described issue. Having reviewed the discussion of the finding as a whole, and the lengthy discussion on the Reagan Bush Committee's ("Committee", "Reagan Bush", "RBC") receipt of the RNC's reimbursements, this Office suggests that the report be restructured. As presently structured, the complicated issue involving the RNC reimbursements is lost within the larger issue of excessive expenditures. In order to highlight and explain the RNC reimbursements issue, it is our view that it be set forth as a separate finding. The excessive expenditure issue should be thereafter amended accordingly.

At this point, a recap of this issue might be helpful. The major statutory and regulatory bases for the finding are 2 U.S.C. §§ 441a(b)(1)(B) and 441a(d)(1) and (2), and 11 C.F.R. § 9004.6(a) and (b).

Section 441a(b)(1)(B) of Title 2 of the United States Code states, in part, that no candidate for the Office of President of the United States who is eligible under Section 9003 of Title 26 (relating to condition for eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of \$20,000,000 (as adjusted for the change in the consumer price index since 1974), in the case of a campaign for election to such office (also see 2 U.S.C. § 441a(c)). The limitation relating to operating expenditures for the 1980 general election is \$29,440,000.

Section 441a(d)(1) and (2) of Title 2 of the United States Code permits the national committee of a political party to make expenditures in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party not exceeding 2 cents multiplied by the voting age population of the United States as certified by the Secretary of Commerce (also see 2 U.S.C. § 441a(e)).

Section 9004.6(a) and (b) permits an authorized committee of a publicly-funded candidate to receive reimbursements for expenses for transportation and related ground services made available to the media, Secret Service and other staff authorized by law or required by national security to travel with a candidate.

The audit staff analyzed the campaign tours of the Presidential and Vice-Presidential candidates for which the Reagan Bush Committee sought reimbursement from the news media, Secret Service and Reagan

Bush Compliance Fund. Based on a review of Committee records, and disclosure reports filed by the Republican National Committee, the Audit staff has reported that the RNC made seven expenditures totalling \$1,633,293.89 in connection with the campaign tours; the RNC applied this amount to its expenditure limit under 2 U.S.C. § 441a(d)(2). 1/ These RNC expenditures were made directly to the vendors and were in addition to the campaign tour expenditures made by the Reagan Bush Committee itself. Without distinguishing between those amounts paid by the Reagan Bush Committee and those paid by the RNC, the Reagan Bush Committee billed the news media, Secret Service and its own compliance fund ("Compliance Fund") for their respective shares of the total campaign tour costs (transportation and related services).

As a result of these billings, the Committee obtained payments from the news media, Secret Service and Compliance Fund in the amount of \$2,281,149.00. The Audit staff determined that \$1,138,891.24 of the total amount of such payments received by the Reagan Bush Committee was based on the above-described expenditures made by the RNC. 2/ These receipts were retained and reported on FEC Form 3p, Schedule A-P, Line 21. 3/ As a result, the RBC's reported expenditures subject to the limitation of 2 U.S.C. § 441a(b)(1)(B) were offset (reduced) by \$1,138,891.24.

1/ The RNC's limitation in 1980 was \$4,523,789.27. It should be noted that although there are several references in this report to certain financial activities of the RNC, the scope of the audit work performed was limited to tests of the financial records of the Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan. Since the Audit Division did not perform an audit of the RNC, it has expressed no opinion as to the accuracy or completeness of the financial information disclosed by the RNC in its reports of receipts and expenditures filed with the Commission. Unless otherwise stated, the figures relating to the RNC contained in this report were taken from the RNC disclosure reports on file with the Commission.

2/ According to the Audit Division, this total includes \$8,733.07 in reimbursements which were billed but not collected as of 2/24/81. The Audit Division has also stated that its review of reported activity subsequent to 2/24/81 indicates that an amount in excess of \$8,733.07 was reported as being received by RBC, a portion of which may be associated with the 2/24/81 amount calculated by the Audit staff.

3/ After completion of the audit fieldwork, the Committee filed an amendment showing a different treatment to a portion of these monies. This is discussed at pages 7 and 8.

The Audit staff has expressed its opinion that the Reagan Bush Committee improperly retained the above-described payments, since the expenditures on which they were based had been made by the RNC and not Reagan Bush. In effect, the Audit Division's position is that the Reagan Bush Committee was "reimbursed" for amounts it had not expended. The Audit staff has also stated that such payments should not have been classified and reported by Reagan Bush as refunds or rebates, and thereby applied as an "offset" to the original expense, since the original expense was the RNC's. According to this reasoning, to permit such an artificial "offset" would have the effect of increasing the expenditure limitations of the publicly-financed candidates under 2 U.S.C. § 441a(b)(1)(B) by the amount of the "offset".

During the field work and at the exit conference of March 27, 1981, the Audit staff informed Committee officials of their opinion that the Committee was not entitled to payments based on RNC expenditures and that these payments could not reduce Committee operating expenditures. On June 16, 1981, the Commission approved the Audit staff's recommendation contained in the interim audit report that the Reagan Bush Committee be afforded 30 days from receipt of the interim report; to explain the circumstances surrounding its receipt of the \$1,138,891.24 in reimbursements received related to expenditures made by the Republican National Committee; and to demonstrate that the receipt and reporting of these amounts are consistent with the requirements of the Act and Chapter 95 of the Internal Revenue Code (26 U.S.C. Sections 9001 - 9012). Further recommendations were to be made after the Reagan Bush Committee had had an opportunity to respond within the 30 day period.

In its response to the Commission-approved interim audit report, the Committee did not dispute that it had obtained payments from the news media, Secret Service and Compliance Fund based upon tour expenditures of the RNC. The Committee stated that the \$1,138,891.24 represented "a proper offset of expenditures incurred by the RBC and RNC in furtherance of Ronald Reagan's candidacy in conformity with an agency relationship that existed between the RBC and RNC." Briefly stated, the Committee has claimed that: 1) it was acting as the RNC's agent in managing certain of the RNC's funds; 2) in its capacity as agent, the Committee obtained reimbursements due the RNC in connection with campaign tours; and 3) it expended, as RNC's agent, for purposes of 2 U.S.C. § 441a(d), an amount of money corresponding to the amount obtained in behalf of the RNC in connection with these same campaign tours.

The Committee did not point to a specific agency agreement, but indicated that the "course of dealing" between Reagan Bush and the RNC demonstrated the existence of an agency relationship whereby the Reagan Bush Committee managed funds for the account of the

Memorandum to Robert J. Costa
Page Five

RNC. The response also cited as authority for such an agency relationship Section 110.7(a)(4) of Title 11 of the Code of Federal Regulations which states that the national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees.

Finally, the Committee presented an analysis of these transactions with reference to Generally Accepted Accounting Principles (GAAP) which included the concept of offsetting assets against liabilities and the concept of proper financial presentation for entities under common, direct, or indirect control. The RBC indicated that given the agency relationship, the GAAP concept of offsetting suggests that the \$1,138,891.24 in reimbursements received by the RBC should be recorded as a liability to the RNC which could be appropriately and preferably offset against other costs incurred by the RBC for the RNC. Further, the RBC indicated that there is substantial support in the GAAP concept of proper financial presentation for entities under common, direct or indirect control to suggest the more meaningful presentation of the financial results of the Reagan Bush Presidential Election Campaign would be to combine the activities of the RBC and the RNC's Presidential election Fund, based upon the common control through the agency relationship. The Committee's GAAP analysis is, of course, dependent upon the existence of common control and its permissibility under applicable law.

Were the Commission to sanction the type of agency relationship described by the Committee, the consequences would include the following:

1) The separate expenditure limitations for party committees under 2 U.S.C. § 441a(d)(1) and (2) and publicly-financed candidate committees under 2 U.S.C. § 441a(b)(1)(B) would be effectively eliminated in favor of a combined limit; and

2) The limited right of a party committee under 2 U.S.C. § 441a(d)(1) and (2) to make certain expenditures in connection with the general election campaign of that party's nominee for President would be expanded to permit the actual transfer of party committee funds to the publicly-financed candidate committee, effectively vitiating the distinction between expenditure and contribution; and

3) The limitation of 2 U.S.C. § 441a(b)(1)(B) would effectively be increased, since the committees of publicly-financed candidates would be permitted to receive and expend private funds in the form of reimbursements, refunds and rebates due another entity.

In addition, there would be changes necessary to the disclosure provisions to correspond to the above-noted results.

The Commission has always considered that the two limits, the party's 441a(d) limit for expenditures from private funds and the candidates 441a(b)(1)(B) limit on expenditures to the amount of the public financing grant, must be maintained and administered separately. Despite the fact that the RNC and Reagan Bush Committee shared the goal of electing a Republican President in 1980, the Federal Election Campaign Act and Commission Regulations treat them as separate and distinct legal entities.

It should also be noted that while section 441a(d) permits the party to coordinate its expenditures with the candidate, without this being deemed a contribution, the funds must be party funds for whose expenditures the party is responsible; such funds cannot be raised by the publicly-financed candidate nor be given over to the candidate's control.

Since the Act, its legislative history and Commission Regulations recognize a distinction between an actual transfer of money to a candidate's committee by a party committee and an expenditure under section 441a(d), a publicly-financed candidate's committee cannot be the agent of the party committee for obtaining and using private funds despite the Committee's permissive reading of 11 C.F.R. § 110.7(a)(c) which allows a party committee to designate an agent. The Reagan Bush Committee, therefore, should not have obtained monies in the form of reimbursements, rebates and refunds which were due the RNC. While the Commission has permitted the use of section 441a(d) monies to pay for expenditures incurred by the candidate if the party so chooses, the effect of allowing reimbursement to the candidate for expenditures made by the party is to mingle private money with public money in a way not contemplated by the public financing system.

If a publicly-financed candidate committee were permitted to be the agent of a party committee with respect to the latter's expenditures under Section 441a(d), the expenditure limits of both committees in the general election would effectively be combined. While it appears that the Reagan Bush Committee mistakenly viewed the transactions in this way, the committees did not exceed this "combined" limit by virtue of these transactions; had the RNC received the reimbursements in question, such amounts could have been deducted from its expenditures under section 441a(d), thus allowing the RNC to expend an additional \$1,138,891.24 under this section. ^{4/} The Reagan Bush Committee, in effect, expended

^{4/} This assumes that 11 C.F.R. § 9004.6 permits the party committee to receive reimbursements from the news media and Secret Service for transportation expenses which the party committee had made. It should be noted that the regulation speaks only in terms of an "authorized committee" being permitted to receive such reimbursements.

the RNC's \$1,138,891.24. The total expenditures of both committees were not increased by these transactions.

Amendments to Year-End Reports

One of the more significant aspects of the Reagan Bush Committee's receipt and expenditures of RNC funds concerns the current lack of clarity on the public record. This problem has been further complicated by amendments by both committees to reports which they had previously filed with the Commission.

During the fieldwork and at the exit conference of March 27, 1981, the Audit staff informed Committee officials that, in the Audit staff's opinion, the Committee was not entitled to reimbursements received based on RNC expenditures and that these reimbursements could not be used to offset Committee operating expenditures. While the Audit staff indicated that the monies received relating to RNC expenditures approximated \$750,000, Committee officials were also informed that this figure was preliminary and may be substantially higher once the calculations were made final. Prior to the Audit staff's finalization which resulted in the figure of \$1,138,891.24, the Reagan Bush Committee filed the an amendment apparently based on the conversations during the audit fieldwork and at the exit conference.

On April 1, 1981, the Reagan Bush Committee amended its 1980 Year-End report to delete \$748,163.16 in previously reported refunds (Line 21, FEC Form 3P) and attributed these transactions to the Republican National Committee. This amendment attempted to show a downward adjustment to the Reagan Bush Committee's reported reimbursements and operating expenditures and a corresponding reduction to the Republican National Committee's previously reported expenditures on behalf of the candidate, thereby establishing enough room within the latter's 2 U.S.C. § 441a(d)(2) limitation of \$4,637,653.76 to accommodate the additional \$748,163.16 in expenditures made by the Reagan Bush Committee. On July 21, 1981, the RNC amended its 1980 Year-End report to recognize the above noted receipts and expenditures. Further, the RNC's disclosure reports filed as of that date indicated that it had made expenditures pursuant to 2 U.S.C. § 441a(d)(2) on behalf of the candidate totalling \$4,523,789.27 toward its limitation of \$4,637,653.76. In its draft, the Audit Division depicted the amendment as follows:

Reported expenditures made by the RNC pursuant to 2 U.S.C. § 441a(d)(2) through 12/31/80	\$4,523,789.27
Less: Amount of reimbursements received by Reagan Bush attributed to the RNC	(748,163.16)
Subtotal	\$3,775,626.11

Add: Expenditures made by the Reagan Bush Committee and attributed "after the fact" to the RNC 748,163.16

Expenditures subject to 2 U.S.C. 441a (d)(2) limit as adjusted by amendment \$4,523,789.27

As pointed out in the interim report, the aforementioned \$748,163.16 amendment did not involve a transfer of monies between Reagan Bush and the RNC, but rather, was merely a "paper" attribution of "the amount of tour reimbursements allocated to the RNC" and selected expenditures paid by Reagan Bush and later attributed via Reagan Bush disclosure reports to the RNC.

In effect, the amendment of both committees accepted the interim finding of the Audit Division that the Reagan Bush Committee could not be reimbursed for expenditures made by the RNC. The corresponding amendments were apparently designed to show that Reagan Bush was acting in behalf of the RNC; although the public record is by no means clear on this point, this reading of the amendments is consistent with the agency theory advanced by Reagan Bush in response to the interim report of the Audit Division. The discrepancy in the amount (the amendment's \$748,163.16 versus the audited figure of \$1,138,891.24) appears to have resulted from the Committee's use of the lower figure verbally presented to it by the Audit staff at the aforementioned exit conference, and the Committee's failure to update that figure after receiving the written calculation of \$1,138,891.24.

The interim report indicated that the Audit staff did not believe that the after-the-fact attribution of expenditures (actually made and originally reported by the Reagan Bush Committee) was permissible, and advised the Committee to make an appropriate amendment to the public record. To date the Committee has not filed the recommended amendment to its reports.

If the issue is restructured as a separate finding, as recommended by this Office, the finding should also indicate that the Commission has decided not to take any action on the matter other than recommending that the reports be amended. A brief recasting of the discussion on page 39 can be used for this, although the reference to the Commission vote should be deleted. In addition, only those portions of the recommendation on pages 35 and 36 should be included as the recommendation for this finding. Specifically, only paragraphs 2 and 3, which recommend an acceptable method of reporting, should be included.

Finally, to be internally consistent, the remainder of the report should be amended in a manner consistent with the treatment of the RBC's receipt of RNC monies, as recommended herein.

3. Reimbursement Received Related to Campaign Tours Paid
by the RNC

This issue is discussed in subsection #2 of the "Limitation On Expenditures" finding beginning on page 17. According to the draft report, Committee records indicated that the Committee "realized reimbursements" from the news media, Secret Service and Compliance Fund in excess of costs in the amount of \$15,238.53. The interim report had indicated that the figure was \$50,588.48. It is the Audit Division's recommendation that the newly-calculated amount be added to Committee operating expenditures as an adjustment to reported expenditures. This would have the effect, along with the other adjustments noted on page 7 of the draft report, of putting the Committee over the expenditure limit of 2 U.S.C. § 441a(b)(1)(B). The reasoning behind this adjustment is apparently that the Committee is not entitled to offset "reimbursements" which are in excess of the actual costs. In this respect, the reasoning is similar to the previous issue concerning the RNC's receipt of RNC funds in connection with campaign tours.

11 C.F.R. § 9006.4(b) provides in part that if reimbursement for ground services and facilities is received by a committee, the amount of such reimbursement for each individual shall not exceed either the individual's pro rata share of the actual cost of the services and facilities made available; or a reasonable estimate of the individual's pro rata share of the cost of the services and facilities made available. If it is determined that reimbursements related to a trip have exceeded by 10% or more the actual cost of the services and facilities made available, such excessive amount shall be deemed income to the committee and shall be repaid to the Secretary.

It is the view of this Office that the 10% provision permits a committee to make a reasonable estimate of costs for transportation and services made available to the news media and Secret Service; only if the reimbursements from these sources exceed by 10% or more the actual costs shall the excessive amount be deemed income which is repayable to the U.S. Treasury. It would be anomalous to seek a repayment on the basis that the excessive amount less than 10% helped put the committee over the limit. Since the Reagan Bush Committee did not receive reimbursements 10% or more in excess of the actual costs, there should be no adverse effect on the Committee.

Accordingly, the Office of General Counsel recommends that there should be no upward adjustment on the basis of such reimbursements. Since the issue was raised in the interim report, however, the Audit Division might want to include a truncated version of its present discussion in line with these comments in the report to be presented to the Commission.

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Page Ten

The report should be changed in appropriate places to be consistent with our recommendation on this issue.

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Page Thirteen

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

31 OCT 13 P 4: 38

Submitted Late

October 13, 1981

EXECUTIVE SESSION

MEMORANDUM TO: Marjorie W. Emmons

OCT 14 1981

FROM: Phyllis A. Kayson *PAK*

SUBJECT: Reagan Bush Cmte. Audit - Commission
Directive of September 16, 1981

Please circulate the attached Memo to the Commission
for the agenda of October 14, 1981. This document is
late due to the complexity of the matters. Thank you.

Attachment

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OCT 13 P 4: 38

Submitted Late

October 13, 1981

EXECUTIVE SESSION

OCT 14 1981

MEMORANDUM

TO: The Commission

FROM: Charles W. Steele *CWS*
General Counsel

SUBJECT: Reagan Bush Committee Audit - Commission
Directive of September 16, 1981

FACTUAL BACKGROUND

On September 16, 1981, the Commission directed this Office to prepare a legal memorandum in answer to the following question with respect to the Republican National Committee ("RNC") and the Reagan Bush Committee ("REC" or "Reagan Bush"):

Are the RNC and REC considered as a single entity under the Act which may legally (1) incur expenses on one another's behalf, (2) bill, receive and deposit receipts on one another's behalf and (3) ultimately have their respective spending limitations (see 2 U.S.C. § 441a(b)(1)(E) for REC and 2 U.S.C. § 441a(d)(2) for RNC) be viewed as if there were only one combined limit?

The issue involves financial transactions of the RNC and REC with respect to campaign tours. In the Commission's interim audit report, the Audit Division indicated that during the 1980 presidential campaign, the RNC made direct payments of approximately \$1.6 million to United Airlines for campaign tour expenses originally billed to REC. As a result of tour charges to the media,

Congress changed the original Long Act plan to provide that the public funding go directly to the candidate, the 1974 amendments legislated party spending limits precisely so the parties would not be shut out, but could make expenditures of their own, without running afoul of the rule that in-kind (coordinated) expenditures were contributions. The 1980 amendments effectively removed the in-kind contribution prohibitions for state and local party committees, providing that all expenditures for volunteer activities were neither contributions nor expenditures. -1/- Finally, of course, the statute makes clear that the 441a(d) expenditure limit is available even if the ultimate coordination occurs - designation of the national party committee or the principal campaign committee by the candidate.

Against this background, 2/ the ultimate question posed is whether the Act, Commission regulations or prior interpretations give reason to believe that the RBC's "reimbursement" for the expenditures incurred by RNC were improper and illegal. The conclusion that this office reaches is that, even if the statute and regulations properly read bar such transactions, the violation is at best a technical one, resulting in no exceeding of the overall expenditure limits. Even if the Commission agreed that the proper construction of the statute and regulations would be to bar such transactions, as resulting in a contribution because by the reimbursement "dominion and control" over the money passed to RNC to RBC, it would be extremely difficult to pursue the matter as a violation, given the state of the law of the time the transactions occurred. Indeed, given a broad reading of 11 C.F.R. 9004.6, with regard to the specialized question of secret service and media reimbursements, there is arguably no prohibition in the regulations against the reimbursement. In this office's view, in light of the lack of harm to the overall purpose of public financing from this financial transaction, nothing is to be gained by further pursuit of the matter, except perhaps to note in the audit report the reasons why the transaction causes concerns. Certainly a reimbursement is inappropriate as a remedy.

1/ Expanding the Commission's interpretation by (1) rule, that local party committees could spend up to \$1000 (former rule 10.7).

2/ The Commission precedents and how they developed are set forth in Section 2, Historical Background. pp. 5-12.

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Reagan Bush Committee Audit - Commission Directive of
September 16, 1981

110.7.(a) and (6) and 104.3(b)(3)(viii). Under the foregoing provisions the RNC could incur expenses for the Reagan/Bush Committee and pay those expenses under § 441a(d). It could also make payment to defray expenses that were obligations incurred by the Reagan/Bush Committee. The RNC could not incur expenses or make expenditures on behalf of the Reagan/Bush Committee other than those expenditures which would be specifically attributed to the limitations of 2 U.S.C. § 441a(d). The answer to the question leads to the RBC argument that it can be an "agent" under 110.7, which provides that any "agent" can be designated. Commission precedents, as noted, clearly bar the direct transfer of funds by RNC to RBC, so it cannot be consistent with those be a full agent. The agency question, however, seems irrelevant. RNC did not designate RBC or an agent in any event. Moreover, the central question is not one of agency, but whether the RBC can receive the funds in the fashion it did.

(3) The Reagan/Bush Committee and RNC cannot generally receive funds or payments from each other. It is a separate question, however, whether the Reagan/Bush Committee can not obtain reimbursement under the provisions of 11 C.F.R. 9004.6 merely because the the initial expenditures which underlies the reimbursement was made by the RNC under 2 U.S.C. § 441a(d).

(4) With respect to the third part of the question the limits of § 441a(b) and § 441a(d) are separate limits in that they apply to the Reagan/Bush Committee and to RNC as separate political committees (see the initial conclusion.) However, these respective limitations may be utilized -- i.e. expenditures may be made against the limits -- on a closely coordinated and cooperative basis subject only to the condition that the RNC itself must make each expenditure under § 441a(d) and may not make that expenditure by means of transferring funds to accounts under the exclusive control of the Reagan/Bush Committee. The RNC may give as much authority as desired to the Reagan/Bush Committee with respect to the purpose and timing of any § 441a(d) expenditure but it ultimately must retain control over the exercise of that authority and must physically disburse the funds to an entity (vendor) other than the Reagan/Bush Committee.

B. HISTORICAL BACKGROUND - COMMISSION

Commission regulations allow the national committee of a political party to make 441a(d) expenditures through a designated agent. 11 C.F.R. § 110.7(a)(4). Although this section indicates that the national party can designate "any" agent to make such expenditures, there is a question as to whether or not this is meant to include the principal campaign committee of the candidate on whose behalf the 441a(d) expenditures are being made. For a principal campaign committee to make expenditures under 441a(d) in connection

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Two Opinions of Counsel, issued after the decision in Buckley, also address the distinction. Opinion of Counsel 1975-126 states:

An "outright cash contribution" to a candidate's campaign committee, to be used at its discretion, is not an expenditure for the purposes of 18 U.S.C. §608(f). ^{3/} The focal distinction between a contribution and expenditure is one of dominion and control. An outright donation of monies or anything of value, when it is actively and constructively received by a candidate or committee, comes within the full dominion and control of the candidate or committee, and may be applied to any purpose at their discretion. Such an outright donation is a contribution, and is attributable to the limits of 18 U.S.C. §608(b).

In Opinion of Counsel 1976-38, the Commission reasoned:

The §608(f) expenditure may not be a direct donation of money to a candidate. In that situation, the party committee is making a contribution to the candidate since the candidate acquires exclusive use of the money.

Advisory Opinion 1979-9, answered, inter alia, the following question of a subordinate party committee: "May our committee make direct payment on behalf of our 1978 Federal candidates to the creditors of those candidates?" The AO states in part:

Although legislative history is silent as to the applicability of this section to the payment of candidate debts by the party committee, the 1976 Conference Report makes clear that the limited permission in §441a(d) allows political parties to make contributions in kind which would otherwise be covered by the contribution limits in §441a(a). See House Report No. 94-1057, page 59. Hence, the Commission concludes that payments by the committee to candidate creditors are expenditures for purposes of §441a(d) and that your committee may make direct payment to the creditors of the

^{3/} 18 U.S.C. § 608(f) was the forerunner of 2 U.S.C. § 441a(d).

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The Commission's adoption of the current section 9003.4(b) was reflected on page 15 of the Financial Control and Compliance Manual for the General Election which was provided to all general election committees receiving public financing. The pertinent section reads as follows:

It should also be noted that the national committee of a political party may make certain expenditures in connection with the general election campaign of a Presidential candidate... The national committee cannot make a loan to the candidate for subsequent reimbursement from the candidate or his or her committee. However, the national committee would be allowed to make a refundable vendor deposit on behalf of the candidate's campaign in accordance with 2 U.S.C. 441a(d), for subsequent reimbursement to the national committee by the vendor.

The legislative history of 441a(d) is not incontrovertible with respect to the expenditure-contribution distinction. With the plain meaning of the provision itself, however, it forms the underlying basis for the positions taken by the Commission in the Advisory Opinions, MURs and regulations noted above. Moreover, it appears that the justification for this distinction is even more germane in the context of a publicly-funded presidential campaign than in some of the above-described instances, since the early history of the provision contemplated public financing of all campaigns for Federal office. See, e.g., S.3044, 93d Cong. 2d Session. 4/ The Report of the Senate Committee on Rules and Administration on S.3044 appears to have acknowledged this distinction by the following statements contained in the report:

The Committee recognizes that pooling resources from many small contributors is a legitimate function and an integral part of party politics. Accordingly, the bill includes a special provision for private funding by political parties. In a general election, candidates may not accept direct contributions if they accept the full level of public assistance. But they may receive substantial private funding, in addition to the public grant, in the form of expenditures by state and national party committees. (Emphasis added)

4/ The initial version of the bill, containing the comprehensive public financing scheme for all Federal elections, was the subject of several days of debate in the Senate.

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(Emphasis added) Federal Election Campaign Act Amendments of 1976: Conference Report to Accompany S.3065, S. Rep. No. 94-1057, 94th Cong., 2d Sess. 59 (1976).

The report, it should be noted, described 441a(d) expenditures as contributions in-kind. This description is, of course, accurate in the sense that a contribution in-kind does not involve a direct payment of money to a candidate committee. A 441a(d) expenditure is, however, a special type of contribution in-kind as recognized by the Commission in 11 C.F.R. § 106.1(b).

It is the conclusion of this Office that Congressional intent, as evidenced in the language of 2 U.S.C. § 441a(d) and in the legislative history of this statutory provision, was to prohibit direct transfers of money to candidate committees by party committees pursuant to 441a(d). As described above, the Commission has consistently taken the position that this understanding reflects the Congressional intent underlying 441a(d). It is the view of this Office, therefore, that 11 C.F.R. § 110.7(a)(4), despite the permissive language contained therein, does not permit a national party committee to designate the committee of that party's candidate as its agent for 441a(d) purposes. This conclusion is based on the fact that any such agency would involve the transfer of party Committee funds to a candidate committee, which would in turn use these funds to make expenditures. But for the interposition of a principal-agent relationship between the national party committee and candidate committee, the transaction would be largely indistinguishable from a direct cash contribution. This would vitiate the prohibition on direct contributions of money to candidate committees under 441a(d).

The Commission has specifically addressed the agency issue in a number of MURs. In MURs 780, 820, and 1234 5/, the Commission took the position that a state party committee did not violate 2 U.S.C. § 441a(d) by designating a national party committee as agent for purposes of the expenditure limits under this provision. One of the chief underpinnings of the Commission's position was that the Act allows for unlimited transfers of money between and among party committees. 2 U.S.C. § 441a(a)(4). It has been the Commission's position that to prohibit such an agency relationship between party committees would elevate form over substance. See e.c., MUR 820, First General Counsel's Report, page 3. Since there

5/ The Commission's dismissal of the complaint in this MUR lead to a suit by the complainant under 2 U.S.C. § 437g(a)(8). This case, Federal Election Commission v. Democratic Senatorial Campaign-Committee, was argued before the Supreme Court of the United States on October 6, 1981.

