



FEDERAL ELECTION COMMISSION

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Receipt of In-Kind Contributions in Excess of Limitation
from a Political Committee

Section 441a(a)(2)(A) of Title 2 of the United States Code states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000.

Section 441a(a)(1)(A) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which in the aggregate, exceed \$1,000.

The term "person" is defined at 2 U.S.C. §431(11), in part, to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

Section 100.7(a)(1) of Title 11 of the Code of Federal Regulations defines the term "contribution" to include a gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

Sections 100.7(a)(1)(iii)(A) and (B) of Title 11, Code of Federal Regulations state that for purposes of 11 CFR 100.7(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. The "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.

I. Introduction

During fieldwork on Haig for President, Inc. ("the Committee"), the Audit staff identified in-kind contributions made to the Committee by Committee for America ("CFA") and CFA's state level affiliate, Committee for America-Virginia ("CFA-VA").

On March 23, 1987, CFA, a multicandidate political committee, sponsored the "Salute to America" (the Event) dinner at the Waldorf-Astoria Hotel in New York honoring General Alexander M. Haig, Jr. during which General Haig announced he would be formally declaring his candidacy for the Republican Nomination for President of the United States the next day. The Audit staff identified, based on records made available during fieldwork, \$200,142.26 in expenses paid by CFA associated with holding the Event.

Also identified by the Audit staff during fieldwork were payments made by CFA and CFA-VA totalling \$24,477.50 to Marketing Research Institute (MRI) for polling and \$4,756 to Premiere Travel for Committee related travel.

The Committee utilized CFA's telephone and computer systems from December 1986 through April 1988 for which no payments were made. The Audit staff considered this an in-kind contribution pursuant to 11 C.F.R. §100.7 in the amount of the usual and normal charge for such goods.

The information obtained during fieldwork relative to the activities undertaken by CFA and CFA-VA as they related to the Committee raised the question as to whether or not the three entities were affiliated.

In the interim audit report, the Audit staff recommended that the Committee provide the following:

- a) A valuation of the usual and normal charge for the Committee's usage of CFA's telephone and computer systems;
- b) evidence that the in-kind contributions made by CFA (Event expenses of \$200,142.26, polling expenses of \$530, and the value established for use of CFA telephone and computer systems) are not excessive;
- c) evidence that the in-kind contributions made by CFA-VA are neither excessive nor prohibited (to include the Committee's State disclosure reports and deposit records); and
- d) provide CFA's and CFA-VA's books and records, to include bank statements, cancelled checks, deposit records, invoices and other source documents, from both committees' inception through March 31, 1988.
- e) provide evidence to demonstrate that Haig for President, CFA, and CFA-VA are not affiliated.

In its response to the interim audit report, the Committee stated that General Haig's use of the Event to state that he intended to announce his candidacy for the Presidency on March 24, 1987 may have had some inherent value, but strongly disputed the interim audit report's conclusion that the CFA contribution to the Committee equaled the entire cost of the Event, and that the real "value" of the Event, the proceeds, did not flow to the Committee.

The Committee also provided a copy of a lease between itself and CFA in response to the use of the telephone and computer equipment between April 30, 1987 and March 31, 1988.

The Committee responded to the interim audit report's finding regarding contributions made by CFA-VA by stating that CFA-VA was established under state law to conduct activity not under FECA jurisdiction, and that "CFA-VA funds were never used intentionally to finance federal (CFA) or presidential (HFP) activity." (Emphasis not in original.)

With regard to the payments to MRI, the Committee asserted it only paid for the polling results it actually received, and made no response regarding the payments to Premiere Travel.

In response to the question of affiliation, the Committee asserted that the Committee, CFA, and CFA-VA were not affiliated since neither CFA nor CFA-VA were designated by General Haig as authorized campaign committees, that both the Committee and CFA have separate treasurers, and that the Committee has a distinct corporate board structure with decision making authority.

Finally, the Committee did not submit CFA's books and records nor CFA-VA's books and records to the Audit staff for review.

The Audit staff reviewed the disclosure reports for both CFA and CFA-VA in an effort to determine the nature and focus of the activities conducted and concluded that CFA's only major function during 1987 was the Salute to America Event and that the majority of CFA-VA's expenditures were for payroll/consulting and travel reimbursements to CFA consultants/employees.

In the final audit report the Audit staff concluded, as a result of its review of the information then available, that in late November 1986 the focus of CFA activity changed from that of a multicandidate political committee whose purpose was to raise money and support Republican candidates, to activity which focused upon exploring the possibilities of General Haig becoming a Presidential Candidate. Further, based upon the information reviewed regarding CFA-VA, the Audit staff concluded that CFA-VA's activities supplemented those of CFA and the Committee. In order to define more accurately the nature of CFA activity as it related to General Haig's Presidential Campaign, the Audit staff remained of the opinion that CFA's books and records from its inception through December 31, 1988 should be provided for review.

In the final audit report, the Audit staff recommended that the Commission approve the issuance of subpoenas prepared by the Office of General Counsel in order to obtain the records necessary to complete the audit of CFA, CFA-VA and to address the issue of possible affiliation. Further, after analysis of the information obtained, the Audit Division would prepare an addendum to the final audit report regarding any potential repayments, if appropriate, as well as a referral to the Office of General Counsel.

Subpoenas were approved by the Commission on June 1, 1989, and on July 14, 1989, the Office of General Counsel received the responses to the subpoenas issued to CFA and CFA-VA.

II. Background

The Committee registered with the Federal Election Commission on April 2, 1987. The audit covered the period from the Committee's inception, December 1986, through March 31, 1988. The initial checks drawn on the Committee's National Headquarters depository were dated April 15, 1987.

CFA, a multicandidate political committee chaired by General Haig, registered with the Federal Election Commission on April 24, 1986. From December 1, 1986 through December 31, 1987, CFA received \$504,478.13 in contributions and made expenditures totalling \$573,236.05.

CFA-VA, CFA's state level committee, filed a statement of organization with the Virginia State Board of Elections on October 15, 1986. CFA-VA was to operate on a statewide basis supporting candidates seeking state office. On May 29, 1987, CFA-VA filed a termination report with the Virginia State Board of Elections. During 1986, CFA-VA received \$3,741.78 in contributions and a \$100 loan from CFA; and made expenditures totalling \$203.12. During 1987, CFA-VA received contributions totalling \$259,481.44, most of which were received between January 16, 1987 and April 16, 1987, and made expenditures totalling \$263,327.34. General Haig also chaired CFA-VA.

Key personnel at the Committee and CFA/CFA-VA were:

C. Patrick Roberts: Vice Chairman and Chief Operating Officer - CFA and CFA-VA; Campaign Manager Haig for President

Dan Mariaschin: Director of Communications - CFA and Haig for President

Russ McReynolds: Assistant Treasurer - CFA, CFA-VA and Haig for President

William Webb: Special Consultant to Gen. Haig - CFA
Director - CFA-VA
Director of Operations - Haig for President

The three committees also shared the same office space at 1340 Old Chain Bridge Road, McLean, Virginia and upon moving in December 1986 or January 1987, at 1154 15th Street, NW, Washington, DC. The Washington location upon CFA's cessation of activity became the Committee headquarters.

The documentation provided to the Audit staff as a result of the subpoena with respect to CFA consisted of bank statements, cancelled checks, check registers, paid vendor files, contribution records including deposit batches, personnel files, event files, internal correspondence and memos, and FEC disclosure reports. The records covered the period from CFA's inception through December 31, 1988.

The documentation provided by CFA-VA as a result of the subpoena consisted of bank statements, a check register, paid vendor files, contributor records including deposit batches, state disclosure filings, and miscellaneous records.

The Audit staff reviewed all disbursements made by CFA from the CFA's inception (April 1986) through December 1987. Between April and October 1986 no activity which could be identified as presidential in nature was noted. During November 1986, two CFA representatives attended a Western States Caucus meeting on behalf of General Haig's possible presidential candidacy. On December 9, 1986, the Haig for President - Exploratory account was opened. Other items indicative of exploratory activity paid for or generated by CFA include a November 24, 1986 memo written by Event Finance Chairman Bill McCann discussing the announcement of the presidential campaign and announcement dinner, and the printing of table reservation cards for the announcement dinner at the Waldorf Astoria. Based on the above, the Audit staff has focused its review on expenditures made by CFA between December 1, 1986 and December 31, 1987.

A February 4, 1987 memo entitled "Haig for President '88", written by CFA Assistant Treasurer Russ McReynolds, contains as attachments, a draft of the Accounting Procedures and Internal Controls manual for the Committee, and a cash flow report and projection for CFA. The cash flow projection only reflects activity through April 1987. The memo recommends that CFA terminate as soon as possible.

On April 15, 1987, CFA made its last regular payroll payment. On April 16, 1987, all but one employee became Committee employees who received their first Committee payroll on April 30, 1987. Certain consultants to CFA also became paid Committee consultants on April 16. Additionally, 88% of the \$97,111.72 spent by CFA between April 16, 1987 and December 31, 1987 was related to either direct contributions to the Committee or payment of CFA expenses incurred prior to April 15, 1987. Of the remaining \$11,509.34 (\$97,111.72 - \$85,602.38) disbursed after April 16, the Audit staff was unable to determine the date of incurrence for \$8,505.56

1. For this report the term direct contribution is defined as payments/expenditures made by either CFA or CFA-VA whose purpose has specifically been identified as Presidential in nature on behalf of General Haig.

of general and administrative expenses. The remainder, \$3,003.78 were contributions to candidates (\$3,000) made during the period and a bank service charge (\$3.78).

According to CFA's Disclosure Reports for 1988 through 1990, CFA reported \$5,809.81 in receipts and \$9,750.00 in disbursements for the period 1/1/88 through 9/30/90.

After April 16, 1987, 56% of the funds received from individuals were contributions from individuals who reportedly were employees of Kurt Saracen Inc. or Saracen Investments. The Committee's Treasurer, Dominic Saraceno, is reported as general partner of Kurt Saracen Inc. and is reported on Committee disclosure reports as owner of Kurt-Saracen Associates. These facts coupled with an internal CFA memo written by Assistant Treasurer Russ McReynolds, which discuss CFA's termination as a committee, lead the Audit staff to the conclusion that for all practical purposes, CFA ceased to function after April 15, 1987.

The Audit staff also reviewed all disbursements made by CFA-VA from its inception through its termination. As previously noted, the bulk of CFA-VA's disbursements were made between January 1, 1987 and May 12, 1987. Subsequent to April 16, 1987, CFA-VA spent \$61,744.80; sixty three percent (\$38,975.97) of which was either a direct contribution to the Committee (\$20,074.97) or for payment of an expense incurred prior to April 15 (\$18,901). The remaining \$22,768.83 (37%) consisted of \$4,525 in consulting fees to Russ McReynolds, C. Patrick Roberts, and one other consultant for services during the period April 16-30; printing totaling \$3,581 for which documentation was insufficient to evaluate the date of incurrence; and \$14,662.80 was for expense reimbursements which were not documented. CFA-VA filed a termination notice with the Virginia State Board of Elections on May 29, 1987.

The Audit staff's analysis of the documentation received with respect to the nature of CFA and CFA-VA activities as they relate to the presidential activities of General Haig is as follows.

III. Analysis of Committee for America and Committee for America-Virginia Expenditures

A. Salute to America Event

On March 23, 1987, CFA sponsored the "Salute to America Dinner" (the Event) at the Waldorf-Astoria Hotel in New York at which General Haig announced he would be formally declaring his candidacy for the Republican nomination for President of the United States the next day.

Press accounts of the Event depict it as an announcement Gala; and as a nominating convention, with red, white, and blue balloons falling from the ceiling while General Haig at the podium

with his family raised his hands in victory. General Haig's remarks set forth his agenda for domestic and foreign policy with the conclusion that he is the leader necessary to implement this agenda. He then states "Tomorrow I will announce my candidacy for the Republican nomination to run for President of the United States."