CONCLUSIONS

- (1) RBC and RNC are separate entities.
- (2) RNC can incur expenditures on behalf of RBC, up to the 441a(d) limits.
- (3) Nothing in the Commission's regulations explicitly bars the RBC from incurring expenditures that are defrayed by the RNC.
- (4) RBC and RNC cannot generally receive funds or payments from each other.
- (5) Nothing in the Commission regulations explicitly bars the RBC from receiving the specific reimbursements in question.
- (6) Commission regulation 11 C.F.R. § 9004.6 does not explicitly require that reimbursements such as those in question go only to the committee incurring them rather than, as here, to the candidate's committee.
- (7) The Commission should direct the redrafting of the audit report in accordance with these conclusions.
- (8) The Commission should take no further action.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

HAND DELIVERED

December 11, 1981

Edward L. Weidenfeld, Esquire
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

During our telephone conversation of approximately 9:45 this morning, you advised that you did not object to our placing on the public record those documents relating to the audit of the Reagan-Bush Committee which were listed in my letter to you of yesterday. You suggested, however, that the responses which you had submitted to the Commission's Interim Audit Report also should be made available to the public.

Those responses, among other records, were placed on the public record today. A complete listing of the additional documents which were made available today is as follows:

1. Letter of Agreement dtd 18 Jul 80 from R. Reagan and G. Bush to Commission.
2. Memo, dtd 18 Jul 80, R. Costa to Commission re: Receipt of above letter.
3. Certification of Commission action, dtd 24 Jul 80, re: Entitlement to Campaign Funds.
4. Ltrs, dtd 24 Jul 80, FEC to Secretary of Treasury, certifying eligibility to Funds; to R. Reagan and to G. Bush re Certification.
5. Ltr, dtd 4 Dec 80, R. Costa to B. Buchanan, re: Scheduling of RBC Audit.
6. Ltr, dtd 15 Jan 81, B. Buchanan to C. Hanshaw, requesting delay in start of audit.
7. Memo, dtd 16 Jan 81, R. Costa to Commission, re: Request for delay.
8. Memo, dtd 21 Jan 81, M. Emmons to R. Costa, re: Approval of delay.

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9. Ltr, dtd 2 Jul 81, E. Weidenfeld to C. Hanshaw,
re: Delegation of authority to M. Duignan.
10. FOIA request, dtd 6 Jul 81, E. Weidenfeld to FEC.
11. Ltr, dtd 6 Jul 81, E. Weidenfeld to
J. McGarry, re: RBC Request for extension
of response period, Interim Audit Report.
12. Memo, dtd 8 Jul 81, R. Costa to Commission,
re: Request for extension.
13. Memo, dtd 15 Jul 81, R. Costa to Commission,
re: Proposed ltr to RBC.
14. Certification of Commission action, dtd 16 Jul
81, re: Denial of RBC request for extension.
15. Ltr, dtd 17 Jul 81, R. Costa to E. Weidenfeld,
re: Denial of request.
16. Ltr, dtd 17 Jul 81, F. Eiland to E. Weidenfeld,
re: Response to 6 Jul 81 FOIA request.
17. FOIA request, dtd 17 Jul 81, E. Weidenfeld to FEC.
18. FOIA request, dtd 20 Jul 81, E. Weidenfeld to FEC.
19. Ltr, dtd 20 Jul 81, E. Weidenfeld to R. Costa,
re: Response under protest to Interim Audit Report.
20. Ltr, dtd 20 Jul 81, E. Weidenfeld to J. McGarry,
re: Request for stay in audit proceedings, or
for opportunity to file supplemental response.
21. FOIA request, dtd 29 Jul 81, E. Weidenfeld to FEC.
22. Certification of Commission action, dtd 29 Jul 81,
re: Grant of additional period within which to
file response to Interim Audit Report.
23. Ltr, dtd 30 Jul 81, F. Eiland to E. Weidenfeld,
re: FOIA requests of 17, 20, 29 Jul 81.
24. FOIA request, dtd 30 Jul 81, E. Weidenfeld to FEC.
25. Ltr, dtd 4 Aug 81, J. McGarry to E. Weidenfeld,
re: Explanation of FEC audit process.

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Ltr to E.L. Weidenfeld
December 11, 1981
page 3

26. Ltr, dtd 11 Aug 81, E. Weidenfeld to R. Costa,
re: Supplemental response to Interim Audit Report.
27. Ltr, dtd 12 Aug 81, F. Eiland to E. Weidenfeld,
re: Response to 30 Jul 81 FOIA request.
28. Ltr, dtd 27 Aug 81, F. Eiland to E. Weidenfeld,
re: Partial response to 17, 20, 29 Jul 81
FOIA requests.
29. Ltr, dtd 1 Sep 81, E. Weidenfeld to F. Eiland,
re: FOIA requests.
30. Ltr, dtd 17 Sep 81, F. Eiland to E. Weidenfeld,
re: Supplemental response to 17, 20, 29 Jul 81
FOIA requests.
31. Ltr, dtd 20 Oct 81, F. Eiland to E. Weidenfeld,
re: Supplemental response to 17, 20, 29 Jul 81
FOIA requests.

I understand that a member of your firm has secured copies of the above documents from our Press Office. You will note that all references to issues which are being reviewed by the Commission under the provisions of 2 U.S.C §437g have been deleted from the materials.

We will continue to keep you apprised as to the additional documents which will be placed on the public record.

Sincerely,



Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 20, 1981

Edward L. Weidenfeld
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This is in connection with my letter of September 17, 1981. In that letter, I indicated that we were about to begin a records search in an attempt to identify all documents in Index Item 119 1/ which would be responsive to your Freedom of Information requests, dated July 17, 20 and 29, 1981.

To date, we have identified and are forwarding the following documents:

1. Memo from William C. Oldaker to Commission, dated January 25, 1978, subject: Payment for legal services by President Ford Committee - General Election Campaign, 2 pp.
2. Memo from William C. Oldaker to Commission, dated October 28, 1977, subject: Audit Report - President Ford Committee General Election, 2 pp.
3. Report of the Audit Division on the President Ford Committee (General Election Campaign), 6 pp.
4. Memorandum from William C. Oldaker to Bob Costa, dated August 16, 1978, subject: Interim Audit Report for the 1976 Democratic Presidential Campaign Committee, Inc. - Analysis by Office of the General Counsel, 9 pp.
5. Memorandum from Bob Costa to William C. Oldaker, dated June 13, 1978, subject: Interim Audit Report - 1976 Democratic Presidential Committee, Inc., with attachments, 35 pp.

1/ See also my letter of August 27, 1981.

6. Memorandum from Charles N. Steele to Commission, dated August 15, 1980, subject: Repayment of Public Funds by the 1976 Democratic Presidential Committee, Inc., with Certification of Commission action, dated August 20, 1980, re: Repayment by 1976 Democratic Presidential Committee, Inc., 3 pp.
7. Memo from William C. Oldaker to Commission, dated August 30, 1979, subject: Request by 1976 Democratic Presidential Campaign Committee for Extension of Time, with attachment dated August 27, 1979, and Certification of Commission action, dated September 6, 1979, 4 pp.
8. Memo from Bob Costa to Bill Oldaker, dated December 1, 1978, subject: Final Audit Report - 1976 Democratic Presidential Campaign Committee, Inc., with attachments, 71 pp.

I anticipate that we will have completed our review of the records contained in Item 119, and will have forwarded all pertinent records to you by Friday, October 23, 1981. At that time, we will advise you of the applicable search and reproduction charge.

Sincerely,

Sharon L. Snyder
Fred S. Eiland
FOIA Officer

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 17, 1981

Edward L. Weidenfeld, Esquire
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This is in response to your September 1, 1981, letter, which concerned my reply to your July 17, 20 and 29 Freedom of Information Act requests (the "second", "third" and "fourth" requests, respectively). In addition, I will offer comment as to my July 17 response to your July 6 FOIA request (the "first" request).

You indicated in your letter that it was your understanding that the materials provided on August 27 did not constitute a complete response to the second, third and fourth requests, but that this office would continue to search for and process additional materials. In this regard, we have searched our files and have identified the following additional documents which we hereby are forwarding: 1/

126. Spread sheet for Analysis of Reported Totals and Estimation of Item Counts* 2 pp.

127. Letter, 10 Dec 79, Arthur Anderson and Co. to Robert J. Costa, re: Comments on FEC proposed statistical sampling** 5 pp.

The following additional documents have been identified as possibly being responsive to your request, but I have determined that they are exempt from disclosure under FOIA:

1/ For administrative convenience, I will continue the numbering system utilized in the Index by which I responded to the second, third and fourth requests on August 27, 1981.

128. Memo, 24 Jan 80, Bob Costa to Audit Staff, re: Review of Documentation for Expenditures, Title 26 Presidential Candidates And Their Authorized Committees. (4 pp.) This document details the types of documentation which will be required by the Commission in conducting audits. Knowledge of the threshold amounts involved here would enable a Committee to avoid having certain transactions included as a matter of discussion in the Audit Report, and avoid possible referral to the Office of General Counsel for legal review. See 5 U.S.C. § 552(b)(2) and (7).
129. Memo, 17 Dec 79, Charles N. Steele to Bob Costa, re: Review of Documentation for Expenditures, Title 26, Presidential Candidates and their Authorized Committees - A-636. (2 pp.) See Item 128.
130. Diagram of Accounts, Bank Reconciliation Contributions Trace, Attribute Sampling. (5 pp.) Knowledge of this procedure would enable a Committee to hide or to obscure apparently improper contributions. See 5 U.S.C. § 552(b)(2) and (7).
131. Memo, 10 Dec 79, Charles N. Steele to Bob Costa, re: Materiality Thresholds for Audits. (7 pp.) See discussion at Item 105, below.
- *132. Five pages have been deleted from the packet entitled Spread Sheet for Analysis of Reported Totals and Estimation of Item Counts. These describe the procedures to be utilized in obtaining computer generated random numbers for auditing purposes and set out the pertinent computer program. See 5 U.S.C. § 552(b)(2) and (7).
- **133. Deletions have been made in the Anderson and Co. letter. These describe the sampling processes which have been or may be adopted by the Commission. See 5 U.S.C. § 552(b)(2) and (7).

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You inquired as to whether certain documents which were listed in the index attached to my August 27 letter were available to the public through our Public Records Reading Room. In addition to the records so identified in the Index, all documents designated

Letter to Edward L. Weidendorf
Page 3

as Commission Memos, Commission Directives, and Agenda Documents are available in the Reading Room. Items 89, 90 and 91 also are available there. Information pertaining to Commission Regulations, e.g., background and justification, is available through our Library, which is open to the public.

You asked whether there exist additional and/or more specific indices of the various types of agency records. The "Alphabetical Index of 1975-80 Final Audit Reports which Have Been Released to the Public" and the "Indices of Commission Action Items", which we already have provided, are the only indices in those areas. As far as MUR indices are concerned, I am forwarding a copy of the MUR Status Sheet maintained by the Office of General Counsel. 2/ (423 pp). I trust that you will find the short description of the issues involved in each of the listed MUR's to be helpful. (Item 134).

You noted that the computerized MUR Index which we provided on August 27 appeared to omit several recent MUR's. As I advised you in my letter of that date, the Index was due to be updated on or about September 1, 1981. We have experienced some difficulties in completing that updating process. However, the MUR Status Sheet is current as of September 14, 1981, and reflects all enforcement actions which had been closed as of that date.

You expressed interest in the legislative history of the specified statutory and regulatory provisions, inquiring particularly as to whether the Commission has created an index or guide for the original Federal Election Campaign Act of 1971. The Commission has not prepared such a document. However, indices to the Legislative History of the 1974 and 1976 Amendments to the Act have been prepared by Robert B. Burdette of the Congressional Research Center. Those indices are hereby forwarded to you. (Item 135).

You inquired into the existence of any guides, manuals or instructions prepared for and/or used by the Commission's staff in performing its audits and related functions. Such guidance already has been provided to you by way of Items 92, 93, 95, 97-103, 106 and 107 in our August 27 Index and in the first two numbered items cited in this letter.

You requested that we produce Index items 94, 96, 105, 108, 119 and portions of item 121.

Item 94 is an undated memorandum from Bob Costa (Assistant Staff Director for the Audit Division) to the Audit Staff, whereby he transmitted the Audit Program (120 pp) and the Audit Procedures (24 pp). I have determined that the Audit Program and Procedures

2/ MUR's which have not been closed by the Commission have been deleted from this copy. See 2 U.S.C. § 437g(a)(12).

Letter to Edward L. Weidenfeld
Page 4

are exempt from release under FOIA pursuant to 5 U.S.C. § 552(b)(2) and (7)(E). Specifically, those documents set out in detail the investigative techniques and procedures employed by Commission staff in conducting audits of Presidential committees.

Item 96, a Memorandum dated August 20, 1980, from Bob Costa to the Audit Staff, re: Commission Denial of Extension Requested by Presidential Committees is provided. However, certain pre-decisional, deliberative material has been deleted therefrom. Specifically, the final paragraph on page 1 and the first paragraph on page 2 set forth discussion which occurred at a closed meeting of the Commission upon which no final action was taken. See 5 U.S.C. § 552(b)(5).

Item 105 is a memorandum from Bob Costa to the Audit Division dated January 20, 1980, by which he transmitted the Commission's "Materiality Thresholds for Audits" (24 pp). Item 106 is a Memo, dated September 9, 1980, from Mr. Costa to Charles N. Steele, re: Revisions to Commission - Approved Materiality Thresholds for Audits. These documents set forth and discuss the criteria, or "flags," utilized by the Audit Division for determining whether irregularities will be tolerated or will be made the subject of discussion in an Audit Report and/or referred to the Office of General Counsel for legal review. These documents are exempt from release under 5 U.S.C. § 552(b)(2) and (7). Clearly, knowledge of the criteria applied by the Commission would enable a committee to circumvent the requirements of the public financing law.

Item 119 is a file, approximately five feet deep, filled with 1970-1981 Draft Interim Audit Reports, Referred Draft Final Audit Reports and Comments from the Office of General Counsel. In view of the nature of your request, we will be required to assign a senior staff member to perform a detailed examination of every record in that file in an effort to identify pertinent documents. We have a limited number of people who are capable of performing this search. Of course, this number will be diluted as a result of assignments which must be made to comply with the terms of the additional broad FOIA request which you submitted on September 14, 1981. Nevertheless, we will attempt to respond to your request for pertinent documents in Index Item 119 no later than October 2, 1981.

You requested that we provide documents 13, 14, 21, 23, 24 and 26 within Index Item 121. Those records are attached.

Turning to the response I made to your July 9, 1981 request, I advised you by letter of July 17, 1981 that, by providing the 502 pages of documents which we forwarded that day, it was my understanding that we were providing "all auditor documents which were relevant to the interim audit findings and recommendations referenced in your request."

I indicated that, due to the haste with which you insisted we reply to that request, it was possible that certain documents may have been overlooked and requested that you contact me if such proved to be the case. Since you never have gotten in touch with me, I learned only indirectly that you apparently were dissatisfied with the completeness of the records which we produced. Nevertheless, I requested the Audit Division to search their files anew in an attempt to discover whether anything inadvertently had been omitted from our reply to your first request.

That search has identified the following records:

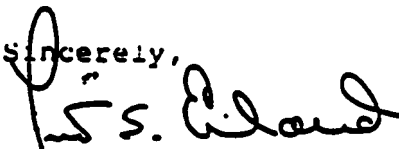
136. Document entitled "RbC-GEC Summary of Bank Reconciliation (pages B1/1, B1/2)." This document is relevant to finding III.A in the Interim Audit Report.
137. Document entitled RbC-GEC Summary of Tours Reviewed (pages C2/1 thru C2/7); workpapers C5/1 thru C5/16; and C/4/17 thru 4/19. (92 pp). These are relevant to finding III.B of the Interim Audit Report.
138. Document entitled "RbC-Compliance Fund Copies of Committee Receipts Supporting Amounts To Be Paid back to LACF by GEC." (10 pp). This document is relevant to Interim Audit Report Finding III.C.
139. Copies of Program and Procedures utilized by Audit Staff during audits of RbC and RbCF. I have determined that these documents are exempt from disclosure for the same reasons set out in denying access to Index Item 94
140. You are advised of the existence of an "Administrative File" which pertains to the RbC and RbCF. This file consists of the several draft copies of the Interim Audit Reports, the handwritten comments of the authors of those drafts and the staff members who reviewed them, and copies of the comments of the Office of General Counsel with respect to the drafts. I have determined that the documents are exempt from release as intra-agency memoranda, 5 U.S.C. § 552(b)(5) particularly as pre-decisional, deliberative matter.

Letter to Edward L. Weidenfeld
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Reproduced documents forwarded to you today total 562 pages and required eight hours of search time. Please forward your check in the amount of \$68.10, made payable to the Federal Election Commission, to me at 1325 K Street, N.W., Washington, D.C. 20463.

You are advised that you may appeal any adverse FOIA determination to the full Commission. Any such appeal must be made in writing, must identify the records in the form in which they initially were requested, and should be forwarded to me at the address noted above. The envelope or other covering and the first page should clearly and conspicuously state "FOIA Appeal." You are encouraged to cite legal or other authority in support of any such appeal.

Sincerely,



Fred S. Wiland
FOIA Officer

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September 1, 1981

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 STEPHEN S. KAMAT
 LAWRENCE S. KAMAT
 JOHN S. KAMAT
 MICHAEL T. KAMAT

EDWARD L. ADAMS
 ALBERT L. ADAMS
 ALBERT L. ADAMS
 ALBERT L. ADAMS

100-301070-33

Mr. Fred Eiland
 FOIA Officer
 Federal Election Commission
 1325 K Street, NW
 Washington, DC 20463

Re: Freedom of Information Act Requests

Dear Mr. Eiland:

This is in response to your letter of August 27, 1981, and to confirm the substance of yesterday's conversation between Mr. Hussey and Mr. Noble of your Office of General Counsel.

It is our understanding that the materials provided to us on August 27 do not constitute all of the agency records responsive to our pending FOIA requests, and that your office is continuing to search for and process the requested materials. Mr. Noble indicated that a portion of such further materials may be available within the week.

With respect to your August 27 "Index of Documents," we inquired as to the availability of such materials in your public reading room. That is, for the listed documents (other than the statutory and regulatory materials, the Annual Reports, and the Campaign Guides), have only those materials so indicated been made available to the public through your public reading room?

WRITER'S DIRECT DIAL NUMBER

(202) 789- 7640

HAND DELIVERED

SEP 1 14:33

GENERAL COUNSEL

Mr. Fred Eiland
Page 2
September 1, 1981

We inquired as to the existence of additional and/or more specific indices of the various types of agency records responsive to our disclosure requests. That is, for example, are there indices which specify in greater detail the subjects and issues involved in the MUR's, Final Audit Reports, and Commission Action Items? Also, is there an index for the most recent MUR's (the index provided on August 27 appears to omit approximately 225 MUR's)?

We inquired as to the existence of responsive materials pertaining to the legislative history of the specified statutory and regulatory provisions. That is, for example, has an index or guide been prepared for the legislative history of the Original Act of 1971?

We inquired as to the existence of any guides, manuals, or instructions prepared for and/or used by the Commission's staff in performing its audits and related functions.

For all of the foregoing matters, Mr. Noble indicated that appropriate inquiries would be made within the Commission and a response provided in the context of your agency's apparently continuing efforts to fulfill the pending disclosure requests.

For the particular materials listed in your August 27 Index, we requested that efforts be made to secure the earliest possible release of items 94, 96, 105, 108, 119, and 121. With respect to item 94, we inquired as to the existence of previous similar documents. With respect to items 119 and 121, we inquired as to the existence of indices sufficiently detailed (i.e., by subject matter and issues) to permit the possible segregation of such materials, and indicated that, based on the present description, we believe that we are most interested in the "Presidential" materials within item 119 and documents 13, 14, 21, 23, 24, and 26 within item 121.

We indicated that, at present, we are not interested in access to the final Advisory Opinions of the Commission (see item 120) or the 1976 Carter Audit (item 116).

In accordance with your letter of August 27, enclosed please find a check payable to the Treasurer of the United States in the amount of \$93.85 for your agency's search and duplication efforts to date.

Mr. Fred Biland
Page 3
September 1, 1981

We look forward to your further response. Should you have any questions, please contact the undersigned.

Sincerely yours,

Edward L. Weidenfeld

ELW:hrs

cc: Lawrence Noble, Esquire
Assistant General Counsel

3007010101



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1981

Edward L. Weidenfeld, Esquire
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This is in response to your Freedom of Information Act requests, dated July 17, 20 and 29, 1981. As I advised you in my letter of July 30, 1981, we expected to begin our search for records responding to those requests during the week of August 3, 1981. Because of the press of other FOIA business then pending, caused in part by our responding to your July 6, 1981, FOIA request on a priority basis and out of turn, we were unable to begin work on the instant requests until that time. 1/

Your requests, individually and collectively, are quite broad. We have made, and will continue to make, every effort to identify those documents which respond, or potentially respond, to those requests. In this regard, I am informed that, in a meeting with attorneys from our Office of General Counsel on August 19, 1981, you were unprepared to limit those requests. Further, in a telephone conversation with Assistant General Counsel Lawrence Noble on the following day, Thomas W. Mussey of your firm similarly declined to limit the scope of your requests.

As was indicated at the August 19 meeting, the Commission has prepared an index of the documents identified as being responsive, or potentially responsive, to your requests. I enclose a copy of that index, which has been cross-referenced to your requests, and an initial package of documents. The package consists of Index Items 1-93; 95; 97-104; 106-107; 109-113; 117-118; 120; and 122-125. We will continue to make every effort to accommodate you by forwarding, as they become available, all additional non-exempt documents until such time as the index has been exhausted. Also, we will continue to search our files for any other documents not identified thus far which may be relevant to your requests.

1/ During the period of July 6 through 30, 1981, you filed five FOIA requests on behalf of Reagan-Bush. Your July 6 and 30 requests were answered on July 17 and August 12, respectively.

Letter to Edward L. Weidenfeld
Page 2

I note that a number of the documents, such as the FEC Record, the FEC Campaign Guides and the FEC Annual Reports, are publications which would be forwarded, free of charge, to anyone who had requested that his name be entered on the FEC mailing list. They also would be provided through our Public Communications, Public Records, or Press Offices. Numerous other documents have been reduced to microfilm and have been available for inspection and copying for several months, if not years, to any member of the public, on a walk-in basis, at the Commission's Public Records reading room, located on the first floor of our building. I am sure you are aware, though, that notwithstanding this public accessibility, we still are required to make the documents available to you under FOIA. See Roeder v. FEC, C.A. 79-0216 (D.D.C., July 8, 1979). Accordingly, our production of records will continue unless and until we receive contrary instructions from you.

I would appreciate your assistance in one area. You demanded, inter alia, that we provide records which, in effect, construe or interpret several statutes and regulations. See July 20 request, demands 2, 3, 4, 6, 7; July 29 request, demands 1, 2, 4. In response, we have provided indices of closed enforcement cases, and of Advisory Opinions issued by the Commission, which involved those statutes and regulations. (See index entries 118 and 120). The cases cited therein are numerous. For instance, 2 U.S.C. § 441a was at issue in 199 closed enforcement cases, and in 56 Advisory Opinions; 2 U.S.C. § 441a(a)(1)(A) was at issue in 76 closed enforcement cases and in 9 Advisory Opinions. (We anticipate that the MUR Index will be updated by September 1, 1981. Thus, it is possible that the number of closed pertinent closed MUR's will be greater than the figures just cited. We will, of course, inform you of any increase in the number of MUR's.)

The files in all these matters are on microfilm and are available for inspection and copying at our Public Records Office; should you care to pursue them there, please inform us, and we will reserve a microfilm reader/copier for your use. 2/ On the other hand, if it is your desire that we reproduce the files for you, we will begin doing so on Monday afternoon, August 31, 1981. Please let us know by that time whether you wish that we not perform the photocopying service for you. At this time, I can give no firm estimate as to the number of pages involved.

Having completed duplication of the closed MUR files and of the Advisory Opinions, we will begin to reproduce the documents dealing with regulations listed at Index Item 121.

2/ For your information, Commission Advisory Opinions also appear in the Federal Election Campaign Financing Guide, a publication of Commerce Clearing House.

INDEX OF DOCUMENTS IN RESPONSE TO
FREEDOM OF INFORMATION REQUESTS SUBMITTED ON BEHALF OF
THE REAGAN BUSH COMMITTEE AND THE REAGAN BUSH COMPLIANCE FUND
ON JULY 17, 20, and 29, 1981

CODES APPEARING ON THE ATTACHED PAGES

- R2 - refers to the July 17, 1981 FOIA Request
R3 - refers to the July 20, 1981 FOIA Request
R4 - refers to the July 29, 1981 FOIA Request

numbers following a hyphen (e.g., R2-1) refer to specific requests made within each of the above-referenced FOIA requests

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INDEX OF DOCUMENTS IN RESPONSE TO
 FREEDOM OF INFORMATION REQUESTS SUBMITTED ON BEHALF OF
 THE REAGAN BUSH COMMITTEE AND THE REAGAN BUSH COMPLIANCE FUND
 ON JULY 17, 20, and 29, 1981

<u>Document</u>	<u>Responds To:</u>
1. Federal Election Campaign Laws Compiled by the Federal Election Commission (Including The "Federal Election Campaign Act Amendments of 1976, "Public Law 94-283), June 1976	R2 R3 R4
2. Federal Election Commission Regulations, April 1977	"
3. Public Law 96-187, January 8, 1980	"
4. Federal Election Campaign Laws Compiled by the Federal Election Commission (Including The "Federal Election Campaign Act of 1979, Pub. L. No. 96-187), January 1980	"
5. Title 11 Code of Federal Regulations, revised as of January 1, 1981.	"
6. Federal Election Commission Annual Report 1975, March 1976.	"
7. Federal Election Commission Annual Report 1976, March 1977.	"
8. Federal Election Commission Annual Report 1977, March 1978.	"
9. Federal Election Commission Annual Report 1978	"
10. Federal Election Commission Annual Report 1979	"
11. Federal Election Commission Annual Report 1980	"
12. Federal Election Commission Campaign Guide, May 1976	"
13. Federal Election Commission Campaign Guide, August 1976	"
14. Federal Election Commission Campaign Guide, September 1976	"

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<u>Document</u>	<u>Responds To:</u>
15. Federal Election Commission Campaign Guide, November 1976	R2 R3 R4
16. Campaign Guide For Congressional Candidates and Their Committees, February 1978	"
17. Campaign Guide For Political Committees, September 1978	"
18. Campaign Guide For Presidential Candidates and Their Committees, October 1979	"
19. Campaign Guide For Congressional Candidates and Committees, August 1980	"
20. Campaign Guide For Party Committees, March 1981	"
21. The Federal Election Commission Record, September 1975, Vol. 1, No. 1	"
22. The Federal Election Commission Record, October 1975 Vol. 1, No. 2	"
23. The Federal Election Commission Record, November 1975 Vol. 1, No. 3	"
24. The Federal Election Commission Record, December 1975, Vol. 1, No. 4	"
25. The Federal Election Commission Record, 1976, Vol. 2, No. 1	"
26. The Federal Election Commission Record, 1976, Vol. 2, No. 2	"
27. The Federal Election Commission Record, March 1976, 1976 First-Quarter Index	"
28. The Federal Election Commission Record, 1976, Vol. 2, No. 4	"
29. The Federal Election Commission Record, 1976, Vol. 2, No. 5	"
30. The Federal Election Commission Record, June 28, 1976, Vol. 2, No. 6	"

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<u>Document</u>	<u>Responds To:</u>
31. The Federal Election Commission Record, August 16, 1976, Vol.2, No. 7	R2 R3 R4
32. The Federal Election Commission Record October 12, 1976, Vol. 2, No. 8	"
33. The Federal Election Commission Record, January 1977, Vol. 3, No. 1	"
34. The Federal Election Commission Record, February 1977, Vol. 3, No. 2	"
35. The Federal Election Commission Record, March 1977, Vol. 3, No. 3	"
36. The Federal Election Commission Record, May 1977, Vol. 3, No. 5	"
37. The Federal Election Commission Record, July 1977, Vol. 3, No. 7	"
38. The Federal Election Commission Record, August 1977, Vol. 3, No. 8	"
39. The Federal Election Commission Record, September 1977, Vol. 3, No. 9	"
40. The Federal Election Commission Record, October 1977, Vol. 3, No. 10	"
41. The Federal Election Commission Record, November 1977, Vol. 3, No. 11	"
42. The Federal Election Commission Record, December 1977, Vol. 3, No. 12	"
43. The Federal Election Commission Record Index 1977, Vol. 3 issued February 1978	"
44. The Federal Election Commission Record, January 1978, Vol. 4, No. 1	"
45. The Federal Election Commission Record, April 1978, Vol. 4, No. 4	"
46. The Federal Election Commission Record, May 1978, Vol. 4, No. 5	"

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47. The Federal Election Commission Record,
June 1978, Vol. 4, No. 6
48. The Federal Election Commission Record,
July 1978, Vol. 4, No. 7
49. The Federal Election Commission Record,
August 1978, Vol. 4, No. 8
50. The Federal Election Commission Record,
October 1978, Vol. 4, No. 10
51. The Federal Election Commission Record,
November 1978, Vol. 4, No. 11
52. The Federal Election Commission Record,
December 1978, Vol. 4, No. 12
53. The Federal Election Commission Record,
Index 1978, Vol. 4 issued March 1979
54. The Federal Election Commission Record,
January 1979, Vol. 5, No. 1
55. The Federal Election Commission Record,
February 1979, Vol. 5, No. 2
56. The Federal Election Commission Record,
March 1979, Vol. 5, No. 3
57. The Federal Election Commission Record,
April 1979, Vol. 5, No. 4
58. The Federal Election Commission Record,
May 1979, Vol. 5, No. 5
69. The Federal Election Commission Record,
June 1979, Vol. 5, No. 6
60. The Federal Election Commission Record,
July 1979, Vol. 5, No. 7
61. The Federal Election Commission Record,
August 1979, Vol. 5, No. 8

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| 62. The Federal Election Commission Record,
September 1979, Vol. 5, No. 9 | R2
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R4 |
| 63. The Federal Election Commission Record,
October 1979, Vol. 5, No. 10 | " |
| 64. The Federal Election Commission Record,
November 1979, Vol. 5, No. 11 | " |
| 65. The Federal Election Commission Record,
December 1979, Vol. 5, No. 12 | " |
| 66. The Federal Election Commission Record
Index 1979, Vol. 5 issued March 1980 | " |
| 67. The Federal Election Commission Record,
January 1980, Vol. 6, No. 1 | " |
| 68. The Federal Election Commission Record,
February 1980, Vol. 6, No. 2 | " |
| 69. The Federal Election Commission Record,
March 1980, Vol. 6, No. 3 | " |
| 70. The Federal Election Commission Record
Supplement, March 1980, Vol. 6 | " |
| 71. The Federal Election Commission Record,
April 1980, Vol. 6, No. 4 | " |
| 72. The Federal Election Commission Record,
May 1980, Vol. 6, No. 5 | " |
| 73. The Federal Election Commission Record,
June 1980, Vol. 6, No. 6 | " |
| 74. The Federal Election Commission Record,
August 1980, Vol. 6, No. 8 | " |
| 75. The Federal Election Commission Record
Supplement, August 1980, Vol. 6 | " |
| 76. The Federal Election Commission Record,
September 1980, Vol. 6, No. 9 | " |
| 77. The Federal Election Commission Record,
October 1980, Vol. 6, No. 10 | " |

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<u>Document</u>	<u>Responds To:</u>
78. The Federal Election Commission Record, November 1980, Vol. 6, No. 11	R2 R3 R4
79. The Federal Election Commission Record, December 1980, Vol. 6, No. 12	"
80. The Federal Election Commission Record Index, Vol. 6 issued May 1981	"
81. The Federal Election Commission Record, January 1981, Vol. 7, No. 1	"
82. The Federal Election Commission Record, February 1981, Vol. 7, No. 2	"
83. The Federal Election Commission Record, March 1981, Vol. 7, No. 3	"
84. The Federal Election Commission Record, April 1981, Vol. 7, No. 4	"
85. The Federal Election Commission Record, May 1981, Vol. 7, No. 5	"
86. The Federal Election Commission Record, June 1981, Vol. 7, No. 6	"
87. The Federal Election Commission Record, July 1981, Vol. 7, No. 7	"
88. The Federal Election Commission Record, August 1981, Vol. 7, No. 8	"
89. Report On Study of Selected Sampling Procedure by Ernst and Whinney, September 1979, 41 pages.	R2-1
90. PPS Sampling Implementation Guide by Ernst and Whinney, September 1979, 56 pages.	R2-1
91. Study of the Federal Election Commission's audit function and the role it plays in our country's political and electoral system, by the Accountants for the Public Interest, September 1979, 37 pages.	R2-1
92. Agenda Document #79-267, Memorandum to Commissioners from Orlando B. Potter re:	R2-1

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<u>Document</u>	<u>Responds To:</u>
92. Revised Proposal for Implementation of (Con't) Recommended Changes in Commission Audit Policies and Procedures -- Part I, October 23, 1979, 11 pages.	R2-2
93. Commission Memorandum No. 820, Memorandum to Commissioners from Orlando B. Potter re: Implementation of Recommended Changes in Commission Audit Policies and Procedures, March 21, 1980, 39 pages. (Includes as Appendix I, Document 92 above).	R2-1 R2-2
94. Internal Document to Audit Staff from Bob Costa re: Audit Program for Recipients of Presidential Election Campaign Fund Payments Pursuant to Chapter 95, Title 26, United States Code - Approved by the Commission on January 15, 1981, 34 pages.	R2-1 R2-2
95. Memorandum to Audit Staff from Bob Costa re: Miscellaneous Procedural Changes, October 30, 1979, 1 page (procedural changes recommended by the Commission in its meeting of October 25, 1979 during discussion of Agenda Document #79-287).	R2-1
96. Internal Document to Audit Staff from Bob Costa re: Commission Denial of Ex- tension Requested by Presidential Committees, August 20, 1980, 2 pages.	R2-2
97. Memorandum to Audit Staff from Bob Costa re: Miscellaneous Procedural Changes Referencing and Audit Manager Review, October 30, 1979, 1 page.	R2-1
98. Memorandum to Audit Staff from Bob Costa re: Deadlines Imposed by the Commission regarding Post Audit Work, OGC Review, and Commission Review 1980 Presidential Audits, October 30, 1979, 3 pages.	R2-1 R2-2 R2-4
99. Memorandum to Audit Staff from Bob Costa re: Audit Opinions, October 30, 1979, 1 page.	R2-1

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Responds To:

100. Memorandum to Audit Staff from Bob Costa
re: Standardized Workpaper Indexing System,
November 2, 1979, 3 pages. R2-1
101. Memorandum to Audit Staff from Bob Costa
re: Audit Reports With No Findings and
Non-Committee Reports, November 2, 1979,
2 pages. R2-1
102. Memorandum to Audit Staff from Bob Costa
re: Addendum to Memorandum S-6 Dates
11/2/79 Subject: Audit Reports With No
Findings and Non-Committee Reports,
December 4, 1979, 1 page. R2-1
103. Memorandum to Audit Staff from Bob Costa
re: Committee Records Which Are In an
Unauditable State, January 18, 1980,
2 pages. R2-1
104. Memorandum to Audit Staff from Bob Costa
re: Deadlines Imposed by the Commission
Regarding Post Audit Work, OGC Review,
and Commission Review, For All Title 2
Audits, January 14, 1980, 3 pages. R2-1
R2-2
R2-4
105. Internal Memorandum to Audit Staff from
Bob Costa re: Materiality Thresholds for
Audits, January 21, 1980, 26 pages. R2-1, R4-1
R3-1 R4-2
R3-2 R4-3
106. Memorandum to Audit Staff from Bob Costa
re: Documentation of Major Deviations From
the Audit Program and Procedures, January
25, 1980, 1 page. R2-1
107. Memorandum to Audit Staff from Bob Costa
re: Proper Wording of Final Audit Reports
Containing Matters Referred to the Office
of General Counsel, February 27, 1980,
1 page. R2-5
108. Memorandum to Charles Steele from Bob Costa
re: Proposed Revisions to Commission Approved
Materiality Thresholds For Audits, September 9,
1980, 14 pages. R2-1 R4-1
R3-1 R4-2
R3-2 R4-3

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Responds To:

109. Directive No. 22 Memorandum to Commission Staff from Orlando B. Potter re: Placing On The Public Record Of Interim Audit Reports Considered At Open Commission Meetings, June 15, 1979, 1 page. R2-1
110. Letter to Chairman Thomas E. Harris from Royston C. Hughes, Treasurer of the President Ford Committee re: findings and conclusions in the interim report of the Audit Division on the President Ford Committee (General Election), February 17, 1978, 1 page. R2-2
R2-5
111. Letter to Chairman John W. McGarry from Carol Darr, Deputy Counsel for Carter/Mondale Re-Election Committee, Inc. re: Interim Report of the Audit Division on the Carter-Mondale Re-election Committee, Inc., June 28, 1981, 4 pages. R2-2
R2-5
112. Index of 1981 Final Audit Reports by FEC which have been released to the Public (chronological order), 3 pages. R2-3
R2-5
113. Alphabetical Index of 1975-1980 Final Audit Reports by FEC which have been released to the public, 27 pages. R2-3
R2-5
114. Microfilm of 1975-1980 Final Audit Reports by FEC, 2,064 pages. Available in Public Records Office. R2-3
R2-5
115. 1981 Final Audit Reports by FEC, approximately 90 pages. Available in Public Records Office. R2-3
R2-5
116. Microfilm of the 1976 Carter Audit (General), 4,500 pages. Available in Public Records Office. R2-3
R2-5
117. Computer-generated indices of Commission Action Items - Includes listing of matters discussed in Open Session from 1977 to the present - retrieved from the computer base under the following texts: Audit, Policy, Procedures, Repayment, Entitlement, prepared August 17, 1981, 30 pages. Documents listed on indices are available in the Public Records Office. R2
R3
R4

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<u>Document</u>	<u>Responds To:</u>
118. Computer-generated MUR indices - Includes listing of closed MURs citing to 26 U.S.C. §§ 9007 and 9004, 2 U.S.C. §§ 441a and 441a(a)(1)(A), prepared August 17, 1981, 47 pages. Documents listed on indices are available in the Public Records Office.	R3-3 R3-4 R3-7
119. File Drawers containing 1976-1981 Draft Interim and Referred Draft Final Audit Reports and Comments from the Office of General Counsel (includes: Presidential, Congressional, Party and Non-Party), approximately 5 feet thick.	R2-2
120. Two pages from Advisory Opinion Index (updated August, 1981) which cite to 2 U.S.C. § 441a and § 441a(a)(1)(A), and 26 U.S.C. § 9004 and § 9007. Opinions listed on index are available in the Public Records Office	R3-2 R3-4 R3-7 R4-1 R4-2
121. File: Regulations - Office of General Counsel	R3-5 R3-7
(1) Official communication to Office of the Speaker of the House of Representatives from Chairman of the FEC re: proposed regulations; received by M. Koach, 6/13/80, 4:15	"
(2) Official communication to President of the U.S. Senate from Chairman of the FEC re: proposed regulations; received by B. Hein, 6/13/80, 4:20	"
(3) Letter to Walter F. Mondale, President, U.S. Senate re: transmittal of proposed regulations to administration of the Presidential Election Campaign Fund Act; signed by Max L. Friedersdorf, 6/13/80	"
(4) Letter to Thomas P. O'Neill, Jr., Speaker, U.S. House of Representatives re: transmittal of proposed regulations to administration of the Presidential Election Campaign Fund Act; signed by Max L. Friedersdorf, 6/13/80	"
(5) Proposed rules-- <u>Federal Register</u> , Vol. 45, No. 96, Thursday, May 15, 1980; pages 32003-32011; re: Public Financing of Presidential General Election Campaigns	"

Document

Responds To:

- (6) FEC Agenda Document No. 80-163 (to the Commission through OBP, from CNS & PAF, 5/2/80) re: General Election Public Financing Regulations (agenda item for 5/8/80 meeting) with attached proposed general election public financing regulations submitted for overview discussion by the Commission R3-5
R3-7
- (7) FEC Agenda Document No. 80-180 (to the Commission through OBP, from CNS & PAF, 5/16/80) re: attached proposed general election public financing regulations circulated for Commission consideration at 5/22/80 meeting
- (8) Memo to Commissioners from Staff Director's Office re: Commission Memorandum No. 939--- General Election Regulations and Explanation and Justification: Chapter 95 of Title 26 (deadline Friday, June 13, 1980) dated 6/11/80
- (9) Memo to the Commission (through OBP, from CNS & PAF, 6/10/80) re: General Election Regulations and Explanation and Justification: Chapter 95 of Title 26 (final version, circulated on tally vote basis) (Commission Memorandum No. 939)
- (10) Memo to the Commission from Staff Director's Office re: Commission Memorandum No. 928-- Proposed General Election Public Financing Regulations (deadline Friday, June 6, 1980); (objection sheet-6/4/80)
- (11) Memo to the Commission (through OBP, from CNS & PAF, 6/4/80) re: Proposed General Election Public Financing Regulations with attached proposed general election public financing regulations for circulation
- (12) FEC notice of proposed rulemaking, 11 CFR Subchapter E with attached draft (Parts 9001-9007, 9009)
- (13) Memo to the Commission (through OBP, from CNS & PAF, 5/30/80) re: General Election Public Financing Regulations: Issues to Be Resolved at Meeting of 6/5/80 including:

3 3 0 7 0 1 5 1 0 7 0 8

Document

Responds To:

- a) \$50,000 limitation on expenditures from candidate's personal funds or family funds; R3-5
R3-7
- b) Loan from legal and accounting compliance fund to pay expenses incurred before the beginning of the expenditure report period;
- c) National committee loan to pay expenses incurred before the beginning of the expenditure report period.

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- (14) Memo to the Commission (through OBP, from CNS & PAF, 5/28/80) re: General Election Public Financing Regulations--Issues to Be Resolved at 5/29/80 meeting including:
 - a) Threshold for detailed documentation of disbursements;
 - b) Definition of "Purpose";
 - c) \$50,000 limitation on expenditures from candidate's personal funds or from family funds;
 - d) Use of federal funds to solicit contributions to legal and accounting compliance fund;
 - e) National committee loan to pay expenses incurred before beginning of expenditure report period;
 - f) Reimbursements for transportation and services made available to media, secret service, and similar personnel;
 - g) Allocation of travel expenses.

- (15) Copy of Federal Register, Vol. 45, No. 126, Friday, June 27, 1980, Rules and Regulations (pages 43371-43387) with attached Table of Contents (Public Financing of Presidential General Election Campaigns)

- (16) Memo to the Commission (through Bill Loughrey, from CNS and PAF, 8/29/80) with attached proposed Federal Register notice to make regulations effective as of the date of publication of notice

- (17) Letter to Ernest J. Galdi, Jr., Acting Director, Office of the Federal Register re: publishing enclosed notice in FR on emergency basis; notice

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Document

Responds To:

- announces effective date of Commission's revised regulations to implement provisions of the Presidential Election Campaign Fund Act regarding public financing of Presidential general election campaigns (signed) R3-5
R3-7
- (18) "Public Financing of Presidential General Election Campaigns" 11 CFR Parts 100, 106, 110, 140-146, 9001-9010 (signed by Max L. Friedersdorf, 6/20/80 (Final Rule: Transmittal of Regulations to Congress) "
- (19) Memo to William C. Oldaker from Ken Gross, Clare Lindsay re: President Ford Committee and Air Force I "
- (20) Memo to WCO (through OBP from Bob Costa, 9/20/79) re: Proposed Allocation of Expenses Between Campaign and Non-Campaign Related Travel "
- (21) Memo to CNS from PAF, 5/21/80 re: meeting with Karl Sandstrom on 5/20/80--Suggestions regarding: "
- a) Definition of political committee;
 - b) Definition of qualified campaign expense;
 - c) Carryover of assets from primary campaign;
 - d) Expenditures by Presidential candidate on behalf of other candidates;
 - e) Candidate agreements;
 - f) Documentation requirements;
 - g) Legal and accounting compliance fund;
 - h) Pre-expenditure report period payment;
 - i) Allowable contributions;
 - j) Use of payments.
- (22) "General Election Presidential Election Fund Regulations: Highlights of Changes/Possible Problems" (Sherri Marshall's comments) "
- (23) Memo to WCO (through OBP from Bob Costa, 6/20/79) re: questions on Part 140-145 of the Code of Federal Regulations "

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Responds To:

- (24) Memo to WCO (through OBP, from Bob Costa, 7/3/79) re: questions on part 140-145 of the Code of Federal Regulations R3-5
R3-7
- (25) Memo to Pat Fiori from Judy Browning, 5/9/80 re: General Election Public Financing Regulations---comments on 5/2/80 draft "
- (26) Memo to Bob Costa (through OBP, from CNS & PAF, 5/9/80) re: answers to questions on 11 CFR Parts 140-145 from August 14, 1979 Audit Division Memo (answers to 6/20 & 7/3 memos only) "
- (27) Memo to the Commission (through OBP, from CNS & PAF, 5/2/80 with attached proposed general election public financing regulations to be submitted to the Commission for overview discussion at 5/8/80 meeting "
- (28) Memo to CNS from PAF re: suggested changes to the general election regulations (\$ 9002.11(b)(c), 9003.1(a)(4), 9009, 9003.1(f), 9003.3(c)(1)(A), 9004.4, 9003.1(a)(4) "
- (29) Letter to FEC from Paul D. Kamenar, 5/26/80 re: comments on proposed rulemaking for public financing of Presidential general election campaigns submitted on behalf of the Citizen's Party (eligibility) "
- (30) Letter to FEC from Tim Smith, Carter-Mondale Presidential Committee, Inc., 5/20/80 re: comments of the C-M Presidential Committee concerning FEC's proposed regulations relating to general election public financing "
- (31) Memo to PAF from Bob Costa (through OBP, 6/9/80) re: Alternatives to 11 CFR 9004.6 --Proposed General Election Regulations (Public Financing of General Elections) "

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Document

Responds To:

122. File: General Election 26 U.S.C. Regs./Audit Division contains: R3-5
R3-7
- 1) Agenda Document #80-190, Memorandum to the Commission from Charles N. Steele and Patricia Ann Fiori re: General Election Public Financing Regulations: Issues For Resolution at Meeting of May 29, 1980, May 28, 1980, 9 pages. "
 - 2) Handwritten draft of Section 9004.4(c). "
 - 3) Memorandum to the Commission from Charles N. Steele and Patricia A. Fiori re: General Election Public Financing Regulations, May 2, 1980, 43 pages. "
 - 4) Memorandum to the Commission from Charles N. Steele and Patricia A. Fiori re: Proposed General Election Public Financing Regulations, May 16, 1980, 49 pages. "
123. Explanation and Justification of Regulations Prescribed by the Federal Election Commission, April 13, 1977, issued July 1977 "
124. Federal Register, Part II, Federal Election Commission Presidential Election Campaign Fund and Primary Matching Fund, March 4, 1979 "
125. Federal Register, Part IV, Federal Election Commission Amendments to Federal Election Campaign Act of 1971, March 7, 1980 "

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 12, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward L. Weidenfeld, Esq.
McKenna, Conner & Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This is in response to your July 30, 1981, request under the Freedom of Information Act for "FEC report prepared by Arthur Andersen & Co. referenced in Commission Memorandum No. 820 dated March 21, 1980."

Enclosed is a copy of that report, entitled "Review Of the Political Campaign Auditing Process" and dated September 1979.

This is a public document readily available through the Commission's Public Records Room. The copy is being provided to you at no charge.

Sincerely,

A handwritten signature in dark ink, appearing to read "Fred S. Eiland".

Fred S. Eiland
Freedom of Information Officer

Enclosure

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WASHINGTON, D.C. 20005
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DEAN J. ZIPERO

NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER

(202) 789-7640

August 11, 1981

HAND DELIVERED

Mr. Robert J. Costa
Assistant Staff Director
for the Audit Division
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: Supplemental Response to Interim Audit
Report of the Reagan Bush Committee,
Reagan Bush Compliance Fund and Democrats
for Reagan

Dear Mr. Costa:

Enclosed please find the Reagan Bush Committee's ("RBC") submission of supplemental materials in response to the Federal Election Commission's ("Commission") above-referenced audit report. The supplemental materials include the following:

1. Report of Arthur Young & Company dated August 11, 1981;
2. Affidavit of Bay Buchanan; and
3. Affidavit of Scott Mackenzie.

This additional information confirms our initial conclusion

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LAW OFFICES
MCKENNA, CONNER & CUNEO

Mr. Robert J. Costa
August 11, 1981
Page Two

that several findings of the audit report are incorrect and should be significantly amended before the Commission adopts its final report. Specifically, this supplemental response demonstrates the following:

- a. It was appropriate for the RBC to offset tour reimbursements against other costs incurred by the RBC for the Republican National Committee ("RNC"). (See Report of Arthur Young & Co., Section A; Affidavit of Bay Buchanan, Section F, ¶¶4-6, 8 and 9).
- c. The Reagan Bush Committee did not realize a profit from the 1980 general election campaign tours. (See Report of Arthur Young & Co., Section C; Affidavit of Bay Buchanan, Section F, ¶7).
- d. The FEC improperly calculated the value of the assets of the RBC on hand as of December 4, 1980. (See Report of Arthur Young & Co., Section D; Affidavit of Scott Mackenzie, Section G, ¶¶3 and 4).
- e. Additional adjustments should be made to the RBC expenditures reported as of December 31, 1980. (See Report of Arthur Young & Co., Section E).

For the reasons discussed in our July 20, 1981 letter to Chairman McGowan, we believe we have not had an adequate opportunity to examine, analyze and present to the Commission materials which are relevant to its consideration of this matter. We are therefore filing this submission under protest.

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LAW OFFICES
MCKENNA, CONNER & CUNEO

Mr. Robert J. Costa.
August 11, 1981
Page Three

If you have any questions concerning this submission, please
contact the undersigned.

Sincerely yours,


Edward L. Weidenfeld

ELW/sab
Enclosures

cc: Honorable John W. McGarry
Charles N. Steele, Esq.

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CONFIDENTIAL

REAGAN BUSH COMMITTEE AND REAGAN
BUSH COMPLIANCE FUND
SUPPLEMENTAL RESPONSE TO FEDERAL ELECTION COMMISSION
INTERIM REPORT OF THE AUDIT DIVISION ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND THE DEMOCRATS FOR REAGAN

Submitted on behalf of the above-named Committees by

McKenna, Conner & Cuneo
Attorneys at Law
1575 Eye Street, N.W.
Washington D. C. 20005

Of Counsel:

Edward L. Weidenfeld
Robert W. Fenster
Maureen Duignan
Thomas A. Lemmer

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REAGAN BUSH COMMITTEE AND REAGAN
BUSH COMPLIANCE FUND
SUPPLEMENTAL RESPONSE TO FEDERAL ELECTION COMMISSION
INTERIM REPORT OF THE AUDIT DIVISION OF THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND THE DEMOCRATS FOR REAGAN

The Reagan Bush Committee and the Reagan Bush Compliance Fund hereby file a supplemental response to the Federal Election Commission's Interim Report of the Audit Division of the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan dated June 18, 1981.

The supplemental materials include the following:

1. Report of Arthur Young & Company dated August 11, 1981;
2. Affidavit of Bay Buchanan; and
3. Affidavit of Scott Mackenzie.

This additional information confirms our initial conclusion that several findings of the audit report are incorrect and should be significantly amended before the Commission adopts its final report. Specifically, this supplemental response demonstrates the following:

- a. It was appropriate for the RBC to offset four reimbursements against other costs incurred by the RBC for the Republican National Committee ("RNC"). (See Report of Arthur Young & Co., Section A; Affidavit of Bay Buchanan, Section F, pp. 6, 8 and 9.)
- b.

- c. The Reagan Bush Committee did not realize a profit from the 1980 general election campaign tours. (See Report of Arthur Young & Co., Section C; Affidavit of Bay Buchanan, Section F, ¶7).
- d. The FEC improperly calculated the value of the assets of the RBC on hand as of December 4, 1980. (See Report of Arthur Young & Co., Section D; Affidavit of Scott Mackenzie, Section G, ¶¶3 and 4).
- e. Additional adjustments should be made to the RBC expenditures reported as of December 31, 1980. (See Report of Arthur Young & Co., Section E).

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ARTHUR YOUNG

ARTHUR YOUNG & COMPANY
1025 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036

August 11, 1981

Mr. Edward L. Weidenfeld
McKenna, Conner & Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

The purpose of this letter is to discuss the preliminary findings of the procedures you requested our firm perform for McKenna, Conner & Cuneo (as outlined in our engagement letter to you dated August 11, 1981) relating to the Interim Audit Report dated June 19, 1981 issued by the Audit Division of the Federal Election Commission (FEC) on the Reagan Bush Committee (RBC), Reagan Bush Compliance Fund and Democrats for Reagan.

The following discussion of our findings is organized as follows:

- A. Monies received relating to expenditures made by the Republican National Committee (RNC);
- B.
- C. Income realized from campaign tours;
- D. Increase in value of capital assets;
- E. Other adjustments for additional expenditures, debts and obligations owed by and to the RBC, and voided checks.

We have not examined the financial statements of the RBC or RNC and, accordingly we do not render an opinion on such financial statements for RBC or RNC. The amounts cited herein were obtained from RBC working papers or FEC auditor working papers. We have not verified such amounts to the underlying documentation. In addition, we have not discussed our findings with the FEC auditors. These discussions, as well as the verification process will take place in the next phase of our work for you.

RBC records, \$2,387,737, resulting in net tour costs to the campaign of \$896,941.

The Federal Election Commission (FEC) auditors, have taken exception to the treatment of reimbursements in the records of RBC. Page 11 of the report states, in part:

... the Audit Staff noted that the Republican National Committee made seven expenditures totalling \$1,633,293.89 in conjunction with the tours and applied the amount to its 2 U.S.C. 441(a)(d)(2) limitation. The Audit Staff's review of the Reagan Bush Committee records revealed that \$1,613,049.15 of the RNC expenditures were applied to air charges associated with presidential tours 6 through 15 and vice presidential tours 6 through 14. A pro-rata share of these expenditures was billed by the Reagan Bush Committee to the news media, the United States Secret Service and Reagan Bush Compliance Fund. The Reagan Bush Committee obtained \$1,138,891.24 in reimbursements associated with the Republican National Committee's expenditures. These reimbursements were retained and reported by the Reagan Bush Committee on Schedule A-P Line 21. As a result, reported expenditures subject to the limitation (2 U.S.C. 441a(b)(1)(B)) were offset (reduced) by \$1,138,891.24....

The FEC auditors have concluded that \$1,138,891.24 was erroneously included as a refund or rebate reducing expenditures subject to the limitation and, accordingly have added \$1,138,891.24 back to reported expenditures subject to the limitation.