During fieldwork, the Audit staff identified solicitation materials relative to the Alexander Haig Announcement Dinner, sponsored by Committee for Alexander Haig-Exploratory, to be held March 23, 1987, at the Waldorf-Astoria Hotel. A \$5,000 Event deposit to the Waldorf-Astoria dated December 22, 1986 was made from the Committee's exploratory bank account. On March 4, 1987, a \$5,000 refund from the Waldorf-Astoria was deposited to the Committee's exploratory bank account. The Audit staff noted \$11,000 in contributions made payable to Haig for President-Exploratory which were accompanied by solicitation devices requesting reservations for the Event. Also noted, from the records made available, were at least \$9,750 in contributions dated prior to General Haig's March 24, 1987 announcement, made payable to Committee for Alexander Haig-Exploratory.

The Committee acknowledged, in its response to the Interim Audit Report, that at one time it had planned to launch General Haig's candidacy by sponsoring a major fundraising event in New York at the Waldorf Astoria Hotel and that these plans went so far as to include a \$5,000 deposit to the hotel and the production and distribution of solicitation materials and response devices. However, the Committee stated it was decided subsequently that the formal announcement of candidacy would be done in a press conference followed by a campaign tour of early primary states. The press conference took place on March 24, 1987 at the Waldorf Astoria Hotel, followed by trips to Iowa and New Hampshire on March 24-25, 1987.

According to the response, it was determined that Committee for America would sponsor a fundraising event on March 23, 1987 to finance its own political activities which were unrelated to the presidential campaign. This event took place on March 23, 1987 at the Waldorf Astoria Hotel with General Haig as the featured speaker. The Committee believes that General Haig's use of the Event to state that he intended to announce his candidacy for the Presidency on March 24, 1987 may have had some inherent value, but strongly disputes the Audit report's conclusion that the CFA contribution to the Committee equals the entire cost of the Event, stating that the real "value" of the Event, the proceeds, did not flow to the Committee.

According to the response, the Committee conducted a review of its records to determine to what extent, if any, the Committee actually benefited from the Event. The Committee submitted a list of 21 contributions totalling \$8,250 deposited to the Committee's Exploratory Bank account which appeared to have

some relation to the Event based upon check notation and response cards. The Committee asserts that these contributions were received as the result of the subsequently withdrawn solicitation for its March 23, 1987 Event. In order to permit those donors to attend the Event, "complimentary" tickets were issued by CFA. The Committee submits that the \$8,250 represents the maximum value received by Haig for President as the result of the Event.

The Audit staff reviewed the format of the Event and the contents of the remarks which General Haig made at the Event. According to the November 24, 1986 memo written by Dinner Finance Director Bill McCann, it was recommended that the announcement for Presidential Campaign and Dinner be held in the form of a mini-convention. As previously stated, the Committee cancelled its announcement dinner plans and decided the announcement would come in the form of a press conference.

Moreover, if this event, on March 23, 1987, as the Committee contends in its response, was for the purpose of financing CFA's "own political activities which were unrelated to the presidential campaign" there is virtually no factual basis to support this statement based on our review of CFA's records.

As stated above, CFA for all practical purposes ceased all activities as of 4/15/87 (about three weeks after the Event). In point of fact CFA's Assistant Treasurer in February, 1987 recommended that CFA terminate as soon as possible.

In the Audit staff's opinion the above facts, alone, totally refute the contention that CFA was fundraising for the purpose of funding its own activities. The only activity conducted by CFA after February, 1987 was the Event itself.

It is interesting to note, however, that CFA did receive contributions amounting to \$53,649.50 as the result of a testing the waters event held in November 29, 1986 in Palm Beach, Florida. In a January 1987 thank you letter which characterizes this event General Haig commented "I hope what you heard the 29th was to your liking and that you will support my candidacy." In other thank you letters regarding this Palm Beach event General Haig also made mention of the "long trail yet to be traveled" and the "fundraising process and its difficulties in the early stages of any endeavor...I look forward to talking with you as the campaign develops."

On December 9, 1986, the Waldorf-Astoria confirmed the "March 23, 1987 reception/dinner/dance" reservations of "Committee to Elect Alexander Haig-Exploratory." Committee for America paid the Waldorf Astoria \$128,063.75 in connection with the catering (\$107,195.33), and lodging of General Haig and his family, and CFA employees and guests (\$20,868.42). Those CFA employees in

attendance were C. Patrick Roberts, Dan Mariaschin, James Flack, Russ McReynolds, and several CFA staffers. Also attending was Committee treasurer Stephen Jernigan.

Other costs associated with the Event were \$31,199.00 for decorations and entertainment; \$41,057.33 for printing and mailing of invitations, public relations, program design, and correspondence with Event guests; miscellaneous expenses of \$12,670.58 which includes videotaping and photography, limousine service, security, and CFA employee/consultant travel to New York.

The Audit staff has also included the salary and expenses of Dinner Coordinator Eleanor Williams which amount to \$8,342.08, and consulting fees amounting to \$24,639.23, paid to CFA Vice-Chairman and Event Finance Chairman Bill McCann which were apparently paid in arrears.

The above costs associated with the Event total \$245,971.97, of which CFA paid \$225,257.55 and CFA-VA paid \$20,714.42. (See Attachment 1.)

It is the opinion of the Audit Division that the Committee's conclusion that the maximum "value" it received from the Event was \$8,250 is incorrect. As previously cited, 11 C.F.R. §100.7(a)(1) defines the term "contribution" to include anything of value made by any person for the purpose of influencing any election for Federal office. The Event was a presidential announcement dinner, the purpose of which was to launch General Haig's presidential campaign. Therefore, all costs associated with holding the Event are considered an in-kind contribution to the Committee from CFA and CFA-VA totalling \$225,257.55 and \$20,714.42 respectively.

B. Marketing Research Institute ("MRI")

In the Interim Audit Report, the Audit staff noted payments to MRI by CFA (\$530), CFA-VA (\$23,947.50) and the Committee (\$8,600) for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll.

With respect to the payments mentioned above, the Committee asserted, in its response to the Interim Audit Report, that it only paid for the polling results it actually received. No additional documentation was provided in support of this assertion.

The New Hampshire Statewide Survey poll was conducted March 7 through 14, 1987, and the Super Tuesday Presidential Primary poll was conducted April 2 through 9, 1987. The contents of each poll were specifically presidential in nature, beginning with the name recognition of various Republican candidates, then moving to questions concerning the Republican and Democratic candidates the respondent would most likely vote for, and then

focusing questions specifically concerning General Haig and his name recognition and qualifications for the office of President. The content of these two polls differs significantly with the objectives of CFA, i.e., to raise money and support for Republican candidates around the country. The contrast is even more striking with respect to CFA-VA; an entity organized to operate on a statewide basis in Virginia supporting candidates seeking state office. There is no conceivable reason, in the opinion of the Audit staff why CFA-VA would need or could use, much less pay for, the results of the New Hampshire Statewide Survey and Super Tuesday Presidential Primary polls if, it was in fact only supporting candidates seeking state office in Virginia. According to the vendor, the polls were contracted verbally between MRI and CFA. Invoices were sent to CFA, Attention: Pat Roberts. It should be noted that Pat Roberts was CFA's Vice Chairman and Operating Officer, as well as the Committee's Campaign Manager. He also signed the Committee's polling contract with MRI. Considering that Patrick Roberts was a representative for both CFA and the Committee, and that CFA's activities were very limited at the time the polls were conducted, and therefore would appear to have no need for such polling results, whereas the Committee was increasing its activity and would need such polling results, the Audit staff concludes that, absent documentary evidence to the contrary, the polls were conducted to benefit the Committee and the Committee was the sole beneficiary.

Based upon the Audit staff's review of the documentation made available as a result of the subpoena, it was determined that \$24,499.50 was paid to MRI by CFA (\$530.00) and CFA-VA (\$23,969.50). An additional \$11.00 was paid to Federal Express for a shipment to MRI by CFA. Total costs identified are \$24,510.50.

C. Computer Equipment and Telephone System

As previously noted, the Committee utilized the telephone and computer systems purchased and owned by CFA and CFA-VA during the time period of December 1986 through April 1988.

In response to the Interim Audit Report's recommendation regarding the Committee's usage of the telephone and computer equipment, the Committee submitted a copy of a lease between itself and CFA. The lease, dated March 23, 1987, was signed by Sherwood Goldberg for CFA and Stephen Jernigan for the Committee. However, the Committee did not file its Statement of Organization with the Federal Election Commission until April 2, 1987, listing Stephen Jernigan as Treasurer. The lease date was not attested by a Notary Public. The terms include a monthly payment of \$860 beginning April 30, 1987 through March 31, 1988, and an option to purchase the furniture and fixtures for \$20,640 less two thirds of the monthly rental payments made. The lease also contains default provisions. The inventory of the items leased includes various office furniture, a locking file cabinet, 3 IBM computers, 1

Beltron XT Computer, keyboards and 4 printers. In its response to the Interim Audit Report, the Committee stated that no payments were made on the lease and requested the amount due on the lease, \$10,320, be considered a debt owed to CFA.

The Audit staff is of the opinion that the above mentioned lease is not a valid document for the following reasons. According to the Committee's disbursement journal, the Committee made no payments on the lease throughout the term of the lease, nor did it disclose as a debt on its disclosure reports, the amounts due on the lease. CFA did not disclose on its disclosure reports the amounts owed as debts. It does not appear that CFA took any action to exercise the default provisions of the lease or to repossess the items leased.

According to a Committee representative, the Committee purchased for \$1,000.00, office furniture from CFA, but was unable to provide any detail of what made up the purchase. During 1986 and 1987, CFA reported purchasing office equipment and furniture totalling \$1,437.80. According to CFA's disclosure reports, the balance of its office equipment and furniture was rented from various vendors. Further review determined that the Committee, upon its inception on April 2, 1987, assumed making payments to several of these vendors. The Audit staff is of the opinion that the office equipment and furniture purchased from CFA by the Committee is the same office furniture and equipment that CFA purchased. Therefore, the inclusion of the office equipment and furniture inventoried in the lease is invalid.

Based upon the above analysis, the Audit staff considers the lease submitted by the Committee an invalid document and continues to view the Committee's use of CFA's computer system as an in-kind contribution as defined at 11 C.F.R. §100.7 in the amount of the usual and normal charge for such goods. The Committee did not submit a valuation of the phone system in its response to the Interim Audit Report, the Audit staff views the usage of the phone system as an in-kind contribution to the extent of the usual and normal charge for such a system.

According to the Haig for President Office Manager's Manual, the Committee believed that it owned the personal computers and printers, and the telephone system. As previously noted, it is the Audit staff's opinion that for all practical purposes, CFA ceased to function after April 15, 1987. For the purpose of this review, we have used April 15, 1987 as the date of the contribution for the transactions discussed above.

In order to calculate the amount of the inkind contribution relative to the computer equipment and telephone system the Audit staff first identified the total costs paid by CFA to obtain the computer equipment and telephone system; the useful life of these assets was determined to be from the date purchased through May 30, 1988, shortly after the Committee

vacated its Washington office space. The Audit staff then calculated monthly depreciation expense from the date purchased through April 15, 1987, and computed the book value (cost less depreciation expense through April 15, 1987) of the computer equipment to be \$3,387.27, and the book value of the telephone system to be \$6,207.68. The Audit staff considers the calculated book value of these assets to be a reasonable valuation of the amount of the contribution. Therefore, the value of the in-kind contribution made by CFA to the Committee at 4/15/87 when the committee began using the equipment exclusively is \$3,387.27 for the computer equipment and \$6,207.68 for the telephone system. (See Section III.I.2. for the valuation of the equipment for the period 12/1/86 - 4/15/87).

It should be noted that the Audit staff was unable to determine the purpose of an \$8,083 payment to CFA's computer vendor, Computer RX, made during October 1986. Should this payment be for a purchase, as opposed to a rental, the Audit staff will adjust the amount of the in-kind contribution for computer equipment accordingly. In the Audit staff's opinion, it is likely that when all costs are identified relative to the purchase of computer equipment and software, the calculated value of the in-kind contribution will exceed the \$10,320 as calculated from the monthly payment noted in the lease submitted by the Committee in its response to the Interim Audit Report.

D. Premiere Travel

In the Interim Audit Report, the Audit staff noted payments by CFA-VA to Premiere Travel for travel expenses incurred by Committee staff. Our review of the Premiere Travel file identified invoices totalling \$4,386 for travel to Iowa on March 24-25, 1987 by General and Mrs. Haig, plus CFA employees Pat Roberts, Dan Mariaschin, Tim Jansen and Committee Treasurer, Stephen Jernigan; and one trip to Washington, DC by a Haig family member. As noted earlier, the Committee stated in its response to the Interim Audit Report that a campaign tour of early primary states would take place after General Haig's official announcement of candidacy on March 24, 1987.

The travel noted above was paid for by CFA-VA. The Committee provided no comment with regard to this issue in its response to the Interim Audit Report. Since the travel is apparently related to General Haig's presidential candidacy, the \$4,386 is viewed as an in-kind contribution to the Committee by CFA-VA.

E. C. Patrick Roberts

According to correspondence located in the Committee's files, General Haig asked C. Patrick Roberts on December 20, 1986 to "undertake the leadership" of his Presidential campaign. The correspondence further states "Mr. Roberts left an important and

secure job...in order to lead your campaign and did so in good faith and with the understanding that he would be the Campaign Manager." His agreed upon salary was \$8,500 per month.

In January 1987, C. Patrick Roberts joined CFA as Vice Chairman and Chief Operating Officer. His salary was \$8,500 per month, which was paid by CFA-VA until April 30, 1987, at which time the Committee picked up 50% of the April 30th payroll and 100% of the remaining payrolls until Mr. Roberts' termination in June 1987.

Mr. Roberts' duties at CFA included contracting for the polls with Marketing Research Institute (Section II.B.2.) and the Business Intelligence Program (Section III.F.2.e.) from The Naisbitt Group. He attended various functions with General Haig and other CFA employees which the Audit staff has identified as testing the waters activities discussed below.

Given that Mr. Roberts' primary responsibility, as evidenced by the Committee correspondence noted above, was to lead the Presidential campaign, and that his activities as determined by the Audit staff were primarily presidential in nature, the Audit staff concludes that Mr. Roberts' salary and related expenses are an in-kind contribution to the Committee. The salary paid by CFA-VA totals \$25,125.00 and travel and other expenses total \$6,017.64 (CFA-VA - \$5,850.89 and CFA - \$164.75) for a total of \$31,142.64 (\$25,125 + \$6,017.64). Other expenses relative to Mr. Roberts' travels for testing the waters activities can be found at Section III.F.

F. Testing the Waters Activities

1. Direct Testing the Waters Activity

The Audit staff was able to identify, based on the records made available, \$6,009.08 of testing the waters activities paid for by CFA and CFA-VA, which were specifically noted as presidential in nature.

a. Western States Caucus

The Western States Caucus, a group made up of members from 13 western states, invited "possible 1988 Presidential candidates" to attend its November 14-16, 1986 meeting in Scottsdale, Arizona. This meeting was attended by Dan and Jeannette Clemente on behalf of General Haig. The group met again on March 6-7, 1987 in Las Vegas, Nevada. Apparently, General Haig was to be the featured speaker, but for some reason could not attend. An "After Action Report" filed by Thomas Christo, who attended on behalf of the General, recommended that General Haig write each member, stating "I think you are a very important group and I look forward to meeting you personally and soliciting your support now that I am an announced candidate."

The total identifiable costs associated with attendance at these two meetings is \$1,674.50 paid in full by CFA.

b. Palm Beach, Florida

The Audit staff noted during its review of CFA and CFA-VA records made available, a fundraising effort in Palm Beach, Florida conducted by Loyd Williams. Mr. Williams was also Florida advisor for the Committee. Mr. Williams' activities included collecting \$20,000 in ticket sales to the Event, and apparently collecting matching fund contributions. A memo dated February 18, 1987 details his efforts.

Further review of Committee contribution records indicated that the initial deposit into the Haig for President-Exploratory bank account on December 9, 1986 contained \$4,000 from contributors who reside in Florida. Additionally, 30% (\$15,250) of the total funds (\$50,605) received by the Committee between December 9, 1986 and March 30, 1987 were from individuals apparently residing in Florida, the majority having addresses in the Palm Beach area.

The Audit staff identified \$1,965.47 in expenses incurred by CFA employees C. Patrick Roberts and Tim Jansen from February 28 through March 3, 1987 in West Palm Beach, Florida. Since the only identifiable activities which occurred in the Palm Beach vicinity were related to the presidential campaign, the Audit staff concludes that the travel to West Palm Beach was also presidential in nature. Therefore, the identified cost associated with the trip, \$1,965.47, is viewed as an in-kind contribution to the Committee.

c. Manchester, New Hampshire - March 1987

On Friday, March 13, 1987, General Haig attended an event in Nashua, New Hampshire along with other presidential hopefuls, Robert Dole, Jack Kemp, Pat Robertson and Pete du Pont. On March 13-14, 1987, the Committee held the Olde Tyme Picnic Event in Manchester, New Hampshire. The Committee hosted a Hospitality Suite at the Sheraton Tara in Nashua, New Hampshire. At the picnic hot dogs, soda and popcorn were served, entertainment consisted of clowns and a live band, and campaign memorabilia such as skimmers, balloons, bumper stickers and bunting were available. The Audit staff noted \$57.25 in expenses associated with the picnic paid by CFA and CFA-VA.

The Audit staff noted a trip taken March 7-9, 1987 by General Haig and CFA employees Dan Mariaschin and Tim Jansen. The trio flew to Boston, where the available documentation indicates Mariaschin and Jansen stayed on March 7. The Audit staff was unable to determine where General Haig stayed. On March 8-9 available documentation indicates they were in Manchester, N.H. meeting with Thomas Christo. As previously

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noted, Thomas Christo attended the Western States Caucus on behalf of General Haig on March 7, 1987. Mr. Christo's other presidential activities included collecting "matching funds" in Connecticut and New Hampshire, soliciting contributions to the Event, and apparently coordinating the Olde Tyme Picnic.

Since the meeting in Manchester on March 8-9, 1987 involved Tom Christo, whose functions as identified by the Audit staff are primarily presidential in nature, and since General Haig participated in events related to the presidential campaign shortly thereafter, the Audit staff considers the meeting as preparatory to the weekend activities. The Audit staff identified \$2,311.86 in expenses paid by both CFA and CFA-VA relative to this meeting. The total costs associated with the March 8-9 meeting and the old Tyme Picnic which were paid by CFA and CFA-VA were \$2,369.11.

2. Other Testing the Waters Activity

In addition to the direct contributions discussed above, the Audit staff noted several other activities which were attended by General Haig and C. Patrick Roberts, as well as other CFA employees that could not be associated directly with presidential activity, however, the attendance by C. Patrick Roberts and the location, timing, and nature of the activity leads the Audit staff to the conclusion that the activity is testing the waters. The items noted are detailed below.

a. Manchester, NH January 14-15, 1987

On January 14-15, 1987, General Haig, C. Patrick Roberts and CFA consultant Curtis Matthews traveled to Manchester, New Hampshire. No information was available regarding the purpose of this trip. The Audit staff identified travel expenses totalling \$1,258.63 (CFA - \$173.41 + CFA-VA - \$1,085.22).

b. Nashville, TN February 12-13, 1987

Apparently, on February 12-13, 1987, CFA sponsored a function in Nashville, Tennessee. In attendance were General Haig, C. Patrick Roberts, and CFA Finance Director, James Flack. This function is evidenced by Federal Express letters to the Nashville press, and three four-pound Federal Express shipments to James Flack. CFA apparently did not receive any contributions immediately as a result of this trip, however, the Audit staff did note the deposit of six \$250 contributions by the Committee on March 18, 1987, from contributors who apparently reside in Nashville, Tennessee.

The total costs associated with the Nashville trip are \$2,443.29 (CFA - \$2,297.79 and CFA-VA - \$145.50).

c. Manchester, NH February 16-17, 1987

On February 16-17, 1987 General Haig was in Manchester, New Hampshire with C. Patrick Roberts and CFA Communications Director, Dan Mariaschin. Apparently an activity occurred at the Manchester Exchange Club for which CFA purchased a film from C-Span. The Audit staff also noted Federal Express letters to 17 media organizations in New Hampshire and Boston, Massachusetts which were sent approximately one week prior to the Manchester Exchange Club function and one letter addressed to General Haig delivered February 16, 1987 to the Holiday Inn in Manchester. Other expenses noted were travel and lodging.

Total costs associated with the Manchester Exchange Club trip are \$1,765.63 (CFA - \$1,263.57 and CFA-VA - \$502.06).

d. Iowa Agricultural Speech March 15, 1987

The Audit staff noted that on March 15, 1987, General Haig and CFA employees Dan Mariaschin and Tim Jansen travelled to Sioux City, Iowa. Also noted was a \$500 payment for an Iowa Agricultural Speech written March 8-9, 1987. During this trip, payments to hotels in both Sioux City and Des Moines were noted. The costs associated with the trip and speech were \$2,791.15 paid by CFA (\$528.25) and CFA-VA (\$2,262.90).

e. Miscellaneous

Also noted by the Audit staff were 19 deliveries to local and national press on February 23, 1987, exactly one month prior to the Event (\$562.80). According to an invoice from The Naisbitt Group, dated April 14, 1987, and addressed to [C.] Pat[rick] Roberts in care of "Committee for America" a fee [partial] of \$2,500 was due on April 15, 1987 in payment of a "Business Intelligence Program outlined in letter of Agreement dated 3/10/87." The letter of Agreement was not included with the materials provided in response to the Commission's subpoena. CFA-VA paid this vendor a total of \$5,000, in two payments of \$2,500, by checks (#1127 and #1159) dated March 30, 1987 and April 15, 1987 respectively. In each case, CFA-VA's check request form was approved by C. Patrick Roberts.

Since CFA and CFA-VA effectively ceased operations as of April 15, 1987, and considering C. Patrick Roberts' involvement with the presidential campaign, it appears likely that this expense for which the goods and/or services were contracted on March 10, 1987 was related to CFA's/CFA-VA's efforts on behalf of General Haig's candidacy. Further, according to the Committee's Office Manager's Manual, The Naisbitt Group also performed consulting for the Committee.

G. Newspaper and Other Publication Subscriptions

During our review of CFA and CFA-VA, the Audit

staff noted payments for newspaper subscriptions made during January - March 1987, totalling \$2,510.99 (\$183.75 CFA + \$2,327.24 CFA-VA). These subscriptions were in addition to the publications to which the Committee subscribed.

In February, CFA and CFA-VA paid for six month subscriptions to seven local New Hampshire newspapers; The Washington Times, The Boston Globe, and The Chicago Tribune, and The Des Moines Register. Also noted were subscriptions for USA Today, expiration date October 8, 1988, the Washington Post, expiration date February 15, 1988, and The Wall Street Journal, expiration date March 31, 1988.

Other subscriptions noted include a one year subscription to Campaigns and Elections, a six month subscription to The Polling Report, and subscriptions to The National Review and American Politics.

An internal memo written by CFA Assistant Treasurer Russ McReynolds on February 4, 1987, recommends that "CFA be deactivated as soon as possible." As previously noted, the Audit staff's review of CFA indicates that subsequent to April 15, 1987, CFA's activities appear to focus upon winding down its affairs, and CFA-VA terminated on May 29, 1987. However, no subscription cancellations were noted among the winding down activities, and it is assumed the publications were delivered to the (Committee's) 1154 15th Street address. Therefore, it is the Audit staff's opinion that the \$2,510.99 spent for subscriptions to publications could only have benefited the Committee.

H. Miscellaneous Direct Contributions

The Audit staff noted payments to certain vendors for goods and/or services related to the presidential campaign which, with one exception, were associated with activities that occurred subsequent to General Haig's formal announcement. The total amount paid was \$9,626.83, of which CFA paid \$4,720.22 and CFA-VA paid \$4,906.61.

Included in the above activities was a \$750 invoice from O'Sullivan dated March 9, 1987, for "21 different logo directions"; payments to both Eleanor Williams, the Event Coordinator (\$3,800) and Solters/Roskin/Friedman, Inc. the firm contracted to provide publicity services for the Event (\$3,238.62), for services rendered in the latter part of March and April 1987; and miscellaneous expenses for such items as limousine and security services for General Haig immediately following the Event, and Federal Express shipments (\$1,838.21).