We have been provided, and have reviewed the following FEC audit working papers:

<u>FEC workpaper reference</u>	<u>Description</u>
1. C4/1 - C4/16	Various schedules and copies of RBC documents calculating the amount of tour costs and reimbursements allocable to RBC and RNC for V.P. tours 6-16 and presidential tours 1-15.
2. C2/8, C2/9	Various schedules and copies of RBC documents relating to tour costs and amounts paid by RNC.
3. C3/1, C3/1a, C3/2, C3/3, C3/4, C3/4a, C3/5, C3/5-1, C3/6	Various schedules and copies of RBC documents supporting the calculation of tour costs and reimbursements.

In addition we have reviewed the response of the RBC to the interim audit report submitted by McKenna, Conner & Cuneo on behalf of the RBC. We have also discussed the issue with the Scott Mackenzie, present RBC Treasurer and Roberts Bass, a former RBC employee responsible for tour finances.

FEC AUDITOR METHODOLOGY

In order to arrive at the amount claimed in their finding, the FEC auditors, according to the working papers, performed the following:

(a) Prepared a schedule, by tour, indicating the amount of air charges paid by the RNC totalling \$1,613,049 (C4/8, C4/16);

(b) Prepared a schedule, by tour, indicating the amount of air charges paid by RBC totalling \$1,395,131 (C4/7, C4/15);

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Mr. Edward L. Weidenfeld
McKenna, Conner & Cuneo
August 11, 1981
Page two

As a result of the matters discussed herein, we conclude that the FEC finding with respect to the monies received relating to expenditures made by the RNC (Issue A) is inappropriate. In addition, we conclude that the FEC procedures relating to the remaining issues (Issues B-E) were deficient, as described herein, and, accordingly the validity of such findings must be questioned. We believe further analysis and recomputation is necessary prior to the RBC agreeing to these findings as final.

A detailed discussion of each finding follows. Please let me know if you have any questions regarding this report.

- Very truly yours,

ARTHUR YOUNG & COMPANY

By:


John Hozik

cc: Mr. E. Fenster
Mr. T. Lemmer
Ms. M. Duignan

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ARTHUR YOUNG

SECTION A

ISSUE

Monies received relating to expenditures made by the Republican National Committee. (\$1,138,891.24)

BACKGROUND

During the course of the 1980 Presidential Election Campaign, fifteen Presidential and eleven Vice Presidential candidate tours were conducted where campaign personnel were accompanied by United States Secret Service (USSS) personnel and members of the news media. Direct costs of these tours included air fare charges (based upon flat rate per diem rental, plus mileage and terminal charges) and ground transportation costs for the USSS and media. Ground transportation costs for campaign personnel are not relevant to this discussion. A summary of tour costs, per the records of the RBC is as follows:

Total air fare costs	\$ 3,018,675
Total ground costs	266,003
Total tour costs	<u>\$ 3,284,678</u>

Of the total costs of \$3,284,678, the Republican National Committee (RNC), in coordination with the RBC, paid, according to RBC records, \$1,633,294 of the air fare costs. The RBC subsequently billed the USSS, media and the RBC Compliance Fund for their pro-rata share of the tour costs totalling, according to

(c) Prepared a schedule calculating the percentage of total air charges, by trip, paid for by RBC and RNC, respectively (C4/6, C4/14);

(d) Prepared a schedule showing the amount of air charge reimbursements received, by tour, totalling \$2,281,149 (C4/5, C4/13);

(e) Prepared a schedule showing, by tour, the amount of total reimbursements for air charges allocable to RNC and RBC, utilizing the percentages derived in (c) above, times the reimbursements derived in (d) above. The total tour receipts determined to be allocable to RNC per this schedule is the \$1,138,891 at issue (C4/4, C4/12).

It should be noted that amounts for air charges, ground costs and reimbursements per the FEC schedules did not agree to RBC prepared working papers by \$10,445, \$39,490 and \$106,588 respectively.

DISCUSSION

The FEC auditors' principal argument for their finding is that "... the Committee was not entitled to payments based on RNC expenditures and that these payments could not reduce Committee operating expenditures ..." Discussions with RBC personnel, however, indicate that (1) the RNC was making Presidential Election disbursements in coordination with the RBC, and (2) the RBC paid expenses (that otherwise would have been paid by RNC)

and offset such amounts against the reimbursements received. There is no indication in the FEC auditors' report that consideration was given to whether expenditures were made by the RBC on behalf of, or instead of, the RNC which were appropriately offset against the reimbursements received.

ACCOUNTING PRINCIPLES

There are two accounting principle concepts appropriate for consideration in this discussion:

- the concept of offsetting assets against liabilities;
- the concept of proper financial presentation for entities under common, direct, or indirect control.

These principles are discussed in more detail below.

OFFSETTING

Prior to a discussion of the concept of offsetting, further analysis of the substance of the transaction at issue must be performed.

The appropriate accounting treatment for funds received on behalf of another entity is to record such funds as a liability. This treatment is required under the definition of "liabilities" found at AC^{*} 1025.19:

^{*}/ American Institute of Certified Public Accountants Professional Accounting Standards.

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Economic obligations of an enterprise that are recognized and measured in conformity with generally accepted accounting principles....

AC 1230.028, "Elements of Financial Statements of Business Enterprises" further defines liabilities as "probable future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future as a result of past transactions or events."

Under the argument presented by the FEC auditors that the \$1,138,891 represents reimbursements received by RBC for disbursements made by RNC, and without considering initially the question of offsetting, generally accepted accounting principles (GAAP) would suggest the \$1,138,891 be recorded as a liability to the RNC.

Given that GAAP would suggest treatment of these reimbursements as liabilities of RBC, consideration must next be given to the appropriateness of offsetting other costs against this liability to RNC. The concept of offsetting is described at AC 1027.25. "Assets and liabilities in the balance sheet should not be offset unless a legal right of setoff exists." In practice, the application of this principle normally results in an offset of accounts receivable from and accounts payable to the same entity since there is a presumption that the right of setoff

exists. Clearly, when a principal-agent relationship exists between two entities with the legal right of setoff, offsetting accounts receivables against accounts payable is the preferable financial presentation. In relating this accounting concept to the FEC finding, and based on our understanding that an agency relationship exists between RBC and RNC as described to us by McKenna, Conner & Cuneo, we believe it would be appropriate, in fact preferable, to offset costs incurred by the RBC as agent for RNC against the liability to RNC for the reimbursements discussed above.

FINANCIAL PRESENTATION FOR COMPANIES UNDER COMMON CONTROL

Perhaps a more fundamental concept in evaluating the FEC auditor findings is to evaluate the reporting entity itself. There is substantial discussion in accounting literature on the most meaningful presentation of entities under common control. The AICPA Statement of Position 78-10, "Accounting Principles and Reporting Practices for Certain Non-Profit Organizations" states, in part:

For a reporting organization that controls another organization having a compatible purpose, it is presumed that combined or combining financial statements are more meaningful than separate statements and are usually necessary for a fair presentation in conformity with generally accepted accounting principles. Control means the direct or indirect ability to determine the direction of the management and policies through ownership, contract or otherwise.

The statement goes on to say:

...combined financial statements should be presented if (1) control exists ... and (2) any of the following circumstances exists:

a. Separate entities solicit funds in the name of and with the expressed or implicit approval of the reporting organization, and substantially all of the funds solicited are intended by the contributor or are otherwise required to be transferred to the reporting organization or used at its discretion or direction.

b. A reporting organization transfers some of its resources to another separate entity whose resources are held for the benefit of the reporting organization.

c. A reporting organization assigns functions to a controlled entity whose funding is primarily derived from sources other than public contributions.

In the case of the 1980 Presidential Election Campaign, we understand both the RBC and RNC, as to its Presidential Election Fund, were in operation for the same purpose, made expenditures for the same purpose, and were governed by the same legal requirements. In addition, it is our understanding that an agreement was reached whereby the RBC and the RNC coordinated the disposition of the RNC's Presidential Election Fund.

Notwithstanding the separate statutory requirements as to spending limitations for the RBC and RNC, we believe there is substantial support in GAAP to suggest the most meaningful presentation of the financial results of the Reagan Bush Presidential Election Campaign would be to combine the activities of the RBC and the RNC Presidential Election Fund. Such a combined

presentation, would, of course, render moot the issue raised by the FEC auditors.

* * * * *

Summary

If the direct or indirect ability to control existed, either through a principal-agent relationship, or some other agreement, then we believe the FEC audit finding is unacceptable. Under any one of several arguments, GAAP suggests that the offsetting of the tour reimbursements against other costs incurred by RBC for the RNC, is appropriate.

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SECTION B

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SECTION C

ISSUE

Income realized from campaign tours (\$50,588.48)

BACKGROUND

See Section A to this report for background information regarding the presidential and vice presidential tours during the 1980 campaign. As indicated therein, accompanying campaign personnel on these tours were U. S. Secret Service personnel, members of the news media and, in some cases Compliance Fund personnel. RBC billed the USSS, news media and the Compliance Fund for their share of the costs of these tours, including air charges and ground costs. During the period of the campaign, two different methods were used to determine the billing amounts. During the early part of the campaign, according to RBC personnel, billings were prepared on the basis of 150% of the per-person first class airfare for each leg of the tour. This amount was intended to cover both air charges and ground costs. For later tours, the method was changed so that actual costs were determined and allocated on a pro-rata basis to each person on the trip. According to RBC records, the following summarizes the billing methods used:

<u>Tours</u>	<u>Method</u>
VP 6-7	150% of First Class Fare
P 1-7	150% of First Class Fare
VP 8-16	Actual
P 8-15	Actual

(VP tours 1 to 5 did not have USSS or media accompaniment).

Page 11 of the FEC auditors' report states "The analysis of available records supporting the actual cost of services and facilities made available to the news media, United States Secret Service and Compliance Fund personnel disclosed that the Reagan Bush Committee realized income in conjunction with the presidential and vice presidential tours of at least \$50,588.48 (\$1,294,704.10 reimbursements less actual cost \$1,234,115.62)." In its response on behalf of the RBC, McKenna, Conner & Cuneo reject the FEC findings, stating that "in fact a loss of more than \$18,000 was incurred on the presidential tours." (Vice Presidential tours were not considered as both the RBC and FEC agree that a loss occurred on these tours.)

In assessing this finding, we have reviewed the auditors' working papers C4/1 to C4/16 which calculate the profits (losses) for each of presidential tours 1 to 15 and vice presidential tours 6 to 16.

In addition, we have reviewed a working paper prepared by RBC personnel in support of the \$18,000 loss included in the RBC's response.

METHODOLOGY USED

Recapping the essence of the two calculations:

	<u>RBC</u>	<u>FEC</u>
Total plane costs	\$2,045,772	\$1,002,718
Total ground costs	<u>205,442</u>	<u>170,590</u>
Total presidential tour cost	2,251,214	1,173,308
Less: Plane costs allocable to RBC	<u>(493,434)</u>	<u>(248,403)</u>
Amount subject to reimbursement	1,757,780	924,905
Amount reimbursed	<u>(1,739,351)</u>	<u>(991,815)</u>
("Profit") "Loss"	<u>\$ 18,429</u>	<u>(\$ (66,910)</u>

—FEC

See Section A for methodology used by FEC auditors, items (a) to

- (e). The same methodology was used in this finding. In addition:
- (a) Working papers C4/4 and C4/12 show the amount of air charge reimbursements received allocable to RNC and RBC based upon the percentage of air charges actually paid by each entity;
 - (b) Working papers C4/3 and C4/11 calculate the total costs of tours to RBC consisting of allocated airfare plus ground costs (billed and unbilled);
 - (c) Working papers C4/2 and C4/10 calculate the net cost of tours to RBC by subtracting the amounts calculated in item (a) from the amounts calculated in item (b);
 - (d) Working papers C4/1 and C4/9 calculate the "profit (loss)" by (a) allocating the total air charges determined to have been paid by RBC (C4/6), based on the percentage of campaign committee personnel on the tour, and (b) subtracting the net cost of the tour to RBC calculated in (c), above.

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The result is as follows:

"Profit" on presidential tours	\$ 66,910
"Loss" on vice presidential tours	<u>(16,322)</u>
Net "profit"	<u>\$ 50,588</u>

-RBC

The schedule prepared by RBC in response to the auditors' finding does the following:

- (a) From total tour costs (Presidential tours only) are subtracted tour reimbursements leaving an excess of costs over reimbursements totalling \$511,863.
- (b) Total air charges were allocated based on the percentage of RBC personnel on each tour (same percentages as used by FEC). This "pro-rata" amount was subtracted from the \$511,863 above, resulting in actual costs over pro-rata costs of \$18,429.

It appears the difference between the RBC and FEC calculations result principally from:

- The FEC calculation allocated a portion of total costs and total reimbursements to the RNC, while the RBC calculation is based on tour costs in total, and reimbursements in total.
- Differences between RBC and FEC amounts relating to ground costs (\$205,442 vs \$170,590) and reimbursements (\$28,892).

DISCUSSION

The same issue is involved here as was involved in Section A; whether it is appropriate to segment the campaign activities shared by RBC or RNC or evaluate them in conjunction. We believe if the direct or indirect ability to control exists as discussed

in Section A, that the most appropriate way to evaluate the "profitability" of tours is to examine the result in the aggregate as the RBC has done.

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SECTION D

ISSUE

The FEC audit report recommends that RBC increase by \$46,617.93 the valuation of capital assets as of December 4, 1980 and as a result reduce expenditures subject to the limitation by this amount.^{1/}

BACKGROUND

The FEC auditors have identified (Attachment I to the Interim Audit Report) certain capital assets (primarily photocopy, word processing, and audio-visual equipment) allegedly owned by the RBC at December 4, 1980, but not reported by the RBC in the Analysis of Net Outstanding Qualified Campaign Expenditures report filed as of that date. The auditors have assigned a fair market value of \$46,617.93 to these assets, and recommend that the Committee increase the valuation of capital assets by that amount. The Committee contends that the auditors' recommendation is improper because: (1) certain of the assets were no longer RBC property as of December 4, 1980; and (2) an improper method was used to assign a valuation to these assets.

^{1/} It should be noted that any downward adjustment in this finding would result in an increase in expenditures subject to the limitation.

FEC METHODOLOGY

We have examined copies of FEC audit work papers E5/1 through E5/4-C, D8/22.1 and D8/22.2, which are used by the auditors to support their recommendation. A schedule of capital assets on hand at December 4, 1980 (E5/2) was prepared by the auditors based upon Committee records of purchases made. Accumulated depreciation was calculated on a straight-line basis with an eight-year life assumed for all items. The fair market value of \$46,617.93 was determined by subtracting the accumulated depreciation for two years from the purchase price of the assets identified as on hand at December 4, 1980.

DISCUSSION

We could not determine, based on our review of the FEC audit working papers, the following:

- o whether a physical inventory was conducted;
- o the RBC records used to compile the list of capital assets on hand;
- o the procedures performed to determine the completeness of the schedule of assets on hand;
- o the procedures performed to relate the valuation determined by the auditors (cost, less two years straight line depreciation based on an eight year life) to subsequent realization in cash upon disposition.

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ARTHUR YOUNG

SECTION E

ISSUE

Additional adjustments should be made to the expenditures reported as of December 31, 1980:

--	Additional expenditures from January 1, 1981 through March 26, 1981 subject to limitation	\$270,431.52
--	Debts and obligations owed by RBC at March 26, 1981	75,393.79 ^{*/}
--	Voided checks	(15,438.18) ^{*/}
--	Debts and obligations owed to RBC at March 26, 1981	<u>(29,208.09)</u>
		<u>\$301,179.04</u>

BACKGROUND

The auditors used December 31, 1980 as the cut-off date for their procedures. The adjustments were made for the purpose of determining total expenditures subject to the statutory limitation as of March 26, 1981.

^{*/} It should be noted that any downward adjustment to these findings would result in an increase in expenditures subject to the limitation.

METHODOLOGY

Additional expenditures from January 1, 1981 through March 26, 1981 subject to limitation - \$270,431.52

The FEC auditors' working papers (E 4/1, E 6/7-0) indicate that the calculation of additional expenditures of \$270,732.52 for the period was done by

- o totaling the amount of checks recorded in the check register from January 1, 1981 to March 26, 1981 (E 6/12) \$1,371,421.50
 - o subtracting payments to the Internal Revenue Service which were not subject to statutory limitations (E-6/7-0) (105,000.00)
 - o subtracting receipts and reimbursements (E-4/1.2) (995,989.98)
- \$ 270,431.52

We found no evidence in the working papers to indicate whether the auditors reviewed individual expenditures to determine whether they were compliance related and should have been charged to the Compliance Fund.

Debts and obligations owed by RBC at March 26, 1981 - \$75,393.79

The FEC auditors working papers (E 6/7-0) indicate that the amount was determined by:

- o totaling the amount of checks recorded in check stubs from March 27, 1981 to March 31, 1981 (E-6/12) \$10,765.58
 - o adding accounts payable as of April 1, 1981 as provided by RBC (E-6/10.1) 64,628.21
- \$75,393.79

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As in the case of expenditures discussed above, we found no evidence to indicate whether the auditors reviewed individual item expenditures to determine whether they were compliance related. We also found no evidence that the auditors had taken steps to determine whether all unpaid invoices had been recorded.

Voided Checks - \$15,438.18

The FEC auditors' working papers (E-6/7-0.1) showed that the amount was calculated by preparing a schedule listing the check numbers and amounts of checks which were indicated as having been voided. The working papers did not indicate the source from which this data was obtained. There is no indication that (1) the check register was examined to ensure that all voided checks had been recorded on the schedule or that (2) voided checks had been examined.

Debts and obligations owed to RBC at March 26, 1981 - \$29,208.29

The FEC auditors' working papers (E 4/1-2) indicate that the amount was calculated by examining the following RBC schedules:

o	Tour receivables (E-4/4)	\$12,862.09
o	Expected refunds (E-4/4)	<u>16,346.00</u>
		<u><u>\$29,208.09</u></u>

We found no evidence that the FEC auditors' traced the amounts in the schedules to the source documents. We also found no evidence that the auditors examined cash receipts subsequent to March 26, 1981 to determine whether (1) all receivables had been recorded as of that date and (2) receivables recorded were at the proper amounts.

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A F F I D A V I T

Bay Buchanan, being duly sworn, deposes and states as follows:

1. From its inception to January , 1981, I was Treasurer of the Reagan Bush Committee ("RBC"). In that capacity, I was Chief Financial Officer and responsible for those duties prescribed by law for the Treasurer of a political campaign committee. [See 2 U.S.C. §§ 432 and 434.]

2. The purpose of this affidavit is to respond to two major issues raised in the FEC's interim audit report of the RBC; i.e., funds transferred between RBC and the Republican National Committee ("RNC") and funds expended for compliance activities.

3. The Reagan Bush Committee was the principal federal campaign committee of Ronald Reagan, the Republican presidential nominee for the 1980 general election. By law, RBC was authorized to spend \$29,440,000 in the 1980 general election campaign. As the National Committee of the Republican party, the RNC was authorized to expend approximately \$4,700,000 on behalf of the presidential nominee.

4. With respect to the transfer arrangement between RBC and the RNC, at the outset of the 1980 presidential campaign the Committees made a commitment to spend the legally permissible amount to promote the candidacy of the nominee of the Republican party.

5. In coordinating their campaign expenditures, it was agreed by the Committees that the RNC would assume responsibility for certain costs incurred by RBC during the campaign. To this end, certain designated air fare invoices received by RBC were sent to the RNC for payment directly to the airlines.

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6. RBC billed the paying passengers, primarily secret service and the press, for their pro rata share of the transportation costs. RBC also obtained the reimbursements from these passengers. These funds were retained by RBC and used to offset RBC expenses that otherwise would have been paid by the RNC.

7. The Reagan Bush Committee did not realize a profit from the campaign tours. During the general election, daily records were maintained as to the actual expenses incurred by the press and secret service and a great effort was executed to ensure that these parties were accurately and equitably billed. A final review at the end of the campaign clearly indicates that these parties were not overcharged as actual tour costs incurred by the campaign exceeded tour reimbursements.

8. On April 1, 1981, RBC filed an amended report. In that amendment, the RBC deleted \$748,163.16 in previously reported refunds and \$748,163.16 in previously reported operating expenses. These amounts were then attributed to the RNC to account for various campaign costs incurred by the RBC on behalf of the RNC. This amendment accurately reflects the underlying transactions between the Committees.

9. RBC acted as the RNC's agent in managing RNC's campaign expenditures in the manner discussed above. RNC, in the role of the principal, raised funds and paid expenses of the RBC, its agent, with the RNC ultimately retaining the power to control how and where its funds would be spent.

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14. With respect to all of the matters discussed above, as the Treasurer of RBC I used my best efforts to obtain, maintain and submit all the information required by the Act for a political committee.


Ray Buchanan

Subscribed and sworn to before me this 11th day of August, 1981.


Notary Public, S.C.

My Commission Expires:

January 1, 1982

3:07016517:

A F F I D A V I T

Scott Mackenzie, being duly sworn, deposes and states as follows:

1. Since January 1981, I have been Treasurer of The Reagan Bush Committee ("RBC"). Prior to that time I was Assistant Treasurer, primarily responsible for all accounting and reporting functions of the RBC.

2. The purpose of this affidavit is to respond to a proposed finding in the FEC's interim audit report that the RBC should report an increase in value of \$46,617.93 in its capital assets.

3. Many of the capital assets included in the proposed "increase in value" finding were sold and no longer RBC property or unaccounted for as of December 4, 1980, the date of the FEC's Analysis of Net Outstanding Qualified Campaign Expenditures.

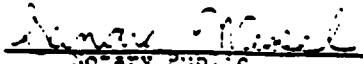
4. To the best of my knowledge, the only assets listed Attachment I to the interim audit report which were on hand as of December 4, 1980 are the following:

- a. Xerox machine (Model 2400);
- b. Pitney Bowes Copier;
- c. Pitney Bowes Mail Opener;
- d. Pitney Bowes Postage Machine (5600);
- e. Sony Video Recording System (subsequently sold);
- f. JVC 3/4 Video Player (subsequently sold);
- g. Mailing Machine (560GR).


Scott Mackenzie

Subscribed and sworn to before me this 11th day of
February, 1981.

My Commission Expires August 31, 1980


NOTARY PUBLIC

My Commission Expires: _____



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 4, 1981

Edward L. Weidenfeld, Esq.
Counsel
REAGAN/BUSH COMMITTEE
1575 Eye Street, N.W.
Washington, D.C. 20005

Re: Letter to the Chairman,
FEC dated July 20, 1981.
Subject: Interim Audit
Report of the Reagan/Bush
Committee, Reagan/Bush
Compliance Fund and
Democrats for Reagan

Dear Mr. Weidenfeld:

This will respond to your above-referenced letter as supplemented by your letter of July 21, 1981, in which you requested: 1) a stay of further Commission action; 2) an opportunity to supplement the July 20, 1981 response of the Reagan/Bush Committee ("Committee") to the interim audit report; and 3) a hearing before the Commission.

Commission findings with respect to violations of statutes and regulations over which the Commission has jurisdiction are governed by 2 U.S.C. §437g and 11 C.F.R. Part 111. The Commission's authority to make repayment determinations with respect to publicly-financed general election candidates is found at 26 U.S.C. §9007(b). Subsection 9007.2(c) provides the candidate with an opportunity to dispute the Commission's initial repayment determination, while subsection 9007.2(d) provides the Commission will consider any written legal or factual materials submitted by the candidate before making its final determination. A final Commission determination is reviewable pursuant to 26 U.S.C. §9011(a).

26 U.S.C. §9007(a) provides that, "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." 11 C.F.R. §9007.1 sets forth examples of the items included in such audit. Although

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August 4, 1981

not required by statute or regulation, the issuance of an interim audit report and the opportunity to respond to such report are among several informal steps in the audit process. As a part of the process, they must be viewed in light of the entrance and exit conferences, the audit fieldwork and the general availability of the audit staff to answer questions and to provide relevant documents both during and after the audit fieldwork.

It has been Commission practice to allow committees of publicly-financed candidates a period of 30-days from receipt of an interim report to submit responses to matters contained in the report. Such responses are reviewed by the Audit Division prior to making any recommendations to the Commission, and are considered by the Commission before voting on the contents of the final audit report. While the Commission has not granted any extensions of time in which to submit responses to interim audit reports in the 1980 election cycle, the audit staff has continued to accept supplementary materials to such responses during the process of preparing a recommended final report to the Commission.

Whereas additional materials are always accepted, I am sure you can appreciate that at some point their consideration must be cut off for the purposes of issuing a final audit report. Where the materials involve a repayment determination, however, they are considered pursuant to 11 C.F.R. §9007.2, discussed above. Moreover, to date Commission practice has provided for addenda to the final audit report being made a part of the public record.

In your letter, you requested an opportunity to supplement the Committee's response of July 20, 1981. Consistent with the above explanation of the audit process, the Commission has decided to grant an extension of time until August 11, 1981 for the Committee to submit materials supplementing its response to the interim audit report. As noted above, the Audit Division will review any supplementary materials submitted before August 11, 1981 prior to making its recommendations to the Commission; and the Commission will consider the Committee's response, as supplemented, before deciding on the contents of the final audit report.

A major concern expressed in your letter involves the issue of repayment. Before the Commission makes even an initial repayment determination under 26 U.S.C. §9007(b) and 11 C.F.R. §9007.2, the Committee's response to the interim report will be considered and evaluated. To the extent that a repayment determination is based upon a substantial

August 4, 1981

violation of the Federal Election Campaign Act of 1971, as amended ("the Act") or of Chapter 95 of the Internal Revenue Code, the Act and Commission regulations provide the Committee with appropriate procedural safeguards. Moreover, the Audit Division has yet to make a recommendation for repayment. The figure of \$1,583,755.01 on page 18 of the interim report to which your letter refers represents a preliminary calculation and should not be interpreted as a Commission determination. The Commission has yet to make any repayment determinations with respect to the Committee.

It should also be pointed out that an initial repayment determination under 11 C.F.R. §9007.2 need not be contained in a final audit report. Where a potential repayment involves issues that have not been resolved to the Commission's satisfaction and where a sufficient record has yet to be developed, a repayment determination based on such issues may not be contained in the final audit report.

As previously indicated, repayment determinations of the Commission are not always contained in the final audit report. Regardless of the timing of the repayment determination, however, the procedural safeguards of 11 C.F.R. §9007.2 attach only when the Commission makes such a determination. Inasmuch as the Commission has made no repayment determination with respect to the Committee, your request for a hearing at this time is premature.

The Commission would like to address the Committee's request for the underlying record of the interim audit report. The Committee was provided with the interim audit report on June 18, 1981. On July 7, 1981, the Committee requested an extension of time in which to submit its response. The Committee, on this same date, also made a request under the Freedom of Information Act ("FOIA") for certain documents relating to the findings and recommendations of the Audit Division as contained in the interim report. The documents requested were provided to the Committee on July 17, 1981.

The Committee has apparently sought to link the FOIA request to its opportunity to respond to the interim report, although the documents provided to you under FOIA could have been obtained by informally requesting them of the Audit staff at the exit conference of March 27, 1981 or at any time subsequent thereto. In this regard, it is the understanding of the Commission that at no time during the audit process did the Committee request any documents provided under FOIA that the Audit Division failed or refused to provide. Indeed, many of these FOIA documents consisted of

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Edward L. Weidenfeld, Esq.
Page Four

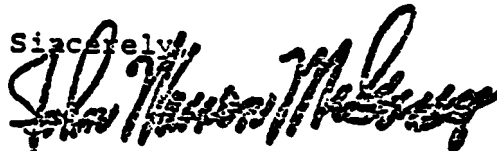
August 4, 1981

the Committee's own records or documents already provided to the Committee by the Audit staff prior to the Committee's FOIA request. It should also be pointed out that the issues contained in the interim audit report were discussed with Committee representatives at the exit conference of March 27, 1981.