I. Indirect Contributions - December 1, 1986 through April 15, 1987

1. General, Administrative and Overhead Expenses

During the period December 1, 1986 through April 15, 1987, CFA, CFA-VA and the Committee shared the same office space. The only employees during this time period were paid by CFA or CFA-VA.

In January 1987, CFA hired C. Patrick Roberts as Vice Chairman and Chief Operating Officer; Daniel Mariaschin as Director of Communications; and Eleanor Williams to coordinate the Salute to America Dinner. In February, Assistant Treasurer Russ McReynolds came on board. As previously discussed, these individuals were noted as key participants in General Haig's exploratory activities and the announcement dinner. Examples of CFA employees' work which benefited the Committee include CFA's processing of \$11,000 of exploratory contributions for Event tickets; two January 1987 memos written by CFA's attorney Lawrence Halloran, one entitled "Contributions to the Haig for President Exploratory Committee" and the other regarding proposed solicitation language which begins "Your contribution to General Haig's Exploratory Fund would help solidify his decision to run"; and Russ McReynolds' February 4, 1987 memo entitled "Haig for President 88" which discusses CFA's termination and has, as an attachment, a draft of "Accounting Procedures and Internal Controls" for Haig for President 88.

It is the Audit staff's opinion that for the period December 1, 1986 through April 15, 1987, the Committee received value from the work performed by CFA management and staff for the planning, administration, and the processing of bills for payment and contributions received by the Committee relative to the activities identified by the Audit staff as in-kind contributions to the Committee from CFA and CFA-VA; that the Committee received value from the use of the office equipment and supplies rented and purchased by CFA and CFA-VA; and that the Committee received value by occupying its office space, rent and utility free.

According to 11 C.F.R. §100.7(a), the definition of a contribution includes "anything of value"; and the provision of any goods and services without charge is a contribution.

In order to compute the Committee's share of the general, administrative, and overhead expenses, the Audit staff determined the total amounts spent by CFA and CFA-VA between December 1, 1986 and December 31, 1987. The Audit staff included CFA payments through December 31, 1987 since the majority of payments made between April 15 and December 31, 1987 were for direct contributions to the Committee or payment of expenses incurred prior to April 15, 1987. The Audit staff then determined

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2. It should be noted that the Committee paid the April 1987 rent.

the amount spent by CFA and CFA-VA between December 1, 1986 and December 31, 1987 on general, administrative, and overhead expenses.

One method of allocating indirect costs, in this instance general, administrative, and overhead, is to apply to each benefiting entity its share of indirect costs in proportion to the direct costs attributable to each entity. In other words, since CFA and CFA-VA combined, based on information currently available, expended 64.6% of total direct costs for the benefit of the Committee, indirect costs should also be allocated accordingly (see Attachment 3 for breakdown of expenses).

Direct Cost Benefiting HFP	\$337,976.51	=	64.6%
<hr/>			
Total Direct Costs	\$523,285.28		

It is the Audit staff's opinion that a reasonable valuation of the Committee's share of the general, administrative, and overhead expenses for December 1, 1986 through April 15, 1987 would be 64.6% of those amounts spent on general, administrative, and overhead expenses, or \$200,949.48 [(\$218,071.61 + \$92,995.69) x .646], of which CFA's portion is \$140,874.26 (\$218,071.61 x .646) and CFA-VA's portion is \$60,075.22 (\$92,995.69 x .646).

2. Computer Equipment and Telephone System

As noted in Section III.C., the Committee utilized CFA's computer equipment and telephone system from December 1, 1986 through April 15, 1987. The Audit staff identified the total costs paid by CFA and CFA-VA to obtain the computer equipment and telephone system; the useful life of these assets was determined to be from the date purchased through May 30, 1988, shortly after the Committee vacated its Washington office space. The monthly depreciation expense was calculated and the general, administrative and overhead percentage (64.6%) was applied to the accumulated depreciation expense for the period December 1, 1986 through April 15, 1987 to arrive at the value of the in-kind contribution to the Committee. The amounts of the contributions are \$787.73 (4 1/2 months depreciation, \$1,219.40 x 64.6%) for usage of the computer equipment; and \$1,200.57 (4 1/2 months depreciation, \$1,858.47 x 64.6%) for usage of the telephone system.

J. Request for Additional Documentation

During the Audit staff's review of the documentation made available by CFA and CFA-VA, certain disbursements were noted for which additional information is required to make a definitive determination regarding the purpose of disbursement or activity conducted. Those items which have been previously discussed total \$14,295.80 (See Attachment 2), and include the Manchester Exchange

Club activity and the Iowa agricultural speech; the contents of the Business Intelligence Program and the February 23 press releases, as well as the payment to Computer Rx.

Also noted during the Audit staff's review were \$37,127.44 in undocumented travel expense reimbursements. Of particular note were payments to CFA treasurer Sherwood Goldberg in April and May 1987 totalling \$13,105.35; and payments to Mrs. Patricia Haig totalling \$12,780. Committee for America records indicate that Mrs. Haig prepared billing statements and received payment for CFA related travel made by General Haig and Mrs. Haig.

The expenditures for which adequate documentation is lacking total \$51,423.24. This amount is not material relative to the conclusions reached herein. However, an attempt to obtain the necessary records may be made during the enforcement process.

K. Possible Affiliation of Haig for President, CFA and Committee for America-Virginia

In the Interim Audit Report, the Audit staff noted that under the FECA of 1971 as amended, committees established, financed, maintained or controlled by the same person or group of persons are considered affiliated committees for purposes of the contribution limitations. See 2 U.S.C. §441a(a)(5); 11 C.F.R. §100.5(g), and 110.3(a)(1)(ii)(E).

At that time, the information obtained relative to the activities undertaken by CFA and CFA-VA as they relate to the Committee raised the question as to whether or not the three entities are affiliated. If the Commission determines that these entities are in fact affiliated, they would share a single contribution limitation. In addition, expenditures by CFA and the CFA-VA may be added to the Committee's expenditure total, subject to the expenditure limits imposed on publicly financed Presidential candidates. See 2 U.S.C. §441a(b)(1)(A); 26 U.S.C. §9035(a).

With regard to the possible affiliation of Haig for President, CFA and CFA-VA, the Committee asserted, in response to the interim audit report, that there is no affiliation between the aforementioned committees. The Committee further responded that neither CFA nor CFA-VA were designated by General Haig as authorized campaign committees, that both the Committee and CFA have separate treasurers, and that the Committee has a distinct corporate board structure with decision making authority.

The Committee acknowledged that equipment and office space was shared but stated that this was reported as in-kind transfers on the Committee's disclosure reports. It is also acknowledged that each (the Committee and CFA) at some time may have shared one or more staff members but asserted that a separation of essential control and decision making was

maintained. In addition, the Committee insisted that some commonality of donors between the Committee and CFA must be considered inevitable since General Haig was associated with both, but states that commonality of donors is not decisive as to the issue of affiliation.

As noted in Sections III.A. through III.I. above, there is evidence sufficient to suggest that the aforementioned committees were affiliated for at least 4 1/2 months, from December 1986 through April 1987; however, at present, it is the opinion of the Audit division that, absent additional documentation to support fully that affiliation is in fact present, the preferred course of action is to view the value of the goods and services identified as provided by CFA and CFA-VA to Haig for President as in-kind contributions which are excessive with respect to CFA and excessive as well as probably prohibited with respect to CFA-VA, due to its reported sources of funds used to defray the cost of the in-kind contribution in question. (Refer to Section V below regarding affiliation of CFA and CFA-VA).

IV. Conclusion

The Audit staff's review of CFA and CFA-VA records obtained as a result of the Commission's subpoena identified the total amount of the in-kind contributions made to the Committee by CFA and CFA-VA to be \$550,512.33 (see Attachment 3 for detail). According to documentation within the Event files, unlimited contributions prohibited by the Act, could be made to CFA-VA. Considering that contributions specifically prohibited by the Act were solicited for CFA-VA by CFA, it can further be considered that the contributions made by CFA-VA are prohibited as well as excessive.

It is clear, based on our review of the records made available to date, that a very significant portion of the activities undertaken by CFA and CFA-VA were directed at and benefited the nomination campaign of General Alexander M. Haig, Jr. In fact, during the 4-5 months preceding the candidate's formal announcement, records reviewed indicate that the major focus of both CFA and CFA-VA was the presidential campaign of General Haig. Responses provided by the Committee to date do not merit any change to this conclusion.

Therefore, it is the Audit staff's opinion that the Committee received an excessive in-kind contribution amounting to \$384,058.55 (\$389,058.55 - \$5,000) from CFA; and that the Committee received an excessive as well as prohibited contribution amounting to \$161,453.78 from CFA-VA.

If the documentation requested at Section III.J. is obtained for review by the Audit staff, the figures could likely change.

V. Affiliation CFA and CFA-VA

A. Failure of CFA-VA to Register as a Federal Political Committee

Section 431(4)(A) of Title 2 of the United States Code states in part that the term "political committee" means any committee which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.

Sections 100.7(a)(1) and 100.8(a)(1) of Title 11 of the Code of Federal Regulations define the terms contribution and expenditure to be payments, services, purchases or other things of value made for the purpose of influencing any election for Federal office.

Section 433(a) of Title 2 of the United States Code requires that all committees file a statement of organization within 10 days after becoming a political committee.

As previously noted in Section IV of this report the Audit staff determined that CFA-VA made expenditures totalling at least \$161,453.78 on behalf of the Committee. In the Audit staff's opinion CFA-VA exceeded the \$1,000 threshold and therefore is a political committee subject to the requirements of 2 U.S.C. § 433 and 434 regarding the filing of a statement of organization and the filing of reports of receipts and disbursements.

Sections I through IV above address the known activity undertaken by CFA-VA, as well as CFA, on behalf of General Haig's candidacy for nomination for election to be President of the United States. As noted in Attachment 3, pages 1 and 2, CFA-VA made \$101,273.88 in expenditures identified by the Audit staff in direct support of General Haig's presidential efforts. When CFA-VA's allocable portion of indirect general, administrative and overhead expenses are factored in, the total increases to \$161,453.78, clearly sufficient to breach the \$1,000 threshold for becoming a political committee subject to all provisions of the Federal Election Campaign Act of 1971, as amended.

In order to establish when CFA-VA breached the \$1,000 threshold, one only had to look to the arrangement between C. Patrick Roberts and CFA, CFA-VA and the Committee. As discussed at Section III.E., correspondence reviewed by the Audit staff revealed that on December 20, 1986 General Haig asked C. Patrick Roberts to "undertake the leadership" of his presidential campaign. Even though Mr. Roberts position was Vice Chairman and Operating Officer of CFA and CFA-VA (he was also Campaign Manager - Haig for President), the agreed salary of \$8,500 per month was paid by CFA-VA for the period January - April 1987, with the Committee paying 50% of Roberts' 4/30/87 pay and 100% of his compensation through June 1987, Roberts termination date. Given

the role played by Mr. Roberts in the December 1986/January - April 1987 time period with respect to General Haig's presidential efforts, the Audit staff considered all compensation and related expense payments as direct in-kind contributions from CFA-VA to Haig for President. Based on our review of CFA and CFA-VA's records, CFA-VA defrayed \$30,975.89 of the \$31,142.64 in identified payments to Roberts (CFA paid \$166.75). These transactions coupled with (a) the \$20,714.42 in payments related to the Event, (b) the \$23,969.50 for the New Hampshire and Super Tuesday polls, (c) the \$4,386 to Premiere Travel related to travel to Iowa on 3/24 - 3/25/87 after Haig's "formal announcement," and (d) other miscellaneous items totalling \$21,228.07 comprise the direct contribution of \$101,273.8. This type of direct involvement demonstrates clearly that CFA-VA is a political committee and became one in late 1986 or early January 1987, based on C. Patrick Roberts' activities and payment thereof by CFA-VA.

Looking to the \$1000 contribution threshold contained at 2 U.S.C. § 431(4)(A), CFA-VA by virtue of its above stated expenditure activity, funded almost entirely by contributions, breached the \$1,000 threshold as of 12/31/86, having received in excess of \$1,000 in contributions which when deposited into CFA-VA's checking account were used, along with the \$259,000 collected from January to May, 1987, to fund the aforementioned activities.

The Audit staff noted documentation contained in the Event files which indicated that funds prohibited by the Act were solicited by CFA-VA. According to this memorandum "Unlimited amounts (no maximum) may be contributed ... by corporations, partnership or individuals, who wish to give a company check or to donate more than \$5,000." (apparently referring to the \$5,000 per year limit on contributions from individuals applicable to CFA). Our review of CFA-VA reports identified 11 individuals³ who apparently exceeded the \$1,000 contribution limitation³, as set forth at 2 U.S.C. 441a(a)(1)(1), and also identified 45 contributions totalling \$149,150 from 43 business entities which could possibly be corporations.

In summary, in the opinion of the Audit staff CFA-VA became a political committee in late 1986 - January 1987 by virtue of receiving contributions and making expenditures in excess of \$1,000 on behalf of candidacy of Alexander M. Haig. CFA-VA failed to register and report in accordance with the Act and in addition appears to have violated, at a minimum, 2 U.S.C. §§ 441a(a),(f)

3. See discussion at V.B. regarding affiliation of CFA-VA and CF. If found to be affiliated, both CFA and CFA-VA would be subject to a single contribution limit, in this instance \$5,000 per year from individuals (2 U.S.C. 441a(a)(1)(c)) since CFA is considered a multicandidate committee.

and 441b(a) as they relate to the acceptance and making of contributions subject to the provisions of the Act.

A complete review of CFA-VA's records and reports should be conducted upon Commission determinations on CFA-VA's status as a political committee as well as the issue of CFA-VA's affiliation with CFA discussed at V.B. below.

B. Affiliation of CFA and CFA-VA

Section 441a(a)(5) of Title 2 of the United States Code states, in part, that all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person shall be considered to have been made by a single political committee.

Further, 11 C.F.R. § 100.5(g)(2)(E) states that all committees established by the same person or group of persons are affiliated.

The conclusion reached by the Audit staff at Section V.A. above that CFA-VA became a political committee in late 1986/January 1987 necessitates addressing the question of whether affiliation existed between CFA and CFA-VA during, at a minimum, the period 1/1/87 - 5/28/87 (CFA-VA, by letter dated 5/29/87, notified the Virginia State Board of Elections of its intent and desire to terminate). Based on our review of records made available with respect to CFA and CFA-VA, it is the Audit staff's opinion that CFA-VA and CFA are/were affiliated committees. The bases for this conclusion are discussed below.

1. The Candidate was Chairman of both CFA and CFA-VA.
2. CFA and CFA-VA had the same officers:

C. Patrick Roberts	CFA and CFA-VA, Vice Chairman and Chief Operating Officer
Sherwood D. Goldberg	CFA and CFA-VA, Treasurer
Russ McReynolds	CFA and CFA-VA, Assistant Treasurer
William Webb	CFA-VA, Director; CFA Special Assistant to General Haig; and signatory on CFA checks

3. CFA played an active role in the formation of CFA-VA in 1986 by contributing \$500 to CFA-VA and making a \$100 loan to CFA-VA for start up costs. In addition, CFA's Treasurer in October 1986 was also identified as Treasurer of CFA-VA on CFA-VA'S New Statement of Organization for a Committee filed with the Virginia State Board of Elections.

4. CFA and CFA-VA shared the same office space, at 1340 Old Chain Bridge Road, Suite 101, McLean, Virginia and then upon moving in December 1986 or January 1987, at 1154 15th Street, NW; Washington, D.C.

5. CFA-VA paid for expenses incurred by CFA. These payments include consulting fees to the following CFA and CFA-VA consultants.

<u>CONSULTANTS</u>	<u>CFA POSITION</u>
C. Patrick Roberts	Vice Chairman and Chief Operating Officer
Russ McReynolds	Assistant Treasurer
William Webb	Special Assistant to General Haig
James Flack	Finance Director
Dan Mariaschin	Director of Communications
Bill McCann	Event Finance Chairman

In almost every instance where a payment supported by an invoice or receipted bill was reviewed by the Audit staff the committee invoiced was CFA, not CFA-VA. Were CFA and CFA-VA not affiliated, CFA-VA would most likely have had its own accounts with vendors indicating a distinct separation between the two committees.

Our review did indicate however that an attempt was made to allocate the general administrative and overhead expenses between CFA and CFA-VA. For instance, CFA-VA made payments on the lease obligation at 1340 Old Chain Bridge Road, while CFA made the payments for the space actually occupied at 1156 15th Street, NW. Additionally, CFA and CFA-VA shared the expenses for the following vendors:

<u>VENDOR</u>	<u>SERVICE PROVIDED</u>
C&P Telephone	Telephone Service
Cort Furniture Rental	Furniture
Xerox	Office equipment
Shields Business Machines	Rental on four typewriters
Federal Express	Shipping
M.S. Ginns	Office Supplies

Further, as previously noted CFA-VA made payments relative to the March 23rd, Event as well as payments on behalf of Haig for President.

6. CFA arranged for funds to be provided to CFA-VA. In one instance the Audit staff noted a corporate check payable to CFA.

Internal CFA notations accompanying a copy of the contributor's check indicate indecision regarding the disposition of the corporate check. The final decision was to deposit the check into the CFA-VA account.

Due to the fact that, with only a few exceptions, contributor check copies were unavailable for review, the Audit staff is unable to determine the extent to which CFA channeled its contributions from prohibited sources to CFA-VA.

7. CFA-VA and CFA have a similar pattern of contributions. The Audit staff's review of CFA-VA receipts identified \$69,000 in proceeds which could directly be determined as associated with the Event solicitation. These contributors, as well as their family members were identified as in attendance at the Event. The majority of 1987 CFA contributions also resulted from the Event.

In summary, for the reasons stated above, it is the Audit staff's opinion that CFA and CFA-VA are affiliated.

VI. Recommendations

The Audit staff recommends that the Committee's receipt of an excessive as well as prohibited in-kind contribution totalling \$161,453.78 from Committee for America-Virginia be referred to the Office of General Counsel for compliance action.

The Audit staff also recommends that the Committee's receipt of an in-kind contribution totalling \$389,058.55 from Committee for America be referred to the Office of General Counsel for compliance action.

Finally, the Audit staff recommends that the issue of CFA-VA's registration as a political committee and reporting of receipts and disbursements, the issue of affiliation and the alternate Federal/non-federal approach and the unreported federal depository approach between CFA and CFA-VA be referred to the Office of General Counsel.

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HAIG FOR PRESIDENT
REFERRAL-FAR

MJ001507

EXHIBIT A
ATTACHMENT 1
Page 1 of 3

HAIG FOR PRESIDENT
Schedule of CFA and CFA-Va Payments
for Salute to America Event

<u>Payee</u>	<u>Check #</u>	<u>Check Date</u>	<u>Committee for America</u>	<u>Committee for America VA</u>
Waldorf Astoria	1379	1/28/87	5,000.00	
	1395	2/13/87	1,739.76	
	1467	3/18/87	77,500.00	
	1470	3/19/87	20,000.00	
	1478	3/19/87	5,000.00	
	1477	3/23/87	3,409.04	
	1555	4/21/87	15,414.95	
TOTAL Waldorf Astoria			<u>\$128,063.75</u>	<u>-0-</u>
David Jones Management	1525	3/31/87	1,250.00	
Peter Duchin Orchestra	1531	4/13/87	615.00	
	1472	3/02/87	4,250.00	
	1442	3/19/87	4,250.00	
New York Decorating Co.	1532	4/13/87	282.53	
	1473	3/19/87	7,235.32	
Tony Riposo	1588	5/28/87	800.00	
Dwight Ragle	1593	7/21/87	240.00	
Harvey Sicherman	1530	4/01/87	1,000.00	
The Silver Spindle	1468	3/18/87	9,540.00	
Phyllis McGuire	1180	5/04/87		1,736.15
Total Decorations and Entertainment			<u>\$29,462.85</u>	<u>\$1,736.15</u>
America List	1082	2/21/87		890.42
Decatur Press	1440	2/27/87	4,000.00	
	1514	3/31/87	3,738.00	
Central Fairfax Services	1443	3/03/87	4,290.00	
	1503	3/31/87	462.21	
O'Sullivan	1448	3/04/87	14,950.00	

HAIG FOR PRESIDENT
Schedule of CFA and CFA-Va Payments
for Salute to America Event

<u>Payee</u>	<u>Check #</u>	<u>Check date</u>	<u>Committee for America</u>	<u>Committee for America VA</u>
Solters/Roskin/ Friedman Inc.	1480	3/20/87	7,500.00	
	1169	4/26/87	2,533.99	
	1585	5/19/87	627.05	
Leslie Milsten	1283	12/22/86	178.66	
Western Union Federal Express	1519	3/31/87	342.50	
	1435	2/27/87	11.00	
	1495	3/31/87	392.00	
	1591	6/03/87	642.50	
	1186	5/05/87		499.00
Total Publicity, Invitations Program design, Correspondence			<u>\$37,133.92</u>	<u>\$3,923.41</u>
Premiere Travel	1153	4/08/87		915.00
Metropolitan Photo	1181	5/04/87		2,287.65
D&D Limosine Service	1557	4/21/87	911.90	
1st American Bank of Virginia	1483	3/20/87	1,200.00	
Manhattan Video	1475	3/23/87	2,500.00	
	1534	4/14/87	4,394.40	
VIP Protective Service LTD	1558	4/22/87	299.25	
Nelson Security	1518	3/31/87	162.38	
Total Miscellaneous			<u>\$9,467.93</u>	<u>\$3,202.65</u>
Eleanor Williams	1026	2/02/87		2,600.00
	1053	2/03/87		312.98
	1093	2/21/87		1,000.00
	1143	3/31/87		1,300.00
	1449	3/04/87	1,600.00	
	1456	3/11/87	210.75	
	1547	4/15/87	400.00	
	1549	4/15/87	918.35	

HAIG FOR PRESIDENT
REFERRAL FAR

EXHIBIT A
Attachment 1
PAGE 3 of 3

HAIG FOR PRESIDENT
Schedule of CFA and CFA-Va Payments
for Salute to America Event

<u>Payee</u>	<u>Check #</u>	<u>Check date</u>	<u>Committee for America</u>	<u>Committee for America VA</u>
Bill McCann	1580	5/05/87	13,000.00	
	1590	6/02/87	5,000.00	
	1187	5/12/87		6,639.23
Total Consulting fees & Expenses			<u>\$21,129.10</u>	<u>\$11,852.21</u>
Total for Event			<u>\$225,257.55</u>	<u>\$20,714.42</u>

HAIG FOR PRESIDENT
Schedule of CFA and CFA-Va Undocumented Travel Expenses

<u>Payee</u>	<u>Check #</u>	<u>Check Date</u>	<u>Committee for America</u>	<u>Committee for America-VA</u>
Dan Mariaschin	1385	2/05/87	303.80	
	1049	2/03/87		117.23
	1091	3/03/87		1,029.88
	1129	3/30/87		1,812.59
James Jansen ¹	1128	3/30/87		1,234.08
	1151	4/08/87		627.53
Tim Jansen	1167	4/26/87		908.60
C. Patrick Roberts	1007			1,173.67
Audrey Shay	1154	4/08/87		196.81
Patricia Haig	1494	3/31/87	2,780.00	
Worldwide Associates/ Patricia Haig	1596	9/09/87	10,000.00	
Sherwood Goldberg	1168	4/26/87		11,485.85
	1182	5/04/87		1,619.50
Tom Josephs	1170	4/26/87		495.00
Signal Drilling Co.	1113	3/18/87		3,189.02
December Enterprises	1179	5/04/87		153.88
TOTAL Undocumented			<u>\$13,083.80</u>	<u>\$24,043.64</u>

1. Also known as Tim Jansen

HAIG FOR PRESIDENT
REFERRAL-FAR

EXHIBIT A
ATTACHMENT 2
Page 2 of 2

HAIG FOR PRESIDENT
CFA and CFA-Va Payments Which Require Additional Documentation