To summarize the Commission's response to the requests contained in your letter: (1) the Commission will allow the Committee until August 11, 1981 to submit supplemental materials/information in response to the interim audit report; (2) the Commission will consider all materials submitted prior to the above date before making its decision with respect to the contents of the final audit report; and (3) the Commission considers the Committee's request for a hearing to be premature, given the statutory and regulatory provisions cited above.

If you have any questions, please direct them to Mr. Daniel J. Blessington in the Commission's Office of General Counsel at 523-4529.

Sincerely,



John Warren McGarry,
Chairman

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KEVIN E. DALLMAN
DEAN J. DALLMAN

NOT ADMITTED IN D.C.
WRITER'S DIRECT DIAL NUMBER
12021 789-7640

July 30, 1981

HAND DELIVERED

FOIA Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: Freedom of Information Act Request

Dear Madam or Sir:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and the regulations appearing at 11 C.F.R. Part 4, request is hereby made on behalf of The Reagan Bush Committee and The Reagan Bush Compliance Fund for disclosure and production for inspection and copying of the document described below:

FEC report prepared by Arthur Andersen & Co.
referenced in Commission Memorandum No. 820
dated March 21, 1980.

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. In the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly

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FOIA Officer
July 30, 1981
Page Two

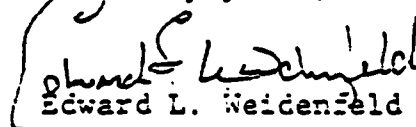
requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably segregable portions of such document be produced.

In the event that it is determined that your agency has no documents responsive to any individual request item (or portion thereof), written confirmation of such fact is specifically requested.

This request constitutes notice of demand for production of the above-described document for purposes of inspection and copying. If for any reason it is determined that any document or portion thereof will not be made available to the undersigned, or that this request will not, in whole or in part, be complied with, prompt notice of any action taken is solicited. In addition, it is specifically requested that any document or portion thereof which will not be produced for inspection or copying be individually identified and described, and the basis for nonproduction explained by reference to both the statutory authority for and the factual circumstances relied upon in the determination to withhold access.

The undersigned hereby agrees to pay the United States all direct costs incurred under applicable regulations in the search for and duplication of the requested document. Because of the urgent need for the document described above, it is requested that your agency adhere to the time limitations set forth at 5 U.S.C. § 552(a)(6)(A) in responding to this request.

Sincerely yours,


Edward L. Weidenfeld



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 30, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward L. Weidenfeld, Esq.
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This will acknowledge receipt of your Freedom of Information Act requests dated July 17, 20 and 29, 1981, made in behalf of the Reagan Bush Committee and the Reagan Bush Compliance Fund.

We anticipate that, during the week of August 3, 1981 we will begin to search our files for the records you have demanded. We will, of course, notify you as soon as records are available for inspection and copying.

Sincerely,

A handwritten signature in cursive script that reads "Fred S. Eiland".

Fred S. Eiland
Freedom of Information
Officer

LAW OFFICES
MCKENNA, CONNER & CUNEO
1978 EYE STREET, N.W.
WASHINGTON, D. C. 20005
12021 789-7500

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ALBERT BELLETT 1022-1077
GILBERT A. CUNEO 1022-1078

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July 29, 1981

12021 789-7640

HAND DELIVERED

FOIA Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: Freedom of Information Act Request

Dear Madam or Sir:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and the regulations appearing at 11 C.F.R. Part 4, request is hereby made on behalf of the Reagan Bush Committee and the Reagan Bush Compliance Fund for disclosure and production for inspection and copying of the documents described below:

1. All agency records setting forth the standards applied by the Commission and its staff in rendering determinations that an individual made a contribution in violation of 2 U.S.C. § 441a (a)(1)(A) and 11 C.F.R. § 110.1(a)(1).
2. All agency records setting forth any policy, rules, or guidelines followed by the Commission and its staff in implementing the provisions of 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(a)(1).
3. Any and all other agency records setting forth the circumstances and considerations applied by the Commission in determining whether it should or should not find probable cause to believe that an individual violated the law by making a contribution in excess of \$1,000.

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FOIA Officer
July 29, 1981
Page Two

4. Any agency policies, pronouncements, rules or guidelines which indicate that a contribution, as defined in 2 U.S.C. § 431(8)(A)(i), is not made when an individual incurs expenses on behalf of a political committee and receives a subsequent reimbursement.

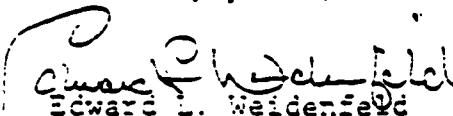
Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. In the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably segregable portions of such document be produced.

In the event that it is determined that your agency has no documents responsive to any individual request item (or portion thereof), written confirmation of such fact is specifically requested.

This request constitutes notice of demand for production of the above-described documents for purposes of inspection and copying. If for any reason it is determined that any document or portion thereof will not be made available to the undersigned, or that this request will not, in whole or in part, be complied with, prompt notice of any action taken is solicited. In addition, it is specifically requested that any document or portion thereof will not be produced for inspection or copying be individually identified and described, and the basis for nonproduction explained by reference to both the statutory authority for and the factual circumstances relied upon in the determination to withhold access.

The undersigned hereby agrees to pay the United States all direct costs incurred under applicable regulations in the search for and duplication of the requested documents. Because of the urgent need for the documents described above, it is requested that your agency adhere to the time limitations set forth at 5 U.S.C. § 552(a)(6)(A) in responding to this request.

Sincerely yours,


Edward L. Weidenfeld

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Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Freedom of Information Act Request

Dear Madam or Sir:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and the regulations appearing at 11 C.F.R. Part 4, request is hereby made on behalf of The Reagan Bush Committee and The Reagan Bush Compliance Fund for disclosure and production for inspection and copying of the documents described below:

1. All agency records setting forth the substantive standards applied by the Commission and its staff in rendering repayment determinations pursuant to 26 U.S.C. § 9007(b) and 11 C.F.R. § 9007.2.
2. All agency records setting forth any policy, rules, or guidelines followed by the Commission and its staff in implementing the provisions of 2 U.S.C. § 441a and 26 U.S.C. §§ 9004 and 9007(b).
3. All agency records setting forth any policy, rules, procedures, or guidelines for the development by the Commission or its staff of substantive interpretations of the provisions of 2 U.S.C. § 441a and 26 U.S.C. §§ 9004 and 9007(b).

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FOIA Officer
July 20, 1981
Page Two

4. All agency records setting forth any substantive interpretations by the Commission or its staff of the provisions of 2 U.S.C. § 441a and 26 U.S.C. §§ 9004 and 9007(b).

5. All agency records setting forth the circumstances and considerations underlying the development and promulgation of the regulations appearing at 11 C.F.R. Parts 9004 and 9007.

6. All agency records setting forth any policy, rules, procedures, or guidelines for the development by the Commission or its staff of substantive interpretations of the regulations appearing at 11 C.F.R. Parts 9004 and 9007.

7. All agency records setting forth any substantive interpretations by the Commission or its staff of the regulations appearing at 11 C.F.R. Parts 9004 and 9007.

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. In the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably segregable portions of such document be produced.

In the event that it is determined that your agency has no documents responsive to any individual request item (or portion thereof), written confirmation of such fact is specifically requested.

This request constitutes notice of demand for production of the above-described documents for purposes of inspection and copying. If for any reason it is determined that any document or portion thereof will not be made available to the undersigned, or that this request will not, in whole or in part, be complied

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HAND DELIVERED

Hon. John W. McGarry
Chairman, Federal Election
Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Interim Audit Report of the Reagan Bush
Committee, Reagan Bush Compliance Fund,
and Democrats for Reagan

Dear Mr. Chairman:

In accordance with the request by Mr. Costa of your staff, the Reagan Bush Committee and the Reagan Bush Compliance Fund (hereinafter, the Committee) have filed this date a response to the interim findings and recommendations prepared by the Commission's audit staff. For the reasons discussed below, the Committee objects to certain actions taken by the Commission which have seriously and improperly impaired the Committee's ability to respond to the matters raised in the interim report. The Committee requests that the Commission stay any further action on the interim report until the Committee has been accorded a full and proper opportunity to be heard.

As you know, the interim findings and recommendations raise several questions concerning campaign expenditures and financial activities by the Reagan Bush Committee and the Reagan Bush Compliance Fund. The gravity of the matter is underscored by the finding of "apparent violations of the Federal Election Campaign Act of 1971, as amended," and the recommendation that for the alleged statutory violations the

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Hon. John W. McGarry
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Page Two

Committee be required to repay to the United States Treasury a total of _____ The issues are thus substantial in financial terms and for their potential impact upon the personal reputations of the individuals involved in this campaign. The Committee's response to the interim report clearly demonstrates that the findings and recommendations of the Commission's audit staff are defective in fact and in law. It is equally clear, however, that the Committee's ability to respond fully to some of the matters raised in the interim report has been unfairly and improperly restricted.

It is our understanding that the interim report and the Committee's response will form the basis upon which the Commission will make a final determination as to the existence of any violations of law and the requirement of any repayment of funds. See 11 C.F.R. Part 9007. Upon the particular facts of this case, such a procedure plainly is inadequate, and fails to protect the legitimate rights and interests of the Committee.

The Committee's ability to respond fully to the interim findings and recommendations necessarily is affected by, (i) the availability of full access to the factual record underlying the interim report, (ii) the opportunity to test the particular facts and analysis relied upon by the audit staff in preparing the interim report, and (iii) the availability of sufficient time to analyze the record and the interim report and prepare a response to disputed factual matters and issues of law.

The interim report merely reflects the conclusions of the Commission's audit staff as to certain financial transactions. It does not identify all of the individual documents, interviews, and other sources of information relied upon by the audit staff, or provide a detailed explanation of the audit techniques and accounting methods employed in reaching the disputed conclusions. Moreover, the procedures apparently contemplated by the Commission in this matter effectively insulate the audit staff and their findings and recommendations from any form of particularized scrutiny. Finally, to marshal the facts pertinent to the particular matters raised in the report requires the review and analysis of thousands of pages of financial records and the interview of many of the numerous individuals who were involved in the campaign. (It is our understanding that, in contrast to the thirty (30) days allowed the Committee, the audit and analysis by the Commission's staff required several months to complete, a fair indication, perhaps, of the magnitude of the task.) The Committee thus has been forced to prepare its response to the

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Hon. John W. McGarry
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Page Three

serious allegations contained in the interim report in an unreasonably short period of time without full and equal access to the record or any meaningful opportunity to test the analysis and conclusions of the audit staff.

By letters dated July 6, 1981, the Committee sought access under the Freedom of Information Act to the documentary record underlying the interim report, and, pursuant to 11 C.F.R. § 9007.2(c), requested a thirty (30) day extension of the time within which to respond to the report. By telephone conversation on July 13, 1981, the Committee's application for extension of time was denied, and the Commission's deadline for the Committee's response remained Monday, July 20, 1981. None of the materials responsive to the Committee's disclosure request were received until the close of business, Friday, July 17. In light of the breadth and complexity of the financial transactions subject to the Commission's audit, it cannot be said that the Committee has been given a full and fair opportunity to respond to the allegations of statutory violations.

As the matter now stands, the record before the Commission consists of the untried and untested allegations set forth in the interim report and such response thereto as the Committee presently is able to provide under the above-described constraints. The Committee believes that the response filed today clearly demonstrates the defects in the interim report. Nevertheless, it is equally clear that to proceed to a final determination concerning the alleged statutory violations and the demands for repayment upon the present record would transgress both the clear responsibilities of the Commission and the fundamental rights of the Committee.

Accordingly, the Committee hereby requests that, (i) the Commission take no further action in this matter (and make no public disclosures with respect thereto) until the Committee has been accorded a full and fair opportunity to respond to the interim report,*/ (ii) the Commission reconsider and grant the Committee's request for additional time in which to secure a thorough accounting and other expert analysis and to file a written supplement to the response submitted this date, and (iii) the Commission hold a hearing in which all of the facts and arguments pertinent to the alleged statutory violations may be

*/ We are particularly concerned that the adoption of the interim report or any publication with respect thereto would severely prejudice the Committee and its staff.

Hon. John W. McGarry
July 20, 1981
Page Four

presented and properly tested. Such measures are consistent with the Commission's authority and responsibility, and required by the facts of this dispute and the applicable principles of law.

First, the measures requested by the Committee fall well within the Commission's enforcement authority and responsibility under the Federal Election Campaign Act. The pertinent statutory provisions clearly contemplate that the Commission's enforcement actions shall be taken upon a full and proper factual record, developed, where appropriate, through the use of hearings and the adversarial process. See 2 U.S.C. §§ 437c(b)(1) and 437d. Although the Commission is empowered "to conduct investigations and hearings expeditiously" (2 U.S.C. § 437d(a)(9)), nothing in the general provisions of the Act or the specific provisions pertaining to repayments (see 26 U.S.C. § 9007) suggests that the Commission's determination on matters such as those raised in the interim report must be rendered precipitously before the pertinent facts and arguments of law have been fully developed. Indeed, the Commission's own regulations provide for extensions of time to ensure a proper presentation of the issues. 11 C.F.R. § 9007.2.

Second, the measures requested by the Committee are consistent with the provisions of the Administrative Procedure Act. Determinations by the Commission under 26 U.S.C. § 9007(b) that a party has violated the provisions of the Federal Election Campaign Act and must repay certain funds are clearly adjudicatory in nature, and thus appear to be subject to the provisions of 5 U.S.C. § 554, as amended.* Particularly inasmuch as there exist issues of fact and the Commission's determination shall be final, subject only to review by the Court of Appeals (see 26 U.S.C. §§ 9007(b) and 9011(a)), the Committee should be

*/ The Administrative Procedure Act defines "adjudication" as "agency process for the formulation of an order," and "order" as "the whole or part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form." 5 U.S.C. § 551(6) and (7). Certainly a repayment "determination" by the Commission pursuant to 26 U.S.C. § 9007(b) constitutes a "final disposition" within the meaning of the APA. See, e.g., *International Telephone & Telegraph Corp. v. Local 100, International Brotherhood of Electrical Workers*, 419 U.S. 428, 441-43 (1975); See also *American Express Co. v. United States*, 472 F.2d 1050, 1055 (C.C.P.A. 1973).

Hon. John W. McGarry
July 20, 1981
Page Five

provided with a full measure of the procedural protections set forth in the APA. See, e.g., Seacoast Anti-Pollution League v. Costle, 572 F.2d 872 (1st Cir.), cert. denied, 439 U.S. 824 (1978). See also Bricklayers, Masons, and Plasterers International Union v. NLRB, 475 F.2d 1316 (D.C. Cir. 1973).

Third, the measures requested by the Committee are consistent with and necessary to the fundamental principles of due process. That is, the courts have held that where, as here, the government seeks to recoup through administrative proceedings alleged overpayments of public funds, the party from whom the recovery is sought is entitled to a hearing or otherwise clearly adequate opportunity to be heard and dispute the government's claims. See, e.g., Califano v. Yamasaki, 442 U.S. 682, 693-97 (1979); Devine v. Cleland, 616 F.2d 1080 (9th Cir. 1980). See also State of Colorado v. Veterans Administration, 602 F.2d 926 (10th Cir. 1979). Absent the minimal safeguards sought by the Committee, it will be improperly subject to the Committee's final determination on the merits of this dispute without any means of adequately testing and countering the factual and legal underpinnings of the government's claim. In light of the matters at stake in this controversy, and the constraints thus far imposed upon the Committee's ability to respond to the allegations, it is difficult to imagine a more egregious deprivation of due process rights. See generally Goldberg v. Kelly, 394 U.S. 254, 263-71 (1970). Indeed, the limited measures sought by the Committee are likely to be the only means of securing a prompt and proper resolution of this dispute. See Califano v. Yamasaki, supra, 442 U.S. at 693 ("the nature of the statutory standards makes a hearing essential"). Examined in light of the private interests at stake, the risk of erroneous deprivation of rights, and the government's interests in the matter, administrative enforcement proceedings under 26 U.S.C. § 9007(b) clearly must adhere to the fundamental principles of due process. See Elliott v. Weinberger, 564 F.2d 1219, 1230-35 (9th Cir. 1977), aff'd in part, rev'd in part sub nom. Califano v. Yamasaki, supra; Goldberg v. Kelly, supra, 394 U.S. at 263-71.

Finally, the limited measures sought by the Committee clearly are in the best interests of both the Committee and the Commission. By providing the requested procedural safeguards, the Commission can enhance the likelihood that this dispute will be resolved without the mutual expense and inconvenience of judicial intervention.

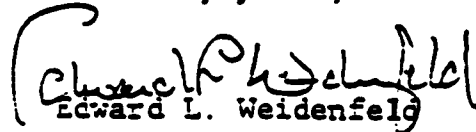
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Hon. John W. McGarry
July 20, 1981
Page Six

For the foregoing reasons, the Committee requests a stay of further Commission action in this matter, an opportunity to supplement the written response filed this date, and a hearing before the Commission on the merits of this dispute. As demonstrated above, the requested procedural safeguards are well-warranted on the particular facts of this case and amply supported by applicable law and policy. In the event, however, that the Commission determines to deny any aspect of the Committee's request, a prompt and specific notice thereof is requested, together with a written statement of the grounds upon which the Commission's decision is based.

Should you have any questions, please contact the undersigned.

Sincerely yours,


Edward L. Weidenfeld

cc: Charles N. Steele, Esq.
Mr. Robert J. Costa

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MICHAEL ROSEN
MARTIN S. ROSENBERG
HARVEY S. ROSENBERG
L. BRUCE SPICER
WILLIAM J. SPRING
JAMES R. WALSH
EDWARD L. WEINSTEIN
JENNETH W. WEINSTEIN
LES J. WEINSTEIN
DANIEL WHITE
DANIEL W. WILSON
CHARLES C. WOODS

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ALBERT L. REEVES
ALVIN S. SALAMONSON

ALBERT H. COLE
MAX GOLDEN
JOEL P. SHEDD

THOMAS J. ALLEN
JED L. BASH
ROBERT S. BASH
RICHARD D. BASH
JULIE FOR BLACKBURN
JEFFREY A. BOECKER
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ROBERT J. HENNINGHAFF
THOMAS W. HUSSEY
JESSE S. ICHIMARU
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MICHAEL T. JAMES
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LOUISE P. WISE
RENÉE E. YOSHIDA
DEAN J. ZIPPER

July 20, 1981

WRITER'S DIRECT DIAL NUMBER

(202) 789-7640

HAND DELIVERED

Robert J. Costa
Assistant Staff Director
for the Audit Division
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Interim Audit Report of the Reagan Bush
Committee, Reagan Bush Compliance Fund,
and Democrats for Reagan

Dear Mr. Costa:

In accordance with your letter to Mr. Mackenzie of June 18, 1981, enclosed please find the response to the findings and recommendations set forth in the interim report prepared by your staff.

Please be advised that the enclosed response is being filed with your office under protest. By separate letter of this date (a copy of which is enclosed herewith), the Reagan Bush Committee and Reagan Bush Compliance Fund (hereinafter, the Committee) have lodged with the Chairman specific objections to certain actions taken by your agency which effectively have deprived the Committee of any meaningful opportunity to respond to the matters raised in the interim report. The Committee has requested that any further action by the Commission in this matter be stayed until such time as the Committee has been provided both full access to the information pertinent to the interim findings and

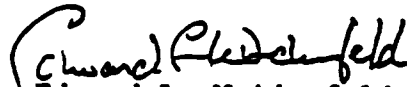
LAW OFFICES
MCKENNA, CONNER & CUNEO

Robert J. Costa
July 20, 1981
Page Two

recommendations and an adequate opportunity to review such information and submit further comments in supplement to the enclosed response.

Should you have any questions, please contact the undersigned.

Sincerely yours,


Edward L. Weidenfeld

Enclosures

cc: Hon. John W. McGarry
Charles N. Steele, Esq.

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CONFIDENTIAL

REAGAN BUSH COMMITTEE AND REAGAN
BUSH COMPLIANCE FUND
RESPONSE TO FEDERAL ELECTION COMMISSION
INTERIM REPORT OF THE AUDIT DIVISION ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND THE DEMOCRATS FOR REAGAN

The Reagan Bush Committee and the Reagan Bush Compliance Fund hereby respond to the Federal Election Commission's Interim Report of the Audit Division on the Reagan Bush Committee, the Reagan Bush Compliance Fund and the Democrats for Reagan dated June 18, 1981. This response sets forth the Committee's initial positions, taken without benefit of a review of most audit support documentation, in regard to five areas addressed in the audit report:

- a. Transfer of funds between the Reagan Bush Committee and the Republican National Committee (Audit Findings II A., III A. & B. and III E.(4)). [See Tab 1];
- b.
- c. Campaign tour profits (Audit Findings III B.). [See Tab 3];
- d. Capital assets (Audit Finding III E.(3)). [See Tab 4]; and
- e. Miscellaneous (Audit Findings II A. and III E. (1, 2 & f)). [See Tab 5].

CONFIDENTIAL

REAGAN BUSH COMMITTEE AND REAGAN
BUSH COMPLIANCE FUND
RESPONSE TO FEDERAL ELECTION COMMISSION
INTERIM REPORT OF THE AUDIT DIVISION ON THE
REAGAN BUSH COMMITTEE, THE REAGAN BUSH COMPLIANCE FUND
AND THE DEMOCRATS FOR REAGAN

Submitted on behalf of the above-named Committees by

McKenna, Conner & Cuneo
Attorneys at Law
1575 Eye Street, N.W.
Washington, DC 20005

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INTRODUCTION

The audit of the Reagan Bush Committee ("RBC") and the Reagan Bush Committee Compliance Fund ("Compliance Fund") was conducted by the Federal Election Commission pursuant to 26 U.S.C. §9007(a). The results of the audit report are interim in nature, pending a response by the RBC. The RBC has reviewed the audit report but did not have timely access to most supporting documents. Based on the review of the interim report and those documents available to the Committee from its files, the RBC has concluded that the findings of the audit report are incorrect and should be significantly amended before the Commission adopts its final report. In an effort to permit the Commission an opportunity for a full review of the facts and law relating to this matter, the RBC has requested an opportunity to file a supplemental response after it has had an opportunity to review adequately the data on which the Interim Audit Report was based. The RBC also has requested an opportunity to be heard by the Commission and a suspension of publication of the Commission's Final Report until this process is completed.

In summary, the RBC review establishes that expenditures subject to limitation incurred from May 1, 1980 through March 26, 1981 totaled \$29,150,287.69 not \$, as stated in the audit report. The RBC reaches this conclusion because:

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- a. the \$1,138,891.24 added by the audit to RBC expenditures subject to limitation because they "represented payments to the Reagan Bush Committee based on . . . RNC expenditures," in actuality represent a proper offset of expenditures incurred by the RBC and the RNC in furtherance of Ronald Reagan's candidacy and in conformance with the agency relationship that existed between the RBC and the RNC;
 - b.
 - c. the \$50,588.48 added by the audit to RBC expenditures subject to limitation because they represent income realized from campaign tours, is an incorrect addition because the campaign tours generated a loss;
 - d. the \$46,617.93 increase in value of capital assets reported by the RBC on its Statement of Net Outstanding Qualified Campaign Expenses reflected as a decrease of expenditures subject to limitation is incorrect because the increase includes the value of assets not owned or on hand as of the date of the statement and is the result of an improper valuation method; and
 - e. the \$301,179.04 added by the audit to expenditures subject to limitation for miscellaneous items detailed on page 4 of the audit report fail to agree with RBC records and no explanation for the difference is provided.

Each of these areas is discussed below.

TRANSFER OF FUNDS BETWEEN RNC AND RBC

Audit Findings II A., III A. & B. and III E(4)

ISSUE:

Whether the Reagan Bush Committee ("RBC") exceeded its statutory spending limitation by managing Republican National Committee ("RNC") funds for the 1980 Presidential general election.

CONCLUSION:

The RBC permissibly managed RNC funds pursuant to an agency relationship authorized by law. In such circumstances the change, if any, should be made to the principal's account. The Act does not prohibit each Committee from reporting its share of coordinated campaign expenditures.

DISCUSSION:

A principal allegation of the audit report is that the RBC may have made campaign expenditures in excess of its statutory limitation in violation of 2 U.S.C. § 441a(b)(1)(B). This allegation challenges the legally permissible arrangement between the Republican National Committee and the Reagan Bush Committee to coordinate their expenditures in an effort to further the Reagan Bush campaign.

I. FACTS

At the outset of the 1980 Presidential campaign, the RNC and the RBC were committed to spend the legally permissible amount to promote the candidacy of the nominee of the Republican Party. As the national committee^{*} of the Republican party, the RNC was limited by law to expenditures of \$4,637,653.76. 2 U.S.C. § 441a(d) (2). As the principal campaign committee^{**} of Mr. Reagan, the RBC's spending limitation was \$29,440,000. 2 U.S.C. § 441a(b) (1) (B).

The Committees determined that the RNC would assume responsibility for those campaign expenditure items designated by the RBC. These items included certain tour charges. It is common practice for noncampaign personnel, primarily the press and secret service, to be charged for their pro rata share of the transportation services provided. For convenience and to coordinate their campaign efforts, the RNC paid the air fare charges designated by the RBC, and the RBC billed the paying passengers for the appropriate reimbursements due. The result of

^{*}/ "National Committee' means the organization which, by virtue of the by-laws of a political party, is responsible for the day-to-day operation of a political party at the national level, as determined by the Commission." 11 C.F.R. § 100.13.

^{**}/ "Principal Campaign Committee' means a political committee designated and authorized by a candidate pursuant to 11 C.F.R. § 101.1 and 102.1." 11 C.F.R. § 100.5(e) (1).

this procedure was that the campaign incurred air fare charges only for those personnel involved in the campaign.

Initially, the RBC presented the RNC with invoices for expenses incurred by the RBC. The RNC would in turn make payment to the designated vendor. In order to provide an appropriate accounting treatment for the reimbursements, it was determined that the same result would be achieved if the RBC credited reimbursements received against expenses incurred on behalf of the RNC and paid by the RBC. This procedure saved time and paperwork in the crucial period of the campaign.

The RBC 1980 year-end report filed with the FEC reflected an error in the RBC's treatment of the RNC related reimbursements discussed above; e.g., Schedule A-P, Line 21. A corrective amendment concerning the treatment of reimbursed funds was filed by the RBC on April 1, 1981 in a timely manner and in accordance with the rules and regulations of the Commission.

The procedure followed by the RNC and the RBC resulted in no net change in the financial positions of the committees. It did achieve a reduction in paperwork and a more efficient administration of RNC funds.

II. THE REAGAN BUSH COMMITTEE EXPENDED CAMPAIGN FUNDS
WITHIN ITS STATUTORY LIMITATION

A. The Federal Election Campaign Act Authorized
the Reagan Bush Committee to Act as the Agent
of the Republican National Committee For The
Purpose of Making Campaign Expenditures

In the 1980 Presidential general election, the Reagan Bush Committee acted as the agent on the Republican National Committee by making campaign expenditures on its behalf. This arrangement was expressly authorized by an FEC regulation which provides that, in connection with the general election campaign of a Presidential candidate:

The national committee of a political party may make expenditures authorized by this section through any designated agent....

11 C.F.R. § 110.7(a)(4).

Pursuant to this authorization, the RBC acted as the RNC's agent and managed certain RNC funds during the Presidential campaign.

The course of dealing between the Reagan Bush Committee and the Republican National Committee amply demonstrates that an agency relationship existed. In coordinating campaign expenditures, the Committees agreed that the RNC would pay for certain designated campaign costs incurred by the RBC. The RBC billed the RNC for air charges, receiving travel reimbursements on RNC's account. In turn, these reimbursements were credited against expenses the RBC incurred on behalf of the RNC. All of the

expenditures were coordinated by the Committees pursuant to their commitment to further the candidacy of the Republican nominee.