<u>Payee</u>	<u>Check #</u>	<u>Check Date</u>	<u>Amount</u>	<u>Documentation Needed</u>
Computer Rx	CFA-1008	10/03/86	\$8,083.00	Purpose of Payment for Computer Equipment
C-Span	CFA-1482	03/20/87	150.00	Manchester Exchange Club Video Tape
Harvey Sicherman	CFA-1530	04/01/87	500.00	Iowa Agricultural Speech Copy
Naisbitt Group	CFA-VA 1127	03/30/87	2,500.00	Business Intelligence Program Copy
	CFA-VA 1159	04/17/87	2,500.00	
American Eagle Express ¹	CFA-VA 1140	03/30/87	<u>562.80</u>	Content of 2/23/87 Press Releases or copies of such
	TOTAL		<u>\$14,295.80</u>	

1. Included as in-kind contributions at Section III.F.2.

HAIG FOR PRESIDENT
Summary of In-Kind Contributions
Made by CFA and CFA-VA

Report Category	Committee for America	Committee for America- Virginia	Total
Salute to America	\$225,257.55	\$ 20,714.42	\$245,971.97
Market Research Institute	541.00	23,969.50	24,510.50
Computer Equipment	3,387.36		3,387.36
Telephone System	5,332.58	875.10	6,207.68
Premiere Travel	-0-	4,386.00	4,386.00
C. Patrick Roberts	166.75	30,975.89	31,142.64
Testing the Waters Activities			
Western States Caucus	1,674.50	-0-	1,674.50
Palm Beach	20.00	1,945.47	1,965.47
Manchester 3/8 - 3/9	710.69	1,601.17	2,311.86
Old Tyme Picnic	43.25	14.00	57.25
Subtotal			
Direct Testing Waters	<u>2,448.44</u>	<u>3,560.64</u>	<u>6,009.08</u>
Manchester 1/14 - 1/15	173.41	1,085.22	1,258.63
Manchester 2/17	1,263.57	502.06	1,765.63
Nashville 2/12/-2/13	2,297.79	145.50	2,443.29
Business Intell. Report	-0-	5,000.00	5,000.00
Iowa 3/15	528.25	2,262.90	2,791.15
Press Releases	-0-	562.80	562.80
Subtotal			
Other Testing Waters	<u>4,263.02</u>	<u>9,558.48</u>	<u>13,821.50</u>

HAIG FOR PRESIDENT
Summary of In-Kind Contributions
Made by CFA and CFA-VA

Report Category	Committee for America	Committee for America- Virginia	Total
Newspapers	183.75	2,327.24	2,510.99
Miscellaneous			
Solters Roskin	3,238.62	-0-	3,238.62
O'Sullivan	750.00	-0-	750.00
Eleanor Williams	-0-	3,800.00	3,800.00
Miscellaneous	<u>731.60</u>	<u>1,106.61</u>	<u>1,838.21</u>
Subtotal Miscellaneous	<u>4,720.22</u>	<u>4,906.61</u>	<u>9,626.83</u>
TOTAL DIRECT CONTRIBUTIONS	<u>\$246,300.67</u>	<u>\$101,273.88</u>	<u>\$347,574.55</u>
General, Administrative, Overhead	140,874.26	60,075.22	200,949.48
Computer 12/1/86-4/15/87	787.73		787.73
Telephone 12/1/86-4/15/87	<u>1,095.89</u>	<u>104.68</u>	<u>1,200.57</u>
TOTAL INDIRECT CONTRIBUTION	<u>\$142,757.88</u>	<u>\$ 60,179.90</u>	<u>\$202,937.78</u>
TOTAL DIRECT AND INDIRECT	<u>\$389,058.55</u>	<u>\$161,453.78</u>	<u>\$550,512.33</u>

Haig for President
Referral-FAR

EXHIBIT B

B. Other Matters Noted

The Audit staff noted, during its review of CFA, 8 contributions totalling \$30,000 from 6 individuals who reportedly are employed by Kurt Saracen, Inc. or Saracen Investments (see Attachment 1). Included as a contributor is the Committee's treasurer, Dominic J. Saraceno, who is reported as general partner of Kurt-Saracen, Inc. Mr. Saracen is also owner of a commercial real estate firm, Kurt Saraceno Associates. The contributions were received in late July and August 1987.

These same 6 individuals also contributed \$1,000 each, almost all on the same dates, to the Committee in April and May 1987. Contributions to the Committee by these 6 individuals total \$6,325. Further, the Audit staff also noted contributions totaling \$11,150 from 15 additional individuals who are reportedly employees of Kurt-Saracen Associates or Saracen Investments or family relations thereof (See Attachment 2).

In addition, Dominic Saraceno contributed \$25,000 to CFA-VA on January 16, 1987.

Given the fact that the only significant funds raised by CFA after its cessation of activity in April 1987 were from Dominic Saraceno's and individuals who are apparent employees of Mr. Saraceno's business enterprises, it is the Audit staff's opinion that the source of funds for the \$30,000 in contributions is suspect; as well as the source of funds for the \$17,475 (\$6,325 + \$11,150) in contributions made to the Committee by individuals identified as related to Mr. Saraceno and/or the business entities with which he is associated; and Mr. Saraceno's \$25,000 contribution to CFA-VA.

Recommendation

The Audit staff recommends that Committee for America's receipt of \$30,000 in contributions from Dominic Saraceno, the Committee's treasurer and from apparent employees of Mr. Saraceno's business enterprises, as well as the \$17,475 in contributions made to the Committee by individuals identified as related to Mr. Saraceno and/or the business entities with which he is associated and the \$25,000 contribution to CFA-VA by Mr. Saraceno be referred to the Office of General Counsel for further review.

HAIG FOR PRESIDENT
Schedule of Contributions from Individuals
Associated with Dominic Saraceno's Business Entities

<u>Name</u>	<u>Employer</u>	<u>Date</u>	<u>Amount</u>
Dominic J. Saraceno	Kurt-Saraceno Assocs. Owner	3/04/87	\$ 225.00
		4/15/87	250.00
		4/29/87	750.00
		4/29/87	50.00
		11/10/87	50.00
Kurt W. Saraceno	Kurt-Saraceno Assocs. Operator	4/15/87	250.00
		4/29/87	750.00
Jonathan V. Bragg	Saraceno Investments Principal	4/28/87	1,000.00
Margaret Bragg		4/15/87	750.00
		4/28/87	500.00
Joe C. Freeman	Kurt-Saraceno Inc. Attorney	5/04/87	1,000.00
Alison Hong		9/29/87	250.00
		12/9/87	500.00
Carleton Tarpinian	Kurt-Saraceno Assocs. Real Estate Broker	4/15/87	250.00
		4/29/87	750.00
Martin Scafidi	Kurt-Saraceno Inc. CPA	4/15/87	250.00
		5/04/87	750.00

1. Mr. Saraceno, treasurer of Haig for President, Inc. was previously involved in audit referrals to OGC with respect to apparent Excessive Contributions and the loan to the Committee from Olympic Bank, Line of Credit not made in the ordinary course of business.
2. From CFA disclosure reports.
3. Alison Hong has same address as Joe C. Freeman.

HAIG FOR PRESIDENT
Schedule of Contributions from Individuals
Associated with Dominic Saraceno's Business Entities

<u>Name</u>	<u>Employer</u>	<u>Date</u>	<u>Amount</u>
Ann Goddard	Secretary	8/14/87	1,000.00
Peter C. Hille	Kurt-Saraceno(Assocs.) Project Coordinator	9/25/87	250.00
Ellen Hille		9/25/87	250.00
Peter A. Klinkmuller	Kurt-Saraceno(Assocs.)	9/09/87	1,000.00
John Lundberg	Kurt-Saraceno(Assocs.) HVAC Mechanic	9/30/87	1,000.00
Rosemary Reddington	Kurt-Saraceno (Assocs.) Bookkeeper	9/24/87	1,000.00
Oswald C. Street	Kurt-Saraceno Assocs.	4/15/87 4/29/87	250.00 750.00
Joseph Reddington		9/24/87	1,000.00
Susan Reddington		9/25/87	250.00
Terrance Reddington		9/25/87	250.00
Edward Werner	Kurt-Saraceno Assocs. R.E. Developer Marketing	4/15/87 5/05/87	250.00 750.00
Shelia McNamara	Kurt-Saraceno	12/07/87 12/14/87	500.00 400.00
Walt Taylor	Kurt-Saraceno Interior Design	4/15/87	250.00
	Total Contributions		<u>\$17,475.00</u>

HAIG FOR PRESIDENT
REFERRAL - FAR

EXHIBIT C
Page 1

Joint Fundraising Activities

Sections 102.17(c)(1) and (2) of Title 11 Code of Federal Regulations state, in part, that the participants in a joint fundraising activity shall enter into a written agreement. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. In addition to any notice required by 11 C.F.R. §101.11, a joint fundraising notice shall be included with every solicitation for contributions. This notice shall include the names of all committees participating in the joint fundraising activity whether or not such committees are political committees; the allocation formula to be used for distributing joint fundraising proceeds, a statement informing contributors that, notwithstanding the stated allocation formula, they may designate their contributions for a particular participant or participants, and a statement informing contributors that the allocation formula may change if a contributor makes a contribution which would exceed the amount that contributor may give to any participant. See also 11 C.F.R. §9034.8.

Background

The Committee entered into a joint fundraising agreement with the Kevin Hermening for Congress ('88) Committee ("the Hermening Committee"). The participants agreed to select the Hermening Committee, a political committee, to act as the fundraising representative.

According to the joint fundraising agreement, net proceeds were to be allocated 50% to the Haig Committee and 50% to the Hermening Committee. The agreement further specifies that the only adjustments to the allocation formula would be for those designated by law, contributor designated contributions, prohibited contributions, or contributions in excess of the limit (see Attachment 1).

On May 28, 1987, three joint fundraising events were held in the State of Wisconsin, a luncheon, reception, and dinner. A transaction journal made available by the fundraising representative indicated that gross receipts totalled \$13,930. However, the Committee could only provide records (copies of contributor checks) supporting \$12,005 in contributions from 115 contributors. According to the fundraising representative, an

additional \$1,925¹ (\$13,930 - \$12,005) was received from ten contributors who designated their contributions to the Hermening Committee and that copies of the contributor checks would be provided as soon as they become available.

The Audit staff's review of the copies of contributor checks made available revealed that in 38 instances the checks were either payable to the Hermening Committee or designated to the Hermening Committee on the memo line of the check or on the contributor response cards. Based on the Audit staff's analysis, the distribution of proceeds to the Haig Committee was in excess of the amount to which it was entitled, however, the amount in question is not material based on our analysis of the information provided to date.

Apparent Alterations of Contributor Checks

As previously stated, the Committee made available copies of contributor checks supporting \$12,005 in contributions from 115 contributors. Since the events were held in Wisconsin and Wisconsin was a threshold submission state, a comparison was made between the check copies² made available for review during the Audit fieldwork and the check copies submitted with the threshold submission. The following discrepancies were noted:

- ° Twenty four contributors, whose contributions were designated to the Hermening Committee, were included in the threshold submission.
- ° Nine of the above 24 contributor checks were altered. Such alterations give the appearance that the contribution was intended by the contributor to be split between the two candidates. For example, in eight instances, the contributor check reviewed during the audit fieldwork was payable to the Hermening Committee with the memo line on the check being blank. However, the copies of the checks submitted with the threshold submission were also made payable to the Hermening Committee but the memo on the check stated "Hermening/Haig" or "Hermening/Haig event." In another

1. On June 27, 1988, the fundraising representative submitted to the Audit staff copies of 3 checks, totalling \$1,450, all of which were designated to the Hermening Committee.
2. The three check copies received on June 27, 1988 represented contributions which were not submitted for matching.

instance the copy of the contributor check reviewed during the fieldwork was payable to "Hermening/Hague (sic) Event" (emphasis added), with the memo line on the check stating "Hermening." However, the copy of the check submitted with the threshold submission was also made payable to "Hermening/Hague (sic) Event" (emphasis added) but the memo line on the check stated "Hermening/Haig" (emphasis added).