It is fundamental that "no particular formalities are needed to establish the principal-agent relationship." Ocrant v. Dean Witter & Co., Inc., 502 F.2d 854, 858 (10th Cir. 1974). See also Universal Computer Svstems Inc. v. Medical Services Assoc. of Pa., 474 F. Supp. 472 (M.D. Pa. 1979). An agency relationship exists if the conduct of the parties manifests the willingness of one person to have another act on his behalf, subject to his control and the consent of the other party to act. See Restatement, Agency (2d ed) § 14. In particular, when a person puts his property in the hands of another to keep or manage, he creates, as between himself and the other, the relation known as principal and agent. See In re Estate of Morvs, 17 Ill. App. 3d 6, 307 N.E. 2d 669 (1973). The course of dealing between the RNC and the RCB demonstrates the existence of such an agency relationship whereby the RCB managed funds for the account of the RNC, subject to the RNC's ultimate control.

As the RNC's agent, the RCB was authorized to make the expenditures permitted to the national committee by § 441a(d) in the Presidential election campaign. Although some national and state committee agreements designed to coordinate expenditures for Congressional campaigns have been challenged, the reasons for questioning those arrangements are not applicable to this case. The Commission's regulations specifically authorize a national

committee to designate an agent for the purpose of expending funds in a Presidential general election. The RBC and the RNC shared the same goal of promoting one individual's candidacy and coordinated their spending efforts in furtherance of that objective. In national/state agreements, where the national committee ultimately designates how and where the state's money will be spent, the possibility that a state may lose control over its authorized funds has caused some courts to question the validity of such arrangements. See e.g. Democratic Senatorial Campaign Committee v. Federal Election Commission, No. 80-2074 (D.C. Cir., October 9, 1980), cert. granted, 49 U.S.L.W. 3643 (March 3, 1981). No corresponding dangers exist in the instant case, however, as the RBC's and the RNC's funds were used for a single election and the RNC controlled its funds. The absence of this potential conflict is evidenced by 11 C.F.R. §110.7(4) which expressly authorizes the RBC/RNC arrangement.

The Interim Audit Report recommends that \$1,138,891.24 in travel reimbursements from the RNC expenditures should now be applied to the RBC's overall spending limit. There is no basis in logic or law to support a recommendation to reduce the RNC expenditures by the sum of \$1,138,891.24 and increase the RBC's expenditures by a like amount as the Committees previously accounted for such sums by matching the RNC reimbursements against the RBC expenses incurred on behalf of the RNC. Such an

accounting arrangement was followed pursuant to a valid agency relationship and should be recognized as such.

B. The Act Permits a National Committee and a Campaign Committee to Coordinate Their Resources, While Permitting Each Committee to Report Its Share of the Expenditures

The agency relationship pursuant to which the RBC managed funds for the RNC makes it unnecessary to approach the issue of pooling resources between a national committee and a campaign committee in determining that the RNC and the RBC acted correctly in this matter. However, in light of the broad sweep of the audit report's findings, this issue should be considered.

The Committees coordinated campaign expenditures to attain their maximum beneficial result. This practice is authorized by the Act in other circumstances which are clearly analagous to the RNC and the RBC.

As previously noted, § 441a(d) of the Act authorizes a national committee to make expenditures in connection with a Presidential general election campaign. The legislative history of 2 U.S.C. § 441a(d) demonstrates Congress' intent that party committees have the freedom to pool those campaign resources. During hearings on the 1974 amendments to FECA, which ultimately produced § 441a(d), the Senate Committee on Rules and Administration stated that one "essential tenet" of the planned financing system was for the:

Provision of a role for political parties which would allow them to serve as a legitimate pooling mechanism for private contributions to candidates in general elections.

S. Rep. 698, 93d Cong., 2d Sess., at 3.

The permissibility of coordinating committee expenditures is further evidenced by 2 U.S.C. § 441a(a)(4), the so-called "unlimited transfer" clause, which provides that:

The limitations on contributions ... do not apply to transfers between and among political parties which are national, State, district or local ... committees ... of the same political party.

As can be seen from these provisions, both Congress and the Commission have accorded party committees the discretion to decide how to best support their candidates within their combined dollar limitations. Several FEC rulings likewise recognize that a national committee may designate another committee of the same political party to make limited § 441a(d) expenditures and that such expenditures may be made from the funds of either the authorizing committee or the agent committee.

In Advisory Opinion 1976-108, the FEC was requested to rule upon the appropriateness of fund transfers between the National Republican Congressional Committee (NRCC) and the Republican National Committee. Fed. Elect. Campaign Fin. Guide (FEC) • 5136 (February 15, 1977). Finding that the agency agreement between NRCC and RNC was expressly authorized by law, the Commission determined that:

[A] transfer between one of the congressional campaign committees and the national committee of the same political party is a transfer between political committees of the same party and hence unlimited under 2 U.S.C. § 441a(4).... Since funds may be transferred between the congressional campaign and the national committee of the same political party without limitation, it is immaterial as to which committee's funds are being expended under 2 U.S.C. § 441a(d) (3).

Id.

Applying the same rationale of the Commission to the instant matter, there is no reason why the RBC, as the RNC's agent, could not similarly manage the campaign funds of the RNC in addition to its own.

In other instances the FEC has determined that a designated committee agent of the same party may make expenditures on behalf of the principal even though the expenditures are in excess of what the agent committee could have made had it not been delegated the authority to distribute funds other than its own. These determinations, which addressed the validity of fund transfers between national and state committees, all recognized that because § 441a(4) authorizes money transfers between.

committees without limitation, it is immaterial as to which committee's funds are expended under the statutory limits.*/ See MUR 780, 820 and 1234.**/

The reason for permitting transfers between national and state committees is to allow party-coordinated spending. That same transfer right, by analogy, is applicable to the RNC and the RBC. To reach a different result would be inconsistent with the intent of the Act, i.e., if the RNC can transfer its spending authority to the RBC in precise technical compliance with 11 C.F.R. § 110.7(a)(4), it should similarly be able to do so under § 441a(a)(4).

*/ Unlike the instant case, these agreements were not authorized by the "designated agent" provision at 11 C.F.R. § 110.7(a)(4) as that section only applies to a Presidential election campaign, not Congressional.

**/ On October 17, 1980, Chief Justice Burger issued a stay of the decision in National Republican Senatorial Comm. v. Democratic Senatorial Campaign Comm., S.Ct. No. 80-1129, the companion case to Democratic Senatorial Campaign Committee v. FEC. According to a published memorandum dated October 31, 1980 from the General Counsel of the FEC concerning MUR 1234, this stay has the effect of upholding the FEC's policy that agency agreements are not inconsistent with the Act.

Until the Court of Appeals ruled that the agency agreements in question were improper, the NRSC was clearly entitled to rely on the Commission's interpretations of the statute which had indicated that such agreements were not inconsistent with FECA. The stay on the Supreme Court holds the Court of Appeals' mandate in abeyance so that the NRSC can presently rely on the Commission's interpretation of the statute in MURS 780, 820, 1234.

An additional provision of the Act demonstrates the acceptability of coordinating and pooling campaign expenditures in circumstances similar to those of the RNC and the RBC. 11 C.F.R. § 102.12(c)(1) provides that a candidate nominated by a political party may designate the national committee of that party as his principal campaign committee. 11 C.F.R. § 110.7(a)(3)(i) further provides that as a principal campaign committee, the national committee is entitled to make § 441a(d)(2) expenditures in addition to § 441a(b)(1)(3) expenditures. Thus, if the RNC had been designated as Ronald Reagan's principal campaign committee, it could have made campaign expenditures of \$29,440,000 in addition to its authorized \$4.7 expenditure limit, for a total of approximately \$34 million.

As can be seen from this example, the FEC regulations clearly allow the pooling of campaign committee resources in some instances. The permitted example given above is indistinguishable from the spending relationship between the RNC and the RBC. These Committees coordinated their campaign expenditures, kept separate books and records of their accounts, and made expenditures within their overall limitations. Such an arrangement comports with the purposes of the Act. There is no reason to object to the transfer of funds between the RNC and the RBC if both individual contribution limits and overall expenditure limits were observed. Those limits were observed by the

Committees. As such, the manner in which the RNC and the RSC coordinated their expenditures was in accordance with the Act.

C. Any Error That May Have Occurred in Reporting Reimbursements Was Eliminated By the Reagan Bush Committee's Amendment to It's 1980 Year End Report

In alleging that the Reagan Bush Committee exceeded its campaign expenditure limitation, the Interim Audit Report erroneously and arbitrarily ignores an amendment to the Committee's 1980 year end report, filed with the Commission on April 1, 1981.

During the course of the FEC audit, the RBC was informed by the audit staff that it was not entitled to payments based on the RNC travel expenditures and that such reimbursements could not reduce the Committee's overall operating expenses. (Interim Audit Report, p. 5). The RBC reviewed its accounting practices, concluded that an error had been made in the January 31, 1981 filing and timely filed an amendment in accordance with the Commission's rules. The April 1, 1981 amendment accurately reflects the underlying transactions between the Committees. It is commendable that the audit staff discovered and disclosed the accounting error in the 1980 year-end report. The FEC auditors' discovery of the discrepancy before the RBC does not alter the validity of the RBC amendment or support a recommendation to correct a reporting error into an excessive expenditure.

In its April 1, 1981 amendment, the RBC deleted \$748,163.16 in previously reported refunds and \$748,163.16 in previously reported operating expenses. These amounts were then attributed to the Republican National Committee to account for various campaign costs incurred by the RBC on behalf of the RNC. As noted previously, the purpose of this amendment was merely to report an error in accounting for the expenditure transfers between the RBC and the RNC, not the validity of the expenditures themselves.

The audit report does not recognize the April 1, 1981 amendment because it was made "after the fact". Since all amendments by their very nature are retroactive, no amendment could ever be valid under the audit staff's reasoning. The continual reporting updates required by the Act do not support the audit report's position as to do so would render meaningless any attempts to correct reported errors or add previously omitted information.

The interim report evinces particular dissatisfaction with the RBC amendment at issue apparently because the transaction which was reported did not involve the physical movement of funds between the RBC and the RNC. The audit report alleges the amendment was no more than a "paper" attribution of certain tour reimbursements allotted to the RNC and selected expenditures paid by the RBC. (See Audit Report, p. 6).

It was not relevant to the Committees that funds would be physically moved between them. Consequently, the exchange of identical sums between the RBC and the RNC would have been a meaningless transaction. Rather, the purpose of the amendment was merely to reflect the fact that by matching reimbursements with expenses, the financial position of neither committee was affected, each making campaign expenditures within its statutory limit.

Based on the above, it is clear that the amendment to the Reagan Bush Committee's 1980 year end report is valid and should be recognized as such.

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C. Consultation Fees/Reimbursed Expenses
Were Improperly Allocated By The Audit

The audit report indicates that the review of consultant expenses included an analysis of "the services rendered by each consultant" and a determination of the extent to which the services were "devoted to compliance related matters." This resulted in an allocation of \$54,025.12 of consultant fees to the RBC.

This review apparently is based upon an auditor's determination of the reasons for seeking the expert's assistance. Because an auditor has little or no experience in these areas, the RBC's allocation based upon first-hand knowledge of why the consultant was hired must be accepted unless credible evidence can be provided to show a contrary result. Therefore, the audit determination should be rejected.

D. Miscellaneous Charges Were Improperly Allocated

The audit identified four expenditures totaling \$8,360.58 that allegedly benefited the RBC. No specific basis for this finding was provided in the report and supporting documents were not available for review. Therefore, until this finding is substantiated, it should be rejected.

III. Conclusion

Regulations implementing the Presidential Election Campaign Fund Act permit the establishment of a Compliance Fund to support

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CAMPAIGN TOUR PROFITS

Audit Finding III. B

ISSUE:

Was a profit realized from the reimbursements received for tour travel during the 1980 Presidential general election campaign?

CONCLUSION:

The Reagan Bush Committee did not realize a profit during the Presidential election campaign because actual tour expenditures exceeded tour reimbursements.

DISCUSSION:

The Interim Audit Report alleges that the Reagan Bush Committee realized income of "at least" \$50,586.42 in conjunction with reimbursements received from the 1980 Presidential campaign tour.* (Audit Report, p. 11). The report claims this amount was profit which had the effect of understating RBC's reported expenditures. To adjust this alleged understatement, the audit staff asserts that this amount should now be applied against the overall spending limitation of the Reagan Bush Committee. (Audit Report, p. 11).

* The \$50,000 figure reflects the difference between an alleged \$25,000 profit on the Presidential tour and a \$16,000 loss on the Vice-presidential tour.

The method by which the audit report calculated loss and profit on the campaign tour must be rejected. It fails to acknowledge the fact that actual tour costs exceeded tour reimbursements. A review of the tour expenditures associated with the Presidential campaign demonstrates this result. Only these figures need be examined as both the audit staff and the RBC acknowledge that a loss was incurred on the Vice-presidential tour.

A total of \$2,251,213.99 was spent on the 1980 presidential campaign tours.^{*/} This figure becomes the basis for determining whether or not a profit was realized from the campaign tours. That is, were paying passengers charged more than their pro rata share for travel expenses and, if so, did such overpayments constituted excessive income to the campaign. The RBC's figures clearly demonstrate that: (1) the press, secret service and other paying passengers were not overcharged for transportation costs; and (2) the campaign incurred tour expenses over and above tour reimbursements, thus resulting in a loss on

^{*/} It should be noted that the RBC's tour cost figures differ from those cited in the audit report and the summary sheet of the auditor's work papers. However, because we have been unable to timely obtain and review the back up documents for the audit report's findings, it is impossible for us to ascertain how such figures were determined. As such, in response to the allegation that a profit was incurred on the campaign tour, the Committee relies upon its own figures.

tour travel. In fact, a loss of more than \$18,000 was incurred on the presidential tours.

The following procedure was used by RBC to ascertain whether or not a profit was made on the presidential tour. First, airplane costs were determined for each of the 15 presidential tours. These costs, which reflect the total cost of the chartered planes for each leg of the tour, totaled \$2,045,771.87. Ground costs for each tour were also determined (\$205,442.12), bringing the total costs for the 1980 Presidential tour to \$2,251,213.99. The total tour reimbursements of \$1,739,350.57 were then subtracted from that amount resulting in an actual tour cost of \$511,863.24. The pro rata costs allocable to campaign members traveling on the tours (\$493,434.14) was then subtracted from the actual out-of-pocket cost, reflecting a loss of \$18,429.10 for the presidential campaign tour of 1980.

Clearly no profit was realized by RBC from campaign tour reimbursements. The audit reports' determination of a \$50,000 profit is unsupported given the above facts and calculations. That amount should not be considered as an expenditure subject to RBC's overall limitation on expenditures.

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CAPITAL ASSETS

Audit Finding III E. (3)

ISSUE:

Whether the audit finding that the RBC should report an increase in value of \$46,617.93 in its capital assets is proper.

CONCLUSION:

The finding is improper because: (1) many of the capital assets included in the proposed increase in value were no longer RBC property; and (2) the valuation method used was improper.

DISCUSSION:

I. FACTS

During the general election campaign, the RBC used various capital assets in performing its campaign support functions. As of December 4, 1980, the date of the Analysis of Net Outstanding Qualified Campaign Expenditures reviewed during the audit, many of these items had been sold or could not be accounted for.

Certain assets listed on Attachment I to the audit report were sold prior to December 4, 1980. These items are:

- a. 1 Autocrat Signature Machine
- b. 3 Motorola Communication Equip. - CFTRs
- c. 1 Sony Video Recording System

d. 1 JVC 3/4 Video Player

Certain capital assets listed on Attachment I were unaccounted for as of December 4, 1981; 9 Motorola Equip. - walkie talkies.

II. Auditor's Valuation of Capital Assets is Incorrect

Only capital assets that were the property of the RBC and still on hand as of December 4, 1981 must be included in the final valuation of the RBC's assets. (11 C.F.R. 9004.8(b)(2)(ii).) Therefore, only those items on Attachment I not sold and accounted for as of December 4, 1980 should be included in the final valuation.

Capital assets included in the final valuation must be valued at their fair market value. (11 C.F.R. 9004.8(b)(2)(ii).) In legal, accounting and general usage, fair market value is defined as the price that a willing seller could secure from a willing buyer neither under compulsion to buy nor sell and both being informed. See, e.g., Albrecht v. Herald Co., 452 F.2d 124 (8th Cir. 1971); Hamm v. Internal Revenue Service, 325 F.2d 934 (8th Cir. 1963). The value used by the auditor, book value calculated on a basis of an eight year life using straight line depreciation over a period of two years, far exceeds the fair market value for each of the assets on hand as of December 4, 1981. In fact, each of the items on hand was subject to a rapid loss of value upon commencement of use.

Therefore, the audit report incorrectly included certain capital assets in its valuation and also incorrectly valued those assets included in the final valuation. For these reasons, this audit finding must be rejected.

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MISCELLANEOUS

Audit Findings II A. and III E. (1, 2 & 5)

ISSUE:

Whether certain miscellaneous audit findings are proper.

CONCLUSION:

The RBC disputes each of these miscellaneous findings and reserves the right to make further comments when audit support documentation becomes available for review.

DISCUSSION:

The audit report contains numerous other findings, aside from those discussed previously, to which the RBC takes exception. These are:

- a. An increase of cash on hand of \$2,453.27 resulting from "checks written prior to 12/5/80 and subsequently voided."
- b. An increase in accounts receivable of \$13,331.49 resulting from two alleged overstatements and an understatement "representing the balance owed to the Committee for assets sold prior to 12/4/80."
- c. An increase in accounts payable of \$31,097.29 attributed to "a \$14,296.50 overstatement resulting from including expenditures which the checks were later voided and not reissued or reissued and included twice; and (b) a \$45,393.79 understatement resulting from the Committee's use of an estimated accounts payable."

- d. A net increase of \$301,179.04 in expenditures subject to limitation, resulting from: (a) increases in expenditures subject to limitation for the period January 1, 1981 through March 26, 1981; (b) debts and obligations owed to RBC as of March 26, 1981; (c) voided checks included in operating expenditures; and (d) an understatement of debts and obligations owed to RBC.

Because the audit finding for each of these issues is represented in summary nature and the audit support documents are currently unavailable, the RBC cannot at this time make any further comment on these disputed findings, however, the RBC reserves its right to make additional comments when audit support documentation becomes available for review.

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CONCLUSION

The Reagan Bush Committee and the Reagan Bush Compliance Fund believe that the findings of the interim audit report are incorrect and in need of substantial revision. As demonstrated from the above comments, the RBC review establishes that it complied with the Federal Election Campaign Act and its implementing regulations and did not make campaign expenditures in excess of its limitation. In light of this result, the audit report should be significantly amended before the Commission adopts it as final.

LAW OFFICES
MCKENNA, CONNER & CUNEO

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005
12021 789-7500

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12131 384-3600 • 388-9321

1820 MILLS TOWER
220 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
14151 433-0640

July 17, 1981

JUL 17 AM: 51

ASHLEY SELLERS 1088-1071
DALEBERT A. CUNEO 1013-1070

WILBIE H. ADAMS, JR.
JEFFREY P. ALTMAN
ROBERT A. ANTHONY
DANIEL H. BELIN
MICHAEL B. BERRY
STEVEN L. BRIGGEMAN
WILLIAM H. BUTTERFIELD
JOHN D. CONNER
JOHN D. CONNER, JR.
EDWARD H. CUNEO
SONDAN DANT, JR.
C. STANLEY DEES
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LANE L. MCVET
CHARLES G. MILLER
CHARLES A. O'CONNOR, III
JOHN S. PACHTER
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ARON M. PETER
RAYMOND S. E. PUSKAS
NORMAN W. RAIDER
MICHAEL ROSTER
MARTIN S. SCHWARTZ
HARVEY G. SHERZER
I. BRUCE SPIESER
WILLIAM J. SPRIGGS
JAMES R. WALTERS
EDWARD L. WEIDENFELD
KATHLEEN W. WEINSTEIN
LES J. WEINSTEIN
BUEL WHITE
DANIEL H. WILLIAMS
CHARLES C. YONKERS

THOMAS J. ALLEN
JED L. BARBER
ROBERT G. BADAL
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JULIE FOR BLACKSHAW
JEFFREY A. BOCKLER
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MICHAEL T. JARIN
MICHAEL T. KAHANAUGH
STEPHEN D. KNIGHT
KENNETH E. KUIPERS
MARTIN H. KRESLER

MICHAEL T. LANGSTON
CHRISTINE M. LANGSTON
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JOHN F. LEWIS, JR.
ADELE D. LEWIS
FREDERIC W. LEVY
ROBERT W. LINDQUIST
JOSEPH T. LYNDA, III
C. STEVEN MERMANN
MONA S. MILLER
RICHARD B. OLIVER
THOMAS C. PAPPON
BARBARA A. POTASHNICK
DOUGLAS M. RAWLINGS
MITCHELL M. SEGAL
ANTHONY SIBON
ARTHUR F. SILBERGLOD
SARA J. SMITH
MARTIN E. STEINER
JEFFREY E. STEINER
DEL STILTNER
RONNIE A. SULLIVAN
CURTIS ULLMANN
CHRISTIAN VOZ
CHARLES E. WADSWORTH, JR.
ROBERT W. WELLSMAN
BARBARA G. WETTER
LOUISE P. WISE
RENIE E. YOSHIDA
DEAN J. ZIPPERO

NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER

12021 789-7635

Hand Delivered

FOIA Officer
Federal Election Commission
1325 K Street, NW
Washington, DC 20463

Re: Freedom of Information Act Request

Dear Madam or Sir:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, as amended, and the regulations appearing at 11 C.F.R. Part 4, request is hereby made on behalf of The Reagan Bush Committee and The Reagan Bush Compliance Fund for disclosure and production for inspection and copying of the documents described below:

1. All agency records setting forth the Commission's policy, procedures, and practice with respect to the development and issuance of interim or initial reports of the findings and recommendations by the Commission's audit staff pursuant to 4 C.F.R. § 9007.1.

2. All materials setting forth the Commission's policy, procedures, and practice with respect to the solicitation and receipt of comments on the audit staff's interim or initial reports by the subjects of the staff's examinations and audits, including, without limitation, all materials pertinent to, (i) the time in

JUL 17 AM: 51

FOIA Officer
Page 2
July 17, 1981

which the subject of the examination and audit must submit to the Commission its response to to the interim or initial report, (ii) the availability of extensions of time for the submission to the Commission of the response to the interim or initial report, (iii) the criteria applied by the Commission or its staff in determining the time in which the subject of the examination and audit must submit its response to the interim or initial report, and (iv) the criteria applied by the Commission or its staff in determining whether to grant a request for an extension of time for such submission.

3. All materials setting forth the Commission's policy, procedures, and practice for allowing the subject of the examination and audit to supplement its response to the interim or initial report by the Commission's audit staff.

4. All materials setting forth the Commission's policy, procedures, and practice with respect to consideration by the audit staff, the General Counsel, and the Commissioners of the response to the interim or initial report (and any supplements thereto) submitted by the subject of the examination or audit.

5. All materials setting forth the Commission's policy, procedures, and practice for providing an opportunity to be heard to the subject of an examination and audit pursuant to 4 C.F.R. § 9007.1 prior to any public disclosure of any findings, recommendations, and/or conclusions by the Commission or any of its staff concerning the subject of the examination and audit.

Responsive documents are requested to be produced in their entirety, including all attachments, enclosures, and exhibits. In the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which

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JUL 17 AM: 51

FOIA Officer
Page 3
July 17, 1981

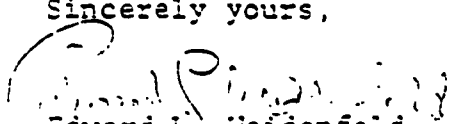
falls within the statutory exemptions to mandatory disclosure, it is expressly requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably segregable portions of such document be produced.

In the event that it is determined that your agency has no documents responsive to any individual request item (or portion thereof), written confirmation of such fact is specifically requested.

This request constitutes notice of demand for production of the above-described documents for purposes of inspection and copying. If for any reason it is determined that any document or portion thereof will not be made available to the undersigned, or that this request will not, in whole or in part, be complied with, prompt notice of any action taken is solicited. In addition, it is specifically requested that any document or portion thereof which will not be produced for inspection or copying be individually identified and described, and the basis for nonproduction explained by reference to both the statutory authority for and the factual circumstances relied upon in the determination to withhold access.

The undersigned hereby agrees to pay the United States all direct costs incurred under applicable regulations in the search for and duplication of the requested documents. Because of the urgent need for the documents described above, it is requested that your agency adhere to the time limitations set forth at 5 U.S.C. § 552(a)(6)(A) in responding to this request.

Sincerely yours,


Edward L. Weidenfeld

ELW:hrs



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 17, 1981

Edward L. Weidenfeld, Esquire
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

This is in response to your Freedom of Information Act request, dated July 6, 1981, hand-delivered to this Agency on July 7, 1981, for certain documents which relate to the Commission's Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund. That Report had been presented to the Committee on June 18, 1981.

Your specific requests, and an index of the materials which we today are disclosing with respect to each, are set out below:

1. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § II.A (Reagan Bush Committee - Limitation on Expenditures) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981

Section II.A presents, in "summary" or "table" form, the findings which are explained in greater detail in subsequent sections of the Report. (See Audit Report, page 4). Those findings, expressed in dollar amounts, and the audit papers generated or relied upon with respect to them, are as follows:

- a. Reported expenditures subject to limitation from 5/1/80 through 12/31/80: \$39,012,404.00.

This figure was obtained by extracting information provided by the Committee on the summary pages of its Reports of Receipts and Expenditures. See Auditors Documents A 6/2 and A 6/3.

b. Expenditures subject to limitation from 1/1/81 to 3/26/81: \$270,431.52

This figure was obtained from a review of the Committee's check register. See Schedule at Auditor Document E 6/7-0; check register at E 6/12 and E 6/13; and adjustments at E 4/12 and E 6/12 page 12.

c. Debts and obligations owed by RBC at 3/26/81: \$75,393.79

See Schedule at Auditors Document E 6/7-0, particularly lines 32 and 33 thereof. Line 32 is further cross referenced to Document E 6/12 (Copy of Committee's check register). Line 33 is further cross referenced to Document E 6/10.1 (Listing of Committee's unpaid bills as of 3/26).

d. Reimbursement made to the Compliance Fund (see Finding III.C.): \$137,883.67.

This figure was obtained from the Committee's 1981 First Quarter Report at page 126, line 24. See Document A 6/2.

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f. Monies received relating to expenditures made by the Republican National Committee (see finding III.B. (2).): \$1,138,891.24, and

g. Income realized from campaign tours (see finding III. B. (1)): \$50,588.48.

The source of these figures are the Committee's billings and accounts receivable. The Commission does not have copies of all pertinent documents. They were pulled from Committee files during the audit, reviewed, the amounts noted, and then the documents were returned to the Committee files.

Work paper schedules appear at Auditor Documents C 4/1 through C 4/16. See also C 2/8, C 2/9, C 3/1, C 3/1a, C 3/2, C 3/3, C 3/4, C 3/4a, C 3/5, C 3/5-1, C 3/6. Report amendment filed by Committee appears at C 2/9.

h. Voided checks included in operating expenditures from 5/1/80 through 12/31/80: \$15,438.18.

See Schedule at E 6/7-0.1, which is cross referenced to E 3/2, E 3/3, E 6/7.1 and E 6/12.

i. Capital assets on hand to be liquidated: \$46,617.93.

At the close of the Primary Election Period, the Audit Division discussed their valuation of capital assets on hand with the Committee Treasurer, and he agreed with their figures. See report of comments of Treasurer at E 5/3 and E 5/3.1, and post-primary records at D 6/22.1 and D 6/22.2.