- ° The memo lines on the copies of the 35 contributor checks payable to Hermening/Haig are blocked out by copies of the contributor response cards (28 of which were included in the threshold submission). Thus, the Audit staff is unable to determine if any of the contributions may have been designated by the contributor via a memo line entry to Hermening only.

It should be noted that excluding the value of the Haig Committee's allocated portion (50%) of the altered contributor checks and those designated to the Hermening Committee, the state of Wisconsin would not have been certified as a threshold state (\$5,041.50 (certified) - \$1,092.50 = \$3,949.00). Furthermore, assuming that all other contributions from the state of Wisconsin, not submitted in the threshold submission, are matchable, it appears that the Committee did not receive sufficient contributions to meet the \$5,000 threshold.

During the audit fieldwork, this matter (altered checks) was discussed with the Committee. At that time, a Committee official stated that this matter would be looked into. Subsequent to the conclusion of the audit fieldwork, a facsimile letter was received at the Commission from a Committee representative (see Attachment 2)⁴. The letter states that he was responsible for altering the checks and further states his reasons for doing so.

In the interim audit report, the Audit staff recommended that the Committee take the following action:

3. Even without Wisconsin as a threshold state, the Committee still met the 20 states necessary to be eligible for matching funds based on information reviewed to date. See Exhibit A concerning possible excessive contributions by reason of affiliation.
4. A copy of the letter was given to Committee officials at the exit conference.

- ° submit documentation which justifies its acceptance of the 38 contributions that were designated by the contributors to the Hermening Committee;
- ° that the Committee provide copies of the 7 missing contributor checks totalling \$475 as soon as they become available; and
- ° that the Committee provide unobstructed copies of the 35 contributor checks which have the memo line of the check blocked out by a copy of the contributor card.

Should the Committee wish to provide additional information concerning its allocation of contributions designated to the Hermening Committee, and its submission of such earmarked contributions for matching purposes, it may do so in its response to this finding. The Audit staff further stated that additional recommendations may be forthcoming.

In its December 21, 1988 response to the interim audit report, the Committee did not provide: (1) documentation which justifies its acceptance of the 38 contributions designated to the Hermening Committee, (2) copies of the 7 missing contributor checks, or (3) unobstructed copies of the 35 contributor checks on which the memo lines are blocked out. The Committee merely stated that no additional information or material was available to the Committee in regard to the joint fundraising activities.

In the Audit staff's opinion, the Committee's response was inadequate. Further, access to the copies of the 7 missing contributor checks, totalling \$475, as well as access to the 35 unobstructed copies (the source of which being the depositor's (ies') microfilm records) may result in an additional repayment pursuant to 26 U.S.C. §9038.2(b)(1) and a recommendation relative to a redistribution of net proceeds from the Haig Committee to the Hermening Committee.

The Audit staff recommended that the Commission approve the issuance of subpoenas prepared by the Office of General Counsel in order to obtain the records necessary to complete the audit of the joint fundraising activity.

On June 30 and July 5, 1989, the Office of General Counsel received the responses to subpoenas issued to the M & I First American National Bank and the Hermening for Congress Committee, respectively.

The Audit staff reviewed the copies of the 7 missing contributor checks as well as the unobstructed copies of the 35 contributor checks for which the memo lines were blocked out.

The Audit staff's review of the documentation relative to the \$475 from 7 individuals indicated \$375 to be cash contributions, and \$100 to be in the form of checks which were not earmarked to either candidate (Haig or Hermening).

The Audit staff's review of the unobstructed copies of the 35 contributor checks which had the memo lines blocked out disclosed that there were no memo entries earmarking these contributions to Hermening only or Haig only.

Based on the Audit staff's analysis, the distribution of proceeds to the Haig Committee still remain in excess of the amount to which it was entitled, however, the amount in question is immaterial.

Recommendation

The Audit staff recommends that the apparent alteration of contributor checks submitted with the threshold submission be referred to the Office of General Counsel for further review.

05/20/87 08:14 8715 848 7193

Hanson Insurance

002

JOINT FUNDRAISING AGREEMENT

As of April 15, 1987, the Haig for President Committee and the Kevin Horanong for Congress ('88) Committee enter into this agreement concerning a series of three joint fundraising events to be held in the state of Wisconsin on May 28. This written agreement fulfills the agreement requirement defined in 102.17 of the Code of Federal Regulation (CFR).

The participants have agreed to select the Horanong for Congress Committee to act as the fundraising representative for both candidates. The fundraising representative is a political committee as defined in 11 CFR 100.5.

The specified notice shall be included with every solicitation for contributions including the names of the committees, the allocation formula for distribution of proceeds, contributions may be designated by a contributor, and allocation formula may change if contribution exceeds legal limits.

It is understood that both committees will screen contributions to insure that prohibitions and limitations are observed. Contributor information will be collected by the fundraising representative and forwarded to the other participating political committee.

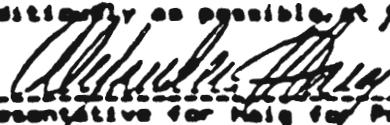
As stipulated by law a separate account will be established to handle the transactions of described joint fundraising events.

Allocation of net proceeds will be on the following basis:

Haig for President	50%
Horanong for Congress ('88)	50%

The only adjustment to this allocation formula will be those designated by law - contributor designated contribution, prohibited contribution, or contribution in excess of legal limits.

Financial and informational data will be transferred as expeditiously as possible at the conclusion of the events.



Representative for Haig for President



Representative for Horanong for Congress ('88)
Harry Meinsmann, Neussau, WI

May 7, 1988

Ms. Valerie Conroy
Lead Auditor
Federal Election Commission
Audit Division
999 E Street, NW
Washington, DC 20463

Dear Ms. Conroy:

This letter is prompted by the Commission's request for clarification concerning contributions from the Haig/Hermening Event.

On April 28, your audit team raised questions about some contribution check copies made payable to Hermening For Congress; one batch without any memo inscriptions, and another batch with Haig/Hermening Event memo inscriptions.

At that time, I accepted the responsibility, without supplying the Commission reason. After careful investigation and in an effort for full disclosure, I hereby provide the following detailed explanation.

After receiving the Haig/ Hermening contribution check copies, I noticed that a few were made payable to Hermening For Congress. At that point I took three measures.

First, I reviewed the Haig/Hermening Event contract. From that, I gathered that the contributions received were to be split 50% for Haig and 50% for Hermening. This contract agreement did not give me reason to question why checks made payable to Hermening were included in the Haig/Hermening check contribution file, or why they were deposited, and later transferred to the Haig account accordingly.

My second attempt at my internal audit was to speak to Pam Mattox, who was our contact for the event. After asking her about event procedures and the possible error of having accepted checks made payable

Page 2

She said that contributors were instructed to earmark their contributions as Hermening Only or Haig Only if donors wished to contribute to only one candidate exclusively. Since the checks in question did not contain such a notation, this dismissed my questions of the campaign having received contributions made payable solely to Hermening. She also said that many contributors wrote their checks payable to Hermening For Congress because the solicitation material requested them to send it to Hermening For Congress. This dispelled my doubts altogether.

In an effort to clarify account records, my third attempt was to write Hermening/Haig Event in the memo section of each check copy that was made payable to Hermening For Congress. My abovementioned attempts to clarify the validity of these contributions gave me reason to inscribe such a memo to clearly reflect it's origin. In this way, it could not later be mistaken as a contribution made to Hermening only.

Sincerely,



Russell G. Primavera

75043640072

RECEIVED
F.E.C.
SECRETARIAT

FEDERAL ELECTION COMMISSION 93 APR 26 PM 3:40
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 3367, 2717 and 2903
STAFF MEMBER Mary P. Mastrobattista

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Haig for President and Dominic Saraceno,
as treasurer
Committee for America and Sherwood D.
Goldberg, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(8)
2 U.S.C. § 431(11)
2 U.S.C. § 441a(a)(1), (2), (5) and (6)
2 U.S.C. § 441a(b)(1)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
2 U.S.C. § 441f
26 U.S.C. § 9042(c)
11 C.F.R. § 100.5(g)
11 C.F.R. § 9034.2(c)(7)
11 C.F.R. § 9034.8

INTERNAL REPORTS CHECKED: Referral materials

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On July 30, 1991, the Commission determined to open a Matter Under Review with respect to three items arising from the Audit of Haig for President (the "Committee"). The first item concerns the receipt of in-kind contributions from Committee for America and Committee for America-Virginia.¹ The second item concerns the Committee's joint fundraising activities and the apparent alteration of contributor checks. The third item

1. As of December 31, 1992, the Committee reported a cash on hand balance of \$4,184.01. Committee for America reported a cash on hand balance of \$80.90 as of that same date.

concerns the possible reimbursement or corporate facilitation of contributions to the Committee, Committee for America and Dole for President.

II. FACTUAL AND LEGAL ANALYSIS

A. Introduction

In Section B of the Report, the Office addresses the issue of affiliation between the Committee, Committee for America, and Committee for America-Virginia. After discussing the indicia of affiliation, this Office concludes this section by advising that the Commission decline to pursue these committees on the theory of affiliation.

Section C of this Report addresses in-kind contributions made to the Committee by Committee for America and Committee for America-Virginia. These contributions are related to expenses incurred in connection with a fundraising dinner, polling and travel expenses, the use of telephone and computer systems, salary, testing the waters activities, subscriptions, other miscellaneous in-kind contributions, undocumented expenses, and general, administrative and overhead expenses. At the conclusion of this section, this Office recommends that the Commission find reason to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), and that the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

In Section D of this Report, the Office discusses the second item of the referral which concerns the Committee's joint fundraising activities with the Kevin Hermening for Congress

('88) Committee. This item involves the apparent alteration of nine contributor checks submitted to the Commission with the Committee's threshold submission. This Office concludes Section D by recommending that the Commission find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c).

Section E of the Report concerns the possible reimbursement or corporate facilitation of contributions. This section addresses contributions made to the Committee and Committee for America from individuals associated with Kurt Saracen Associates and Saracen Investments. In addition, this section also discusses the possible reimbursement or corporate facilitation of contributions made to Dole for President. For the reasons stated in Section F, however, this Office recommends that the Commission take no action at this time regarding reason to believe findings in connection with these contributions. This Office recommends that the Commission report to the Department of Justice all information available in this matter concerning the contributions addressed in Section E of this Report. Furthermore, for the reasons stated in Section F, this Office recommends that the Commission report two related matters to the Department of Justice - MURs 2717 and 2903.

B. Affiliation

1. Relationship of the Committee, CFA and CFA-VA

The information obtained through the audit process raises the issue of whether the Committee, Committee for America ("CFA") and Committee for America-Virginia ("CFA-VA") were

affiliated. The Committee filed a statement of organization with the Commission on April 2, 1987. CFA filed a statement of organization with the Commission on April 24, 1986. CFA-VA filed a statement of organization with the Virginia State Board of Elections on October 15, 1986. CFA-VA's stated purpose was to operate on a statewide basis supporting candidates seeking state office. On May 29, 1987, CFA-VA filed a termination report with the Virginia State Board of Elections.

The audit process revealed that CFA, CFA-VA and the Committee shared vendors, office space, equipment and personnel. The records of CFA and the Committee were maintained together in chronological order. It appears that CFA and CFA-VA devoted a substantial amount of their efforts toward Alexander Haig's candidacy and made significant expenditures in support thereof. The Audit staff concluded that there was sufficient evidence to suggest that the three committees were affiliated for at least the period of December 1986 through April 1987. However, the Audit staff took the position that, absent additional documentation to support fully that the committees are affiliated, the preferred course of action was to view the value of the goods and services provided by CFA and CFA-VA as in-kind contributions. (Attachment 1, page 22).