See also work paper schedules at E 5/1 and E 5/2 and general election campaign invoices at E 3/4.

j. Debts and obligations owed to RBC at 3/26/81: \$29,208.09.

See recap at E 4/1.2 line 13, which is cross-referenced to E 4/4, pages 1 and 2.

k. Finding II.A also makes reference to Republican National Committee expenditures in the amount \$748,163.16. (See Report, pages 5 and 6).

In this regard, pages 6 and 7 of Auditors Documents F 3/1 are pertinent.

2. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.A (Reagan Bush Committee - Expenditures in Excess of the Limitation) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.

The figure \$ _____, identified in the report as representing expenditures in excess of the overall limitation for the period 5/1/80 through 3/26/81, was derived by the method described in Section II.A and was based on the documents listed in part 1, above.

3. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.B(1) and (2) (Campaign Tour Reimbursements) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.

See documents listed in parts 1f and 1g, above.

4. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.C(1)-(4) (Operating Expenditures Paid From Reagan Bush Compliance Fund) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.

See documents listed in final subparagraph of part 1e, above.

5. All auditor work papers and documents generated or relied upon in determining the "Schedule of Capital Assets on Hand at 12/4/80" as found in Attachment I to the FEC Interim Audit Report.

See documents listed in part 1i, above.

Letter to Edward Weidenfeld, Esquire
Page Five

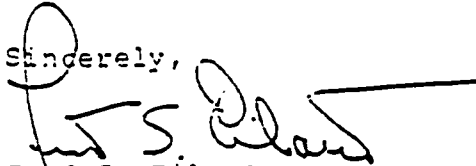
6. Any and all other documents that are relevant to the interim audit findings and recommendations referenced in paragraphs 1 through 5 above.

I am advised that by providing the documents listed in part 1, above, we are providing all auditor documents which are relevant to the interim audit findings and recommendations referenced in your first five requests.

As you are aware, we initially had proposed that a representative of your office sit in on our search for the records which had been called for in your FOIA request. In a telephone conversation on the evening of July 15, 1981, with Daniel J. Blessington, Jr., and Vincent J. Convery, Jr., of our Office of General Counsel, you declined to be present, but requested that our records search proceed as expeditiously as possible in that the documents were needed in the formulation of a response to the Commission in another regard. Mr. Convery agreed that, in view of the unique circumstances surrounding your request, it would be considered ahead of all other requests and appeals then pending, and that we would make every attempt to complete the review within a compressed timeframe. I trust that, in processing your request as quickly as we did, we did not overlook or omit any pertinent records. If we did, please call me and we will attempt to correct any error.

Our records search was conducted by five staff members who expended a total of fourteen hours in the process. The Commission assesses a fee of \$2.50 per half hour with the first half hour free. We are producing 608 pages, for which the Commission assesses a duplication fee of .05 per page. Your check in the amount \$97.90, made payable to the Treasurer of the United States, should be forwarded to me at this office.

Sincerely,



Fred S. Eiland
FOIA Officer



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

ACKNOWLEDGMENT RECEIPT OF DENIAL OF EXTENSION
OF TIME TO RESPOND TO THE INTERIM AUDIT REPORT
ON THE
REAGAN BUSH COMMITTEE, REAGAN BUSH COMPLIANCE FUND
AND DEMOCRATS FOR REAGAN

I acknowledge receipt of the Committees' and Candidate's
copies of the denial of extension of time to respond to the
Interim Audit Report on the above named Committees which was
approved by the Commission on July 14, 1981.

Richard J. Mitchell

July 17, 1981

Recipient for the Reagan Bush
Committee, Reagan Bush Compliance
Fund and Democrats For Reagan

Date

7/17/81 Receiptist stated that she didn't
think they needed a copy of
the cover letter. She stated that
she would deliver the letter(s) to
Washington when he returned from
Paris.

37070160001



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1981

Edward L. Weidenfeld, Esq.
McKenna, Conner and Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Dear Mr. Weidenfeld:

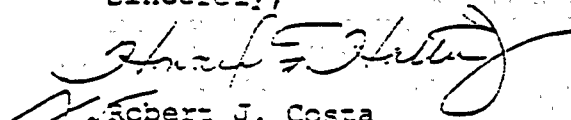
This is to advise you that on July 14, 1981, the Commission voted to deny your request for a 30 day extension of time to respond to the interim audit report for the Reagan Bush Committee, Reagan Bush Compliance Fund, and Democrats For Reagan. The Commission has consistently taken the position during the 1980 election cycle that such requests for extensions by committees of publicly-financed candidates be denied in order that the public release of the audit reports be made in as timely a manner as possible.

The Committees' response to the interim report is due on July 20, 1981, and any amendments required as a result of the audit report must be filed with the Commission at that time to ensure that your efforts to comply are recognized in the final audit report.

With respect to submission of legal and factual materials relating to any repayment determinations made by the Commission in the final audit report, please be advised that the Committees will be afforded 30 days from receipt of the final audit report to submit such documentation.

Should you have any questions, please do not hesitate to contact Charles Hanshaw or Tom Nurthen by calling 523-4155.

Sincerely,


Robert J. Costa
Assistant Staff Director
for the Audit Division

cc: President Ronald Reagan
Scott Mackenzie, Treasurer

HAND DELIVERED



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

MEMORANDUM TO: ROBERT COSTA *mwe*
FROM: MARJORIE W. EMMONS/JODY CUSTER *gc*
DATE: JULY 17, 1981
SUBJECT: LETTER TO TREASURER OF REAGAN BUSH COMMITTEE,
REAGAN BUSH COMPLIANCE FUND AND DEMOCRATS
FOR REAGAN CONCERNING RESPONSE TO THE
INTERIM AUDIT REPORT, Memorandum to the
Commissioners dated July 15, 1981

The above-named letter was circulated to the Commission
on a 24 hour no-objection basis at 11:00, July 16, 1981.

There were no objections to the proposed letter at
the time of the deadline.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 15, 1981

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA *RK FOR RSC*

SUBJECT: LETTER TO TREASURER OF REAGAN BUSH
COMMITTEE, REAGAN BUSH COMPLIANCE FUND
AND DEMOCRATS FOR REAGAN CONCERNING
RESPONSE TO THE INTERIM AUDIT REPORT

The attached letter is being sent to the Treasurer of the above Committees advising him of the Commission's decision to deny a 30 day extension of time to respond to the interim audit report. The Office of General Counsel has been consulted during the preparation of this letter.

This memorandum is being circulated on a 24 hour no objection basis. Upon approval, the letter will be hand delivered to the Committees' counsel.

Should you have any questions, please do not hesitate to contact Charles Hanshaw or Tom Nurthen at extension 3-4155.

Attachment as stated

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reagan Bush Committee) Interim Audit Report
Reagan Bush Compliance Fund)
Democrats for Reagan)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on July 14, 1981, do hereby certify that the Commission decided by a vote of 6-0 to deny the request of Edward L. Weidenfeld, Esq. for a 30 day extension of time to respond to the interim audit report for the Reagan Bush Committee, Reagan Bush Compliance Fund, and Democrats for Reagan; and further, to include in the Final Audit Report a section which presents the Committee's position regarding their lack of a timely response, and that the report would be unchanged from the Commission approved interim audit report except for the above-named section.

Attest:

7-16-81

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

July 8, 1981

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA *ABC*

SUBJECT: REQUEST FOR EXTENSION TO RESPOND TO
INTERIM AUDIT REPORT - REAGAN BUSH
COMMITTEE, REAGAN BUSH COMPLIANCE
FUND, AND DEMOCRATS FOR REAGAN

On July 7, 1981, the Commission received a letter from the above named Committees (see Exhibit A). The letter concerned the Committees' response to the Commission approved interim audit report forwarded on June 19, 1981.

The Committees' response is due on July 20, 1981 (30 days from receipt of the interim report). The Committees are requesting a 30 day extension of time in order to respond on or before August 19, 1981. The Committees' attorney has cited various reasons in the request including a FOIA request recently submitted requesting the disclosure, inspections, and copying of workpapers generated or relied upon with respect to several findings and recommendations contained in the interim report (see Exhibit B).

It should be noted that photocopies of workpapers pertinent to the audit findings were presented to the Treasurer at the exit conference on March 27, 1981. Further, pursuant to a request made by the Committees' attorney on July 2, 1981 photocopies were made of the same workpapers associated with tour reimbursements, legal and compliance expenditures, and capital assets, and were given to the attorney.

The Commission has denied similar requests with respect to the interim threshold audit reports of the Reagan For President and Bush For President Committees and the interim post-primary audit report of the Dole For President Committee, Inc.

It is the opinion of the Audit Division that the extension request should not be granted. On October 25, 1979, the Commission approved procedures for the processing of Presidential Audit reports which state:

MEMORANDUM TO THE COMMISSIONERS

Page 2

No extensions of time will be granted for the Presidential committees to respond to the Commission's letter of audit findings. Each committee will be told at the exit conference that no extensions will be granted. Generally, the response time will be 30 days. In certain unusual cases the time period may be longer, particularly where the findings change as a result of legal analysis and Commission review and considerable action is required of the committee. Since the audit findings will be discussed with the committee at the completion of the audit fieldwork, the committee will have approximately 15 weeks to respond to the findings. This represents over 80 percent of the time period between completion of the audit fieldwork and final release of the letter of audit findings. (excerpt, page 4, Agenda Document #79-287).

Therefore, we recommend that the request for an extension be denied. Further, it is recommended that the Final Audit Report contain a section which presents the Committee's position regarding their lack of a timely response and be released publicly. The report would be unchanged from the Commission approved interim audit report except for the above mentioned section.

It is suggested that this matter be placed on the July 14, 1981 Executive Session Agenda for Commission consideration. By copy, this matter is being referred to the Office of General Counsel for analysis.

Should you have any questions, please contact Tom Nurthen or Charles Hanshaw at extension 3-4155.

Attachments as stated

cc: Ken Gross

LAW OFFICES
MCKENNA, CONNER & CUNEO

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(415) 433-0640

ADMIT BELIEVE 1000-1077
GILBERTA 2040 1001-1070

THOMAS J. ALLEN
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ADRIAN O. LEVITTO
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D. MICHAEL FITZMAURICE
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E. WARDEN FRASER
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TERRY O. KELLY

BERNARD GOLDBERG
EDWIN H. LOWE
ROBERT A. HANSHAM
ELLEN R. HANSHAM
MICHAEL A. HANDELSMAN
FRANK C. HANDELSMAN
WILLIAM F. HANSEN
LAME L. HUBB
CHARLES A. HILLER
CHARLES A. O'CONNOR, II
JOHN S. PACTER
THOMAS L. PATTEN
ARON H. PERRY
RAYMOND S. C. PUSKAS
NORMAN H. RAJCHMAN
MICHAEL ROSEN
MARTIN S. SCHWARTZ
HARVEY S. SHEDDEN
I. BRUCE SPIEGEL
WILLIAM J. SPIEGEL
JAMES R. WALTERS
EDWARD L. WEINSTEIN
KENNETH W. WEINSTEIN
LES J. WEINSTEIN
BUELL WHITE
DANIEL H. WILLIAMS
CHARLES S. YONKERS

COUNSEL

EDWARD LASHRO
ALBERT L. REEVES
ALVIN G. SALMANSOHN

ALBERT M. COLE
MAR GOLDEN
JOEL P. SHEGG

July 6, 1981

WRITER'S DIRECT DIAL NUMBER

(202) 789-7640

HAND DELIVERED

Chairman John W. McGarry
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C.

Re: Interim Audit Report of the
Reagan Bush Committee, Reagan
Bush Compliance Fund and
Democrats For Reagan

Dear Mr. Chairman:

I am writing in response to Mr. Robert J. Costa's letter dated June 18, 1981 to Mr. Scott Mackenzie which enclosed the above-referenced audit report.

I respectfully request an extension of 30 days to respond to the interim audit for the following reasons:

1. It has been extremely difficult to locate the financial records of the Reagan campaign which are relevant to findings and recommendations set forth in the FEC's interim audit report. The campaign committee is no longer staffed and obtaining interviews and information from former staff members has proved to be a time-consuming task. In addition, due to the fact

Chairman John W. McGarry
July 6, 1981
Page Two

that many of the matters highlighted in the audit report occurred quite some time ago, it has been particularly difficult to acquire the information necessary to prepare a response to the FEC.

2. A Freedom of Information Act request was recently submitted to the FEC requesting the disclosure and inspection and copying of the auditors' work papers generated or relied upon with respect to several of the findings and recommendations contained in the interim audit report. The Committee will not be able to prepare an adequate response to the audit report until the requested materials have been reviewed.

Due to the difficulty to date in locating the financial records relevant to the subject matters discussed in the FEC's interim audit report, it is imperative that the Committee be granted a 30-day extension within which to respond. Additional time is essential in order for the Committee to locate and review the relevant records and prepare an effective reply to the FEC's initial findings.

The Committee's response to the Interim Audit Report is currently due July 20, 1981. In light of the above justifications, however, a 30-day extension for submitting a response on or before August 19, 1981 is hereby requested.

Sincerely,

Edward L. Weidenfeld

cc: Charles N. Steele, Esq.
Robert J. Costa

LAW OFFICES
(SKENNA, CONNER & CUNEO)

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005
(202) 789-7500

CABLE ADDRESS: MCKENCONN WASHDC
TELEX (TWX) 710-822-0149
TELECOPIER (202) 789-7594

TWENTY-EIGHTH FLOOR
3435 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90010
(213) 384-3600 • 388-8321

1820 HILLS TOWER
220 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
(415) 433-0640

ADULTS BELIEVED 1000-1000
CHILDREN 1000-1000

THOMAS J. ALLEN JED L. BABIN ROBERT C. BABAL ROBERT S. BACIN JULIE FOR BACINMAN JEFFREY A. BOCCALA DAVID L. BOGOMO VICTOR BOGOMO JOHN A. CHERRY DAVID A. CHURCHILL SCOTT P. COOPER JOHN A. COURT JOHN F. DAVIS MARY C. DELANEY LAURENCE DUGAN LAURENCE W. FARRELL JOSEPH GABAI CURTIS A. GRANATO DAVID J. GRANT ROBERT L. GREGG DONALD M. GRIFFITH GEORGE J. HENNINGHAFF ROBERT J. HENNE THOMAS W. HUSSEY JESSE S. ISRAELSON MICHAEL T. JAVANBAUGH STEPHEN B. KIMM REINHOLD E. KIMMEL MARTIN H. KRASNER	MICHAEL T. LAWRENCE CHRISTINE M. LAUSCH/FELDM BARBY J. LEE JOHN F. LEHR JOE ADELE O. LEVITTO FREDERIC D. LEVY ROBERT W. LINDQUIST JOSEPH T. LYNAL, III C. STEVEN MURPHY RONA D. MILLER RICHARD S. OLIVER THOMAS C. PEPSON BARBARA A. PETERMANICK DOUGLAS M. PETERMANICK MITCHELL W. SEGAL ARTHUR SIDAN ARTHUR F. SILBERGELD SAM J. SMITH MARTIN E. STEINER JEFFREY E. STEINER DEL STILWELL DONNIE A. SULLIVAN CURTIS ULBRAND CHRISTIAN VOLZ CHARLES E. WADSWORTH, JR. ROBERT W. WALSHAM BARBARA G. WERTNER LOUISE P. WISE MELBA E. YOSHIDA DEAN J. ZIPPER
---	--

WILLIAM A. ADAMS, JR. JEFFREY A. ADAMS ROBERT A. ADAMS DAVID A. ADAMS MICHAEL B. ADAMS STEVEN A. ADAMS WILLIAM A. ADAMS WILLIAM A. ADAMS JOHN A. ADAMS JOHN A. ADAMS EDMUND A. ADAMS EDMUND A. ADAMS C. STANLEY BEEB ROBERT J. BEEB LAWRENCE S. BEEB ALBERT S. BEEB HERBERT L. BEEB RICHARD A. BEEB PAUL FITTING B. MICHAEL FITTING RICHARD A. FITTING TERRY A. FITTING B. HODDER FITTING JAMES J. FITTING ALLEN S. FITTING MICHAEL W. FITTING S. FITTING JOE S. FITTING TERRY S. FITTING	EDMUND A. ADAMS ALBERT S. ADAMS ALVIN C. ADAMS ROBERT A. ADAMS DAVID A. ADAMS MICHAEL B. ADAMS STEVEN A. ADAMS WILLIAM A. ADAMS WILLIAM A. ADAMS JOHN A. ADAMS JOHN A. ADAMS EDMUND A. ADAMS EDMUND A. ADAMS C. STANLEY BEEB ROBERT J. BEEB LAWRENCE S. BEEB ALBERT S. BEEB HERBERT L. BEEB RICHARD A. BEEB PAUL FITTING B. MICHAEL FITTING RICHARD A. FITTING TERRY A. FITTING B. HODDER FITTING JAMES J. FITTING ALLEN S. FITTING MICHAEL W. FITTING S. FITTING JOE S. FITTING TERRY S. FITTING
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EDMUND A. ADAMS ALBERT S. ADAMS ALVIN C. ADAMS	ALBERT W. COLE WAS GOLDEN JOEL P. BREED
--	---

July 6, 1981

WRITER'S DIRECT DIAL NUMBER
(202) 789-7640

HAND DELIVERED

FOIA Officer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: Freedom of Information Act Request

Dear Madam or Sir:

Pursuant to The Freedom of Information Act, 5 U.S.C. § 552, as amended, and the regulations implementing that Act, 11 C.F.R. Part 4, request is hereby made on behalf of The Reagan Bush Committee and The Reagan Bush Compliance Fund for the disclosure and inspection and copying of the documents described below:

1. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § II.A (Reagan Bush Committee - Limitation on Expenditures) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.

FOIA Officer
Federal Election Commission
July 6, 1981
Page Two

2. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.A (Reagan Bush Committee - Expenditures in Excess of the Limitation) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.
3. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.B(1) and (2) (Campaign Tour Reimbursements) of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.
4. All auditor work papers and documents generated or relied upon with respect to the findings and recommendations in § III.C(1)-(4) ()
of the FEC Interim Audit Report of the Reagan Bush Committee and Reagan Bush Compliance Fund dated June 18, 1981.
5. All auditor work papers and documents generated or relied upon in determining the "Schedule of Capital Assets on Hand at 12/4/80" as found in Attachment I to the FEC Interim Audit Report.
6. Any and all other documents that are relevant to the interim audit findings and recommendations referenced in paragraphs 1 through 5 above.

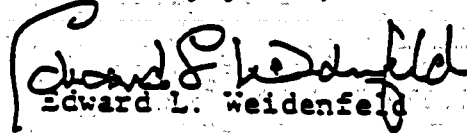
This request constitutes notice of demand for production of the above-referenced documents for the purposes of inspection and copying. If, for any reason, it is determined that any documents requested herein will not be made available to the undersigned, or that this request will not, in whole or in part, be complied with, prompt notice of any action taken is solicited. In addition, the undersigned requests notice as promptly as possible of any documents or portions of documents which can and will be made available, and that all documents which will not be made available be initialed and listed by stating the title, author, date, nature of such material, and the reason(s) for non-availability.

FOIA Officer
Federal Election Commission
July 6, 1981
Page Three

This request should be considered an appeal from any decision denying any portion of this request and prompt notice of the action taken with respect to such appeal is requested.

The undersigned will be responsible for the reasonable cost of locating and reproducing the requested documents to the extent required by your regulations.

Sincerely yours,


Edward L. Weidenfeld

ELW/mjb

**LAW OFFICES
MCKENNA, CONNER & CUNEO**

LOS ANGELES
TWENTY-EIGHTH FLOOR
3428 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90010
12131 300-3000 • 300-9321

**1875 EYE STREET, N.W.
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SAN FRANCISCO
1800 HILLS TOWER
220 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
(415) 433-0940

**CABLE ADDRESS: MCKENCON WASHDC
TELETYPE: 710-822-0140
TELEPHONE: (202) 789-7804**

**WRITER'S DIRECT DIAL NUMBER
12021 700-**

EDWARD L. WEIDENFELD

July 2, 1981

**Mr. Charles Hanshaw
Federal Election Commission
1325 K Street, N.W.
Washington, D. C.**

Dear Mr. Hanshaw:

**Please be advised that I have designated Maureen Duignan,
one of my associates, to act on my behalf in matters relating
to the FEC Audit of the Republican General Election Campaign.**

If you have any questions, please feel free to call me.

Sincerely,

Edward L. Weidenfeld

Edward L. Weidenfeld

ELW/prp

7/2/81

2025 - retain photocopies of discrepancy statements as

Sink



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

MEMORANDUM TO: ROBERT J. COSTA

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: JANUARY 21, 1981

**SUBJECT: REQUEST FOR POSTPONEMENT OF THE START OF
THE AUDIT OF THE REAGAN/BUSH COMMITTEE,
Memorandum to the Commissioners dated
January 16, 1981**

The above-named document was circulated on a 24 hour
no-objection basis at 11:00, January 19, 1981.

There were no objections to the requested postponement.



FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20463

January 16, 1981

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER, III
STAFF DIRECTOR

FROM: ROBERT J. COSTA *RC*

SUBJECT: REQUEST FOR POSTPONEMENT OF THE START OF
THE AUDIT OF THE REAGAN/BUSH COMMITTEE

I. Summary of Issue and Recommendation

On January 15, 1981, the Audit Division received a letter from the Reagan/Bush Committee (see Exhibit A). The letter contains a request to postpone the start of the general election audit from January 19, 1981, to January 26, 1981. The Audit Division recommends that the postponement requested be granted.

II. Background

In its letter the Committee cites Inaugural festivities as its reason for requesting the postponement.

III. Support for the Recommendation

Since the Inauguration and subsequent festivities will probably command most of the Committee officials' working hours during the week January 19,-23, 1981, the Audit staff believes the Committee's request to be reasonable.

IV. Staff Coordination

The Office of General Counsel was informally contacted and advised of the request and the intention of the Audit Division to recommend that the request be granted. A copy of this memorandum has been furnished to that Office for consideration.

Attachments as stated

cc: Charles N. Steele, General Counsel
Anne Weissenborn, CGC
Dan Blessington, CGC

Reagan & Bush

Reagan Bush Committee

901 South Highland Street, Arlington, Virginia 22204 (703) 685-3400

January 15, 1981

Mr. Charles Henshaw
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

Dear Charlie:

Due to the Inaugural festivities, please grant the Reagan Bush General Election audit an extension from January 19 to January 26, 1981.

Many thanks.

Sincerely,



Bay Buchanan
National Treasurer

BB:lp

0 1 3 7 0 1 3 3

Reagan & Bush

31 JAN 19 14:35



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1980

Ms. Bay Buchanan, Treasurer
Reagan/Bush Committee
910 South Highland Street
Arlington, Virginia 22204

Dear Ms. Buchanan:

Please be advised pursuant to 26 U.S.C. 9007(a) and 9003(a)(3), and 11 C.F.R. 9003.7, that on January 19, 1980, the Audit Division of the Federal Election Commission will proceed with the General Election Audit of the Reagan/Bush Committee (formerly Reagan for President General Election Committee) and all other authorized Committees. The audit will be conducted under generally accepted auditing standards and procedures, and will include a thorough examination of qualified campaign expenses, the verification of the completeness and accuracy of statements and reports filed with the Federal Election Commission, and a review of the Committee's compliance with Title 2 recordkeeping and reporting requirements, and contribution and expenditure limitations.

To facilitate the audit, please have available for inspection:

1. a copy of your Charter and By-Laws, and Organization Chart, if any;
2. any flow charts or procedure manuals, including ADP specifications you may have relating to your accounting system(s);
3. the names and duties of key accounting personnel;
4. your general and subsidiary ledgers, journals, or computer printouts of Committee financial activity/accounting data;
5. your source documents for contributions received pursuant to 11 C.F.R. Section 9003.3;
6. bank statements, cancelled checks, debit and credit memoranda for national headquarter's accounts and non-national headquarter's accounts along with your reconciliations;
7. all invoices and other source documents supporting disbursements;

Ms. Bay Buchanan, Treasurer
Reagan/Bush Committee

Page 2

8. a copy of printed matter, including solicitation materials, generated by the campaign, and

9. all other accounting data not specifically mentioned in 1. through 8. above which may be required in order to meet the aforementioned audit objectives.

Also, please find enclosed:

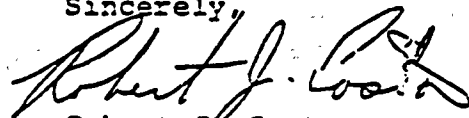
- (a) bank confirmation forms;
- (b) statement of availability of records; and
- (c) statement of bank accounts and cash on hand.

The bank confirmation forms are to be completed and returned to the Audit Division within 10 days of your receipt. Items (b) and (c) are to be provided to the Audit staff at the entrance conference.

It is estimated that our fieldwork will take seven (7) weeks. It would be appreciated if you could make available work space for six (6) auditors, and make available knowledgeable members of your staff during our fieldwork to answer questions that may arise.

If you have any questions concerning the audit, or if we can be of any assistance to you, please call Charles Hanshaw or Thomas Nurthen at (202) 523-4155.

Sincerely,



Robert J. Costa
Assistant Staff Director
for the Audit Division

Enclosures as stated

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

July 24, 1980

Honorable George Bush
710 North Post Oak Road
Suite 208
Houston, Texas 77024

Dear Mr. Bush:

This letter is to advise you that, pursuant to 26 U.S.C. Section 9005 and 11 C.F.R. Section 143.1, on July 24, 1980, the Commission approved a staff report which states that you, as a Vice Presidential Candidate and Honorable Ronald Reagan as the Presidential Candidate, in the general election, have satisfied the eligibility requirements of 26 U.S.C. Section 9003(a) and (b) and 11 C.F.R. Section 141.1 and 141.2. In approving this report, the Commission has formally established eligibility to receive a payment in the full amount of \$29,440,000.00, from the Presidential Election Campaign Fund under the provisions of 26 U.S.C. Section 9006(b) and 11 C.F.R. Section 143.2. A copy of the report is enclosed for your information.

Should you have any questions regarding these matters, please contact either Mr. Charles Hanshaw or Mr. Thomas Nurthen of the Audit Division at (202) 523-4155 or toll free (800) 424-9530.

Sincerely,

Max L. Friedersdorf

Max L. Friedersdorf
Chairman for the Federal
Election Commission

John W. McGarry

John W. McGarry
Vice Chairman for the
Federal Election Commission

Enclosure as stated

cc: Ms Bay Buchanan
Treasurer



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

July 24, 1980

Honorable Ronald Reagan
10960 Wilshire Boulevard
Los Angeles, California 90024

Dear Governor Reagan:

This letter is to advise you that, pursuant to 26 U.S.C. Section 9005 and 11 C.F.R. Section 143.1, on July 24, 1980, the Commission approved a staff report which states that you, as a Presidential Candidate in the general election and Honorable George Bush, as the Vice Presidential Candidate, have satisfied the eligibility requirements of 26 U.S.C. Section 9003(a) and (b) and 11 C.F.R. Section 141.1 and 141.2. In approving this report, the Commission has formally established your eligibility to receive a payment in the full amount of \$29,440,000.00, from the Presidential Election Campaign Fund under the provisions of 26 U.S.C. Section 9006(b) and 11 C.F.R. Section 143.2. A copy of the report is enclosed for your information.

Should you have any questions regarding these matters, please contact either Mr. Charles Hanshaw or Mr. Thomas Nurthen of the Audit Division at (202) 523-4155 or toll free (800) 424-9530.

Sincerely,

Max L. Friedersdorf

Max L. Friedersdorf
Chairman for the Federal
Election Commission

John W. McGarry

John W. McGarry
Vice Chairman for the
Federal Election Commission

Enclosure as stated

cc: Ms. Bay Buchanan
Treasurer



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

RECEIPT FROM THE UNITED STATES DEPARTMENT OF TREASURY
CERTIFICATION FOR PAYMENT

Date: July 24, 1980

Pursuant to 26 U.S.C. Section 9005 and 11 C.F.R. Section 143.1, a Certification for Payment from the Presidential Election Campaign Fund was received on this date from the Federal Election Commission for:

Honorable Ronald Reagan

and

Honorable George Bush

Reagan For President General Election Committee

Amount: \$29,440,000.00

Lucille R. Matthews
Recipient for the
United States Treasury

Patricia A. Anderson
Recipient for the
Federal Election Commission

Certification B 4 0 7 3 1 9 8 0



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 24, 1980

Honorable G. William Miller
Secretary
Department of the U.S. Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

Pursuant to 26 U.S.C. Section 9005(a) and the Commission's regulations at 11 C.F.R. Section 143.1, on July 24, 1980, the Federal Election Commission determined that Honorable Ronald Reagan and Honorable George Bush, respectively, the 1980 Republican Presidential and Vice Presidential Candidates, have satisfied the provisions of 26 U.S.C. Section 9003 and 11 C.F.R. Section 141.1 and 141.2 for eligibility to receive public funds for use in their Presidential and Vice Presidential campaigns.

Accordingly, the Commission certifies to you that the two named Candidates are entitled under 26 U.S.C. Section 9004 and 11 C.F.R. Section 143.2 to receive a payment in the amount of \$29,440,000.00 from the Presidential Election Campaign Fund established pursuant to 26 U.S.C. Section 9006. This amount represents the full entitlement for the 1980 Presidential General Election as specified at 2 U.S.C. Sections 441a(b)(1)(B) and 441a(c).

In accordance with 11 C.F.R. Section 141.1(d), these Candidates have designated the following person who is entitled to receive the payment from the Fund:

Ms. Bay Buchanan, Treasurer
901 S. Highland Street
Arlington, Virginia 22204

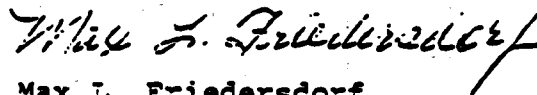
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Honorable G. William Miller
Page 2

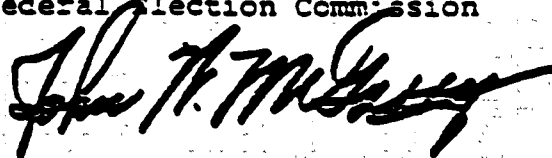
The Candidates, in accordance with 11 C.F.R. Section 141.1(d),
have designated the following campaign depository:

Riggs National Bank of Washington
1503 Pennsylvania Avenue, N.W.
Washington, D.C. 20005

Sincerely,

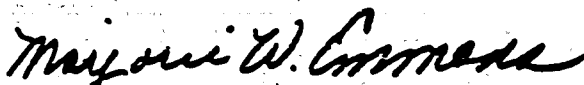


Max L. Friedersdorf
Chairman for the
Federal Election Commission



John W. McGarry
Vice Chairman for the
Federal Election Commission

Attest:



Marjorie W. Emmons
Secretary to the Commission

9407016000



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Honorable Ronald Reagan
Honorable George Bush
Reagan for President General Election
Committee

Approval of Payment:

\$29,440,000.00

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 24, 1980, the Commission determined by a vote of 6-0 that the Honorable Ronald Reagan and Honorable George Bush/Reagan For President General Election Committee are entitled to a payment from the Presidential Election Campaign Fund in the amount of \$29,440,000.00.

Attest:

7/24/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

REPORT OF THE AUDIT DIVISION

ON

HONORABLE RONALD REAGAN

AND

HONORABLE GEORGE BUSH

REAGAN FOR PRESIDENT GENERAL ELECTION COMMITTEE

Section 9003(a) and (b) of Title 26 of the United States Code and Sections 141.1 and 141.2 of Title 11 of the Code of Federal Regulations set forth a series of agreements and certifications which must be executed by a Presidential and Vice Presidential Candidate in order to establish eligibility for general election public funding.

On July 18, 1980, Honorable Ronald Reagan and Honorable George Bush submitted a letter which contains the agreements and certifications specified in Sections 141.1 and 141.2 of Title 11 of the Code of Federal Regulations (Attachment I). These agreements and certifications were reviewed by the Audit Division and were found to be complete.

Recommendation

The Audit Division recommends that the Commission find that Honorable Ronald Reagan and Honorable George Bush, respectively, the Republican Presidential and Vice Presidential Candidates, have fulfilled the requirements set forth in Section 9003(a) and (b) of Title 26 of the United States Code and Sections 141.1 and 141.2 of Title 11 of the Code of Federal Regulations and have established eligibility to receive a payment in the amount of \$29,440,000.00 from the Presidential Election Campaign Fund, the full entitlement for the 1980 General Election.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 18, 1980

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: BILL LOUGHREY

FROM: BOB COSTA *RC*

SUBJECT: RECEIPT OF CANDIDATES LETTER OF AGREEMENTS FOR CERTIFICATIONS FROM RONALD REAGAN AND GEORGE BUSH

This memorandum is to advise you that on Friday, July 18, 1980, the letter of agreements and certifications signed by Governor Reagan and George Bush was hand-delivered to the Audit Division. Attached is a copy of that letter.

Upon concurrence of the Office of General Counsel that the letter meets the requirements of the Act and the Commission's Regulations, the Eligibility Report and documents pertaining to the certification for payment of \$29,440,000.00 will be forwarded via procedures similar to those used for Presidential Primary Matching Payments.

Attachment as stated

RECEIVED

RONALD REAGAN

80 JUL 18 PM 12:55

July 18, 1980

The Honorable Max L. Friedersdorf
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Chairman:

We, Ronald Reagan and George Bush, the nominees of the Republican Party for President and Vice President of the United States, do certify and agree under penalty of perjury pursuant to Chapter 95 of Title 26 of the United States Code to the following conditions in order that we may be eligible to receive any payments under 26 U.S.C. Sec. 9006:

- (1) We and our authorized committees have not incurred and will not incur qualified campaign expenses in excess of the aggregate payments to which we will be entitled under 26 U.S.C. Sec. 9004 and Sec. 9006;
- (2) No contributions to defray qualified campaign expenses have been or will be accepted by us or our authorized committees, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of 26 U.S.C. Sec. 9006(c), and no contributions to defray expenses which would be qualified campaign expenses but for 26 U.S.C. Sec. 9006(c) have been or will be accepted by us or any of our authorized committees;

RONALD REAGAN

The Honorable Max L. Friedersdorf

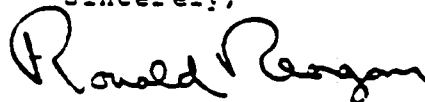
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July 18, 1980

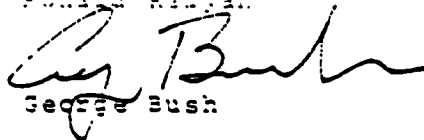
- 3407013335
- (3) We and our authorized committees agree to obtain and furnish to the Commission such evidence as it may request of the qualified campaign expenses of our campaign;
 - (4) We and our authorized committees agree to keep and furnish to the Commission such records, books, and other information as it may request;
 - (5) We and our authorized committees agree to an audit and examination by the Commission under Section 9007 and to pay any amounts required to be paid under such section;
 - (6) We will not knowingly make expenditures in connection with our campaign from our personal funds, or the funds of our immediate families which, in the aggregate, exceed \$50,000.

Our agent for the receipt of this payment is Bay Buchanan, Treasurer of Reagan for President, whose address is 901 S. Highland St., Arlington, Va. 22204. The official campaign depository for this fund is the Riggs National Bank of Washington, 1503 Pennsylvania Avenue, N.W., Washington, D.C. 20005.

Sincerely,



Ronald Reagan



George Bush



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

3 1 0 7 0 1 5 3 5 6

ADDITIONAL INFORMATION REGARDING THIS ORGANIZATION
MAY BE LOCATED IN A COMPLETED COMPLIANCE ACTION
FILE RELEASED BY THE COMMISSION AND MADE PUBLIC IN
THE PUBLIC RECORDS OFFICE. FOR THIS PARTICULAR
ORGANIZATION'S COMPLETED COMPLIANCE ACTION FILE
SIMPLY ASK FOR THE PRESS SUMMARY OF MUR # 1401.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



FF-7
DOCUMENT
SEPARATOR



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

September 23, 1982

MEMORANDUM

TO: FRED S. EILAND
PRESS OFFICER

FROM: BOB COSTA *RH FOR RJC
9-23-82*

SUBJECT: PUBLIC ISSUANCE OF ADDENDUM TO THE FINAL
AUDIT REPORT - REAGAN BUSH COMMITTEE,
REAGAN BUSH COMPLIANCE FUND AND
DEMOCRATS FOR REAGAN

Attached please find a copy of the Addendum to the Final Audit Report of Reagan Bush Committee, Reagan Bush Compliance Fund and Democrats For Reagan which was approved by the Commission on September 22, 1982.

Information copies of the Addendum to the Final Audit Report have been received by all parties involved and the Addendum may be released to the public.

Attachment as stated

cc: FEC Library
RAD
Public Record ✓



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 9, 1982

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA *AC*

SUBJECT: ADDENDUM TO THE FINAL AUDIT REPORT -
REAGAN BUSH COMMITTEE (RBC), REAGAN BUSH
COMPLIANCE FUND AND DEMOCRATS FOR REAGAN

I. Summary of Issues and Recommendations

On January 12, 1982, the Audit staff received the RBC's response to the final audit report. Also, on that date the RBC filed two amendments to its 1980 Year-End Report of Receipts and Expenditures in response to Finding II.A.

The Audit staff performed additional fieldwork after receiving the RBC response to verify the information contained therein and to update the review of activities since the initial audit fieldwork. Based upon the RBC response and additional fieldwork performed, the amount repayable to the U.S. Treasury is \$13,506.00 (see Finding II.B.). The Audit staff recommends that the Commission approve this repayment amount.

Further, it is recommended that this document be placed on the public record as an addendum to the publicly released final audit report.

II. Background

On December 9, 1981, the RBC received a copy of the final audit report. The report afforded the RBC 30 days to respond to certain findings and conclusions contained therein.

The RBC was requested to file certain amendments to its 1980 Year-End Report of Receipts and Expenditures. Further, the RBC was requested to furnish additional information concerning interest earned on investment of public funds, and repay to the U.S. Treasury the value of interest earned (less taxes).

A. Monies Received by the Reagan Bush Committee Relating to Expenditures Made by the Republican National Committee

Finding II.A. on Pages 3 through 9 of the final report contained the recommendation that an amendment be filed by the RBC to its 1980 Year-End Report of Receipts and Expenditures to correct the public record with respect to monies received relating to expenditures made by the Republican National Committee. It was recommended that (1) the value of these monies (\$1,138,891.24) be reclassified from line 21 to line 22 of the Detailed Summary of Receipts and Expenditures (Page 2, FEC Form 3P) and that lines 14 and 15 (FEC Form 3P, Page 1) be corrected to reflect the changes to expenditures subject to the limitation resulting from the reclassification of these monies, or (2) as an alternative, the correction to the public record may be accomplished by placing an asterisk at line 21 of the RBC's 1980 Year-End Report of Receipts and Expenditures stating "see the Federal Election Commission final audit report at pages three through nine". Finally, the RBC was to file an amendment to its 1980 Year-End Report of Receipts and Expenditures to reverse transactions contained in an amendment previously filed by the RBC on April 1, 1981.

The RBC filed amendments on January 12, 1982 regarding the reclassifications and reversals. However, the RBC erroneously reclassified expenditures totaling \$1,138,891.24 from line 24 to line 25 of the Detailed Summary of Receipts and Expenditures (FEC Form 3P, Page 2) which resulted in an understatement of expenditures subject to limitation at lines 14 and 15(a).

When notified that the reclassification of expenditures (from line 24 to line 25) was not acceptable, the RBC filed an amendment on July 8, 1982, thereby correcting the erroneously reclassified expenditures. The RBC followed the alternative recommendation in the final audit report.

Recommendation

Based on the above, no further action is necessary on this matter.

B. Investment of Public Funds

At Finding III.A. on Pages 11 and 12 of the final audit report, the Audit staff recommended that the RBC submit documentation to the Audit Division concerning any interest earned since March 18, 1981, and documentation supporting Federal, State, and local taxes applicable to all interest earned. Further, the Audit staff recommended that the RBC repay to the U.S. Treasury \$251,122 (\$465,040.86 interest income, less \$213,918.86 Federal taxes) plus an amount equal to any income received as a result of investment or other use of public funds (less taxes) since March 18, 1981, pursuant to 11 C.F.R. 9004.5.

In its response to the final audit report, the RBC stated that it earned an additional \$29,303.88, thereby bringing the total interest income earned from the investment of public funds to \$494,344.74. In addition, the RBC repaid \$251,112 to the U.S. Treasury in January 1982.

The Audit staff conducted fieldwork to verify the information contained in the RBC response to the final audit report. Based upon the records presented, the Audit staff determined that, since March 18, 1981, the RBC earned an additional \$26,883.73 in interest bringing the total interest earned since inception to \$491,924.59. The following illustration depicts the disposition of the interest earned by the RBC:

Interest Income per Audit staff	\$491,924.59
Less: Net Federal Income Taxes Paid	<u>227,306.59</u>
Amount Repayable to the U.S. Treasury	\$264,618.00
Less: Repayment made to the U.S. Treasury	251,112.00
Amount Due the U.S. Treasury	<u>\$ 13,506.00</u> <u>1/</u>

The Audit staff recommends that within 20 days of receipt of Commission notification the RBC deliver to the Commission a check payable to the U.S. Treasury in the amount of \$13,506.00.

1/ Any additional Federal Income Tax refund(s) received is to be repaid to the U.S. Treasury.

C. Determination of Net Outstanding Qualified Campaign Expenses

Finding III.B. on Pages 12 through 14 of the final audit report contained an analysis of the financial position of RBC as of December 4, 1980. During the follow-up fieldwork, the Audit staff reviewed the books and records in support of RBC activity through March 31, 1982 and updated the figures contained in our initial analysis. The following represents the updated information.

Reagan Bush Committee
Analysis of Net Outstanding Qualified Campaign Expenses
As of December 4, 1980

<u>Assets</u>	
Cash on Hand at 12/4/80 (with respect to Federal payments only)	\$ 542,559.66 <u>2/</u>
Accounts Receivable	1,768,723.20
Capital Assets	<u>46,617.93</u> <u>3/</u>
Total Assets	\$2,357,900.79
<u>Liabilities</u>	
Accounts Payable for Qualified Campaign Expenses	\$2,156,831.58
Reimbursement to the Compliance Fund	<u>137,883.67</u> <u>4/</u>
Total Liabilities	<u>\$2,294,715.25</u>
Net Outstanding Qualified Campaign Expenses - Surplus (Deficit)	<u>\$ 63,185.54</u>

2/ The RBC's actual cash on hand as of 12/4/80 is \$983,957.36 which includes interest earned on Federal funds. The value (\$491,924.59 [\$441,397.70 interest received + \$50,526.89 interest receivable]) of interest earned and the liabilities arising therefrom have been excluded from this statement in order to present the financial position of the RBC as of 12/4/80 with respect solely to payments received pursuant to 26 U.S.C. 9006. See Finding II.B. for the disposition of interest earned on public funds.

3/ The capital asset figure was calculated as of December 4, 1980. The RBC contends that a number of the capital assets were sold subsequent to that date; however, no documentation has been made available for our review which would necessitate a revision to the \$46,617.93 figure. Upon receipt of adequate documentation, appropriate adjustments will be made.

4/ This amount is subject to an upward adjustment.

A copy of the working paper containing this analysis was presented to Committee representatives.

The Audit staff would normally request a repayment of the surplus amount noted in the analysis pursuant to the provisions of Section 9007(b)(1) of Title 26 of the United States Code; however, it is premature at this time since certain matters under review by the Commission's Office of General Counsel may have a significant bearing on this surplus. Upon resolution of these matters, appropriate recommendations regarding any repayment to the U.S. Treasury will be made.

III. Support for the Recommendation

Based upon the Audit staff's review of materials submitted in response to the final audit report and records made available during the follow-up fieldwork, it is recommended that the Commission determine that \$13,506.00 is repayable to the U.S. Treasury within 20 days of the RBC's receipt of this report.

IV. Staff Coordination

A copy of this memorandum was furnished to the Office of General Counsel for their consideration.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 9, 1982

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA *AC*

SUBJECT: ADDENDUM TO THE FINAL AUDIT REPORT -
REAGAN BUSH COMMITTEE (RBC), REAGAN BUSH
COMPLIANCE FUND AND DEMOCRATS FOR REAGAN

I. Summary of Issues and Recommendations

On January 12, 1982, the Audit staff received the RBC's response to the final audit report. Also, on that date the RBC filed two amendments to its 1980 Year-End Report of Receipts and Expenditures in response to Finding II.A.

The Audit staff performed additional fieldwork after receiving the RBC response to verify the information contained therein and to update the review of activities since the initial audit fieldwork. Based upon the RBC response and additional fieldwork performed, the amount repayable to the U.S. Treasury is \$13,506.00 (see Finding II.B.). The Audit staff recommends that the Commission approve this repayment amount.

Further, it is recommended that this document be placed on the public record as an addendum to the publicly released final audit report.

II. Background

On December 9, 1981, the RBC received a copy of the final audit report. The report afforded the RBC 30 days to respond to certain findings and conclusions contained therein.

The RBC was requested to file certain amendments to its 1980 Year-End Report of Receipts and Expenditures. Further, the RBC was requested to furnish additional information concerning interest earned on investment of public funds, and repay to the U.S. Treasury the value of interest earned (less taxes).

A. Monies Received by the Reagan Bush Committee Relating to Expenditures Made by the Republican National Committee

Finding II.A. on Pages 3 through 9 of the final report contained the recommendation that an amendment be filed by the RBC to its 1980 Year-End Report of Receipts and Expenditures to correct the public record with respect to monies received relating to expenditures made by the Republican National Committee. It was recommended that (1) the value of these monies (\$1,138,891.24) be reclassified from line 21 to line 22 of the Detailed Summary of Receipts and Expenditures (Page 2, FEC Form 3P) and that lines 14 and 15 (FEC Form 3P, Page 1) be corrected to reflect the changes to expenditures subject to the limitation resulting from the reclassification of these monies, or (2) as an alternative, the correction to the public record may be accomplished by placing an asterisk at line 21 of the RBC's 1980 Year-End Report of Receipts and Expenditures stating "see the Federal Election Commission final audit report at pages three through nine". Finally, the RBC was to file an amendment to its 1980 Year-End Report of Receipts and Expenditures to reverse transactions contained in an amendment previously filed by the RBC on April 1, 1981.

The RBC filed amendments on January 12, 1982 regarding the reclassifications and reversals. However, the RBC erroneously reclassified expenditures totaling \$1,138,891.24 from line 24 to line 25 of the Detailed Summary of Receipts and Expenditures (FEC Form 3P, Page 2) which resulted in an understatement of expenditures subject to limitation at lines 14 and 15(a).

When notified that the reclassification of expenditures (from line 24 to line 25) was not acceptable, the RBC filed an amendment on July 8, 1982, thereby correcting the erroneously reclassified expenditures. The RBC followed the alternative recommendation in the final audit report.

Recommendation

Based on the above, no further action is necessary on this matter.

B. Investment of Public Funds

At Finding III.A. on Pages 11 and 12 of the final audit report, the Audit staff recommended that the RBC submit documentation to the Audit Division concerning any interest earned since March 18, 1981, and documentation supporting Federal, State, and local taxes applicable to all interest earned. Further, the Audit staff recommended that the RBC repay to the U.S. Treasury \$251,122 (\$465,040.86 interest income, less \$213,918.86 Federal taxes) plus an amount equal to any income received as a result of investment or other use of public funds (less taxes) since March 18, 1981, pursuant to 11 C.F.R. 9004.5.

In its response to the final audit report, the RBC stated that it earned an additional \$29,303.88, thereby bringing the total interest income earned from the investment of public funds to \$494,344.74. In addition, the RBC repaid \$251,112 to the U.S. Treasury in January 1982.

The Audit staff conducted fieldwork to verify the information contained in the RBC response to the final audit report. Based upon the records presented, the Audit staff determined that, since March 18, 1981, the RBC earned an additional \$26,883.73 in interest bringing the total interest earned since inception to \$491,924.59. The following illustration depicts the disposition of the interest earned by the RBC:

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Less: Repayment made to the U.S. Treasury	251,112.00
Amount Due the U.S. Treasury	<u>\$ 13,506.00</u> <u>1/</u>

The Audit staff recommends that within 20 days of receipt of Commission notification the RBC deliver to the Commission a check payable to the U.S. Treasury in the amount of \$13,506.00.

1/ Any additional Federal Income Tax refund(s) received is to be repaid to the U.S. Treasury.

C. Determination of Net Outstanding Qualified Campaign Expenses

Finding III.B. on Pages 12 through 14 of the final audit report contained an analysis of the financial position of RBC as of December 4, 1980. During the follow-up fieldwork, the Audit staff reviewed the books and records in support of RBC activity through March 31, 1982 and updated the figures contained in our initial analysis. The following represents the updated information.

Reagan Bush Committee
Analysis of Net Outstanding Qualified Campaign Expenses
As of December 4, 1980

<u>Assets</u>	
Cash on Hand at 12/4/80 (with respect to Federal payments only)	\$ 542,559.66 <u>2/</u>
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Reimbursement to the Compliance Fund	<u>137,883.67</u> <u>4/</u>
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Net Outstanding Qualified Campaign Expenses - Surplus (Deficit)	<u>\$ 63,185.54</u>

2/ The RBC's actual cash on hand as of 12/4/80 is \$983,957.36 which includes interest earned on Federal funds. The value (\$491,924.59 [\$441,397.70 interest received + \$50,526.89 interest receivable]) of interest earned and the liabilities arising therefrom have been excluded from this statement in order to present the financial position of the RBC as of 12/4/80 with respect solely to payments received pursuant to 26 U.S.C. 9006. See Finding II.E. for the disposition of interest earned on public funds.

3/ The capital asset figure was calculated as of December 4, 1980. The RBC contends that a number of the capital assets were sold subsequent to that date; however, no documentation has been made available for our review which would necessitate a revision to the \$46,617.93 figure. Upon receipt of adequate documentation, appropriate adjustments will be made.

4/ This amount is subject to an upward adjustment.

A copy of the working paper containing this analysis was presented to Committee representatives.

The Audit staff would normally request a repayment of the surplus amount noted in the analysis pursuant to the provisions of Section 9007(b)(1) of Title 26 of the United States Code; however, it is premature at this time since certain matters under review by the Commission's Office of General Counsel may have a significant bearing on this surplus. Upon resolution of these matters, appropriate recommendations regarding any repayment to the U.S. Treasury will be made.

III. Support for the Recommendation

Based upon the Audit staff's review of materials submitted in response to the final audit report and records made available during the follow-up fieldwork, it is recommended that the Commission determine that \$13,506.00 is repayable to the U.S. Treasury within 20 days of the RBC's receipt of this report.

IV. Staff Coordination

A copy of this memorandum was furnished to the Office of General Counsel for their consideration.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D. C. 20463

July 8, 1983

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JAMES A. PEHRKON
ACTING STAFF DIRECTOR

FROM: BOB COSTA *RJC*

SUBJECT: ADDENDUM #2 TO THE FINAL AUDIT REPORT -
REAGAN BUSH COMMITTEE (RBC), REAGAN BUSH
COMPLIANCE FUND, AND DEMOCRATS FOR REAGAN

I. Summary of Issues and Recommendations

On October 14, 1982, the Audit staff received RBC's response to the Addendum to the Final Audit Report. Subsequently, in January and June 1983, the Audit staff performed additional fieldwork to update RBC's activity. Based on additional fieldwork performed, the amount repayable to the U.S. Treasury is \$10,127.11 (see Finding II.B.). The Audit staff recommends that the Commission approve this repayment amount.

II. Background

On September 23, 1982, the RBC received a copy of the Addendum to the Final Audit Report. The report afforded the RBC 20 days to repay the U.S. Treasury for interest earned on investment of public funds. Further, the Addendum noted at Finding C, Determination of Net Outstanding Qualified Campaign Expenses that a repayment recommendation was premature at that time since certain matters were being reviewed by the Commission's Office of General Counsel. Both issues are discussed below.

A. Investment of Public Funds

At Finding II.B. on pages 2 and 3 of the Addendum to the Final Audit Report, the Audit staff recommended the RBC repay the U.S. Treasury \$13,506.00, which represented interest earned on federal funds (less taxes).

On October 14, 1982, the RBC delivered a check to the Audit Division, payable to the U.S. Treasury, in the amount of \$13,506.00. This check was forwarded to the U.S. Treasury in accordance with 26 U.S.C. 9007(d).

Based on the above the Audit staff recommends no further action on this matter.

B. Determination of Unspent Funds

Section 9007.2(g) of Title 11 of the Code of Federal Regulations states that a candidate shall be required to return to the Secretary any portion of the payments under 11 C.F.R. 9005.3 which remains unspent after all qualified campaign expenses have been paid.

In June 1983, the Audit staff conducted additional fieldwork to update the RBC's activity through June 29, 1983. Based on FEC reports filed through March 31, 1983, and reconciliation of RBC's bank records through June 29, 1983, the Audit staff determined that RBC's qualified campaign expenses through June 29, 1983 total \$29,429,872.89 (net disbursements of \$29,428,093.59 + an account payable of \$1,779.30).

On June 29, 1983, RBC delivered a check to the Audit Division, payable to the U.S. Treasury, in the amount of \$10,127.11 (\$29,440,000 - \$29,429,872.89), which represented the amount of unspent federal funds. This check was forwarded to the U.S. Treasury in accordance with 26 U.S.C. 9007(d).

Based on the above the Audit staff recommends no further action with respect to this matter.

III. Support for the Recommendation

Based upon the Audit staff's review of the response to the Addendum to the Final Audit Report and records made available during the follow-up fieldwork, it is recommended that the Commission approve this final repayment amount (\$10,127.11).

IV. Staff Coordination

A copy of this document was forwarded to the Commission's Office of General Counsel. The Office of General Counsel's comments are appended at Exhibit A.

7/8/83

RC



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

July 8, 1983

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director

THROUGH: James A. Pehrkon *[Signature]*
Acting Staff Director

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross *[Signature]*
Associate General Counsel

SUBJECT: Comments on Proposed Addendum
#2 - Reagan Bush Committee

The Office of General Counsel has reviewed the proposed addendum to the final audit report on the Reagan Bush Committee ("RBC"), submitted to this office on July 6, 1983. In light of the Commission's decision of July 6, 1983 regarding the remaining audit issues involving RBC, the Office of General Counsel concurs in the proposed addendum to the final audit report.

It is our understanding that the Audit Division will provide a copy of the addendum to RBC once the Commission approves its recommendations of no further action.

cc: Commission



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

ADDITIONAL INFORMATION REGARDING THIS ORGANIZATION
MAY BE LOCATED IN A COMPLETED COMPLIANCE ACTION
FILE RELEASED BY THE COMMISSION AND MADE PUBLIC IN
THE PUBLIC RECORDS OFFICE. FOR THIS PARTICULAR
ORGANIZATION'S COMPLETED COMPLIANCE ACTION FILE
SIMPLY ASK FOR THE PRESS SUMMARY OF MUR # 140/.
THE PRESS SUMMARY WILL PROVIDE A BRIEF HISTORY OF
THE CASE AND A SUMMARY OF THE ACTIONS TAKEN, IF ANY.