In response to the Interim Audit Report, the Committee asserted that it is not affiliated with CFA and CFA-VA. The Committee stated that Alexander Haig did not designate CFA or CFA-VA as his authorized campaign committees. Further, the Committee stated that CFA and the Committee had separate

treasurers, and that the Committee had "a distinct corporate board and structure with decisionmaking (sic) authority." The Committee also stated that the value of shared equipment and office space was reported as "in-kind transfers" on the Committee's disclosure reports.² The Committee stated that the committees may have shared one or more staff members at some time, but asserted that a separation of essential control and decision-making was maintained. The Committee also asserted that the commonality of donors must be considered inevitable because Alexander Haig was associated with both a national campaign and a national political committee.³

With respect to CFA-VA, the Committee stated that CFA-VA was established under state law to conduct activity not under the Commission's jurisdiction.⁴ The Committee stated that CFA-VA's staff was "instructed on the limitations and prohibitions of the [Act]" so that the staff could inform contributors "of the distinction between federal, state and

2. The Committee's reporting of in-kind transfers to CFA is inconsistent with its position that the Committee and CFA are not affiliated. The Commission's regulations only permit transfers under the following circumstances: (1) between affiliated committees; (2) between a national party committee, a state party committee and/or any subordinate party committee; and (3) transfers of joint fundraising proceeds. 11 C.F.R. § 102.6(a)(1) (1987).

3. CFA's financial disclosure reports reveal that CFA reported disbursements totaling \$455,544.77 for operating expenditures and \$9,750 in contributions to federal candidates and political committees in 1987 (other than the Haig Committee). In 1988, CFA reported no disbursements for operating expenditures or contributions.

4. Alexander Haig was the chairman of both CFA and CFA-VA. (Attachment 1, page 5).

presidential campaign activity." The Committee also stated that "CFA-VA funds were never used intentionally to finance federal (CFA) or presidential (HFP) activity."

Under the Act, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee for purposes of the limitations on contributions. 2 U.S.C. § 441a(a)(5). The regulations in effect at the time of the events giving rise to this matter provide that all committees established, financed, maintained or controlled by the same person or group of persons are affiliated. 11 C.F.R. § 100.5(g) (1987). Those regulations also provide five indicia of affiliation to be used to determine whether organizations not covered by section 100.5(g)(2)(i) are affiliated. These five factors include: (1) the authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity; (2) similar patterns of contributions; and (3) the transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

Although a review of the facts of this matter strongly suggests that the Committee may have been affiliated with CFA and CFA-VA, this Office does not advise that the Commission

affiliated. The Audit staff based this position upon a review of CFA and CFA-VA's records. Specifically, the Audit staff focused upon the following factors: CFA and CFA-VA shared officers, staff and office space; CFA contributed \$500 to CFA-VA in 1986 and made a \$100 loan to CFA-VA for start up costs; CFA-VA paid for expenses incurred by CFA; CFA arranged for funds to be provided to CFA-VA, and CFA-VA and CFA had similar patterns of contributions. (Attachment 1, pages 25-27). Therefore, the Audit staff recommended that the issue of affiliation between CFA and CFA-VA be referred to this Office. (Attachment 1, page 27).

The Audit staff also recommended that the issue of CFA-VA's status as a political committee subject to the registration and reporting requirements of the Act be referred to this Office. The Audit staff took the position that CFA-VA exceeded the \$1,000 threshold and, therefore, was a political committee subject to the requirements of 2 U.S.C. §§ 433 and 434. (Attachment 1, pages 23-25). The Audit staff found that CFA-VA made \$101,273.88 in direct expenditures in support of Alexander Haig's candidacy for the presidential nomination. (Attachment 1, page 23).⁵ Further, the Audit staff found that when CFA-VA's allocable portion of the general, administrative and overhead expenses were considered, the total amount of expenditures incurred by CFA-VA on behalf of Alexander Haig's

5. In addition, the Audit staff identified \$24,043.64 in undocumented travel expenses incurred by CFA-VA, which will be addressed in Section II.B.8 of this Report.

candidacy increased to \$161,453.78. (Attachment 1, page 23). Therefore, the Audit staff concluded that CFA-VA's activity in support of Alexander Haig's presidential efforts clearly exceeded the \$1,000 threshold for political committee status. (Attachment 1, page 23).

Because CFA-VA terminated on May 29, 1987, this Office does not advise that the Commission pursue either of the following issues through the enforcement process: (1) CFA-VA's status as a political committee subject to the registration and reporting requirements of the Act, or (2) CFA-VA's affiliation with CFA. Furthermore, because CFA-VA terminated in 1987, this Office makes no recommendations against CFA-VA and its treasurer for making excessive and prohibited in-kind contributions to the Committee. As discussed in the next section of this Report, this Office advises that the Commission pursue the Committee for the receipt of excessive and prohibited in-kind contributions from CFA-VA and CFA. This Office also advises that the Commission pursue CFA for the making of excessive in-kind contributions to the Committee.

C. Receipt of In-Kind Contributions

The Audit staff identified several types of in-kind contributions made to the Committee by CFA and CFA-VA. These in-kind contributions involved expenses paid in connection with a fundraising dinner held at the Waldorf-Astoria Hotel, polling and travel expenses, the Committee's use of CFA's and CFA-VA's telephone and computer systems, salary expenses, testing the waters activities, subscription expenses, other miscellaneous

in-kind contributions, undocumented expenses, and general, administrative and overhead expenses. This section addresses each in-kind contribution in turn.⁶

1. Salute to America Dinner

On March 23, 1987, CFA sponsored the "Salute to America" dinner at the Waldorf-Astoria Hotel in New York. The Audit staff found that CFA made \$225,257.55 in expenditures associated with the dinner, and took the position that these expenditures constituted in-kind contributions to the Committee.

(Attachment 1, page 10). The Audit staff maintained that "Salute to America" was a presidential announcement dinner, the purpose of which was to launch Alexander Haig's presidential campaign. Alexander Haig was the featured speaker at the dinner and used the event to announce that he would declare formally his candidacy for the Republican nomination for President the next day. (Attachment 1, pages 7-8).

Apparently, the Committee at one time had intended to begin the Haig campaign with the fundraising dinner at the Waldorf-Astoria Hotel. During fieldwork, the Audit staff identified solicitation materials produced for the Alexander Haig Announcement Dinner, sponsored by the Committee for Alexander Haig-Exploratory, to be held March 23, 1987 at the Waldorf-Astoria Hotel. A \$5,000 deposit was made from the Committee's exploratory bank account to the Waldorf-Astoria

6. The Committee did not report receipt of any in-kind or other contributions from CFA in 1987 or 1988. However, the Committee did report making two in-kind contributions to CFA totaling \$1,800 and one direct contribution to CFA in the amount of \$300.

Hotel on December 22, 1986. On March 4, 1987, a \$5,000 refund from the Waldorf-Astoria was deposited to the Committee's exploratory bank account. The Audit staff noted \$11,000 in contributions made payable to Haig for President-Exploratory that were accompanied by solicitation response cards requesting reservations for the event.⁷ (Attachment 1, page 8).

In response to the Interim Audit Report, the Committee disputed the audit finding that the expenses associated with the dinner that were paid by CFA represented in-kind contributions to the Committee. The Committee acknowledged that it had planned to launch Alexander Haig's candidacy by sponsoring a major fundraising event at the Waldorf-Astoria Hotel. The Committee stated that it had paid a \$5,000 deposit to the hotel in connection with the dinner, and produced and distributed solicitation and response materials for the dinner. The Committee further stated that it subsequently decided to make the formal announcement of candidacy at a press conference followed by a campaign tour of early primary states. The press conference was held at the Waldorf-Astoria Hotel on March 24, 1987. (Attachment 1, page 8).

The Committee asserted that the dinner was a CFA fundraising event to finance CFA's political activities, unrelated to the presidential campaign. The Committee admitted that Alexander Haig's use of the dinner to state that he

7. The Audit staff also noted \$9,750 in contributions made payable to the Committee for Alexander Haig-Exploratory that were dated prior to Alexander Haig's March 24, 1987 announcement of his candidacy.

intended to announce his candidacy for the Presidency on the following day may have had some inherent value. The Committee disputed, however, the Audit report's conclusion that the entire cost of the event constituted an in-kind contribution from CFA to the Committee. The Committee asserted that the real value of the event, the proceeds raised, did not flow to the Committee. The Committee asserts that the maximum value received by the Committee in connection with the event was \$8,250. In its supplemental response to the Interim Audit Report, the Committee submitted a list of twenty-one contributions deposited to the Committee's Exploratory bank account that the Committee contends had some relation to the dinner, based upon check notations and response cards. The Committee stated that these contributions, totaling \$8,250, were received in response to the solicitation that was withdrawn.⁸ The Committee asserted that the \$8,250 in contributions represented the maximum value received by the Committee from CFA in connection with the "Salute to America" dinner. (Attachment 1, pages 8-9).

Additionally, the Audit staff found that CFA-VA paid for \$20,714.42 in expenditures associated with the event. (Attachment 1, page 10). The Audit staff also took the position that the \$20,714.42 in expenditures incurred by CFA-VA in connection with the "Salute to America" dinner represented in-kind contributions to the Committee. The Committee did not

8. In order to permit these contributors to attend the event, CFA issued "complimentary" tickets to these individuals.

address this finding in its response to the Interim Audit Report.

The information available thus far demonstrates that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with the "Salute to America" dinner.⁹ The referral indicated that CFA paid \$225,257.55 for expenses associated with the "Salute to America" dinner, and that CFA-VA paid \$20,714.42 for expenses associated with the dinner. (Attachment 1, page 10). Contrary to the Committee's assertion, this Office agrees with the Audit staff's position that the entire amount of expenses paid by CFA in connection with the event must be considered as an in-kind contribution received by the Committee. The Audit staff noted that press accounts of the "Salute to America" dinner described the event as an announcement gala and

9. The Audit staff also noted that documentation reviewed in connection with the announcement dinner included files explaining that unlimited contributions otherwise prohibited by the Act could be made to CFA-VA. This raises the question of whether 11 C.F.R. § 110.1(h) should be applied to limit contributions to the Committee, CFA and CFA-VA. 11 C.F.R. § 110.1(h)(2) provides that a person may contribute to a candidate or his authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as the contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election. 11 C.F.R. § 110.1(h)(2) (1987). Therefore, if certain contributors gave money to CFA-VA in connection with the "Salute to America" dinner with the knowledge that their money would eventually be contributed to Alexander Haig, these contributions might be subject to the application of 11 C.F.R. § 110.1(h). This might result in subjecting the three committees to one contribution limit. In light of the fact that these contributions were made over five years ago, however, this Office does not intend to pursue individual contributors who contributed to CFA, CFA-VA or the Committee in connection with the "Salute to America" dinner.

as a nominating convention. Alexander Haig was the featured speaker of the evening. At the dinner, Alexander Haig declared that he would announce his candidacy for the Republican nomination for President on the following day. Thus, it appears that the true purpose of the "Salute to America" dinner was to further Alexander Haig's presidential bid. Therefore, all expenses associated with the event incurred by CFA and CFA-VA should be viewed as in-kind contributions to the Committee.

2. Polling and Travel Expenses

The Audit staff identified payments made by CFA and CFA-VA totaling \$24,510.50 to Marketing Research Institute (MRI) for polling expenses and \$4,386 to Premiere Travel for travel expenses related to the Committee. (Attachment 1, pages 10-11, 13). These expenditures are summarized below:

<u>Committee</u>	<u>Payee</u>	<u>Amount</u>
CFA	MRI	\$ 541.00
CFA-VA	MRI	\$ 23,969.50
CFA-VA	Premiere Travel	\$ 4,386.00

Regarding the polling expenses, the audit revealed payments to MRI from CFA, CFA-VA and the Committee for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll. The Audit staff noted that the questions asked in the two polls were identical in content and format to those in a poll conducted for the Committee in Iowa. The audit revealed that the contents of the polls were presidential in nature, and included questions specifically focusing on Alexander Haig's name recognition and qualifications for the office of President. The Audit staff also noted that the contents of the polls do not

relate to the stated organizational objectives of CFA and CFA-VA. The Audit staff maintained that these polls were for the Committee's benefit and, therefore, the payments to MRI represent in-kind contributions from CFA and CFA-VA. (Attachment 1, pages 10-11). In response to the Interim Audit Report, the Committee asserted that "[the Committee] paid for the polling results it actually received." The Committee did not, however, provide any additional documentation in support of this assertion. (Attachment 1, page 10).

With respect to the payments made to Premiere Travel by CFA-VA, the Audit Staff found that CFA-VA paid for travel expenses incurred by Committee staff totaling \$4,386. The Audit staff's review identified Premiere Travel invoices totaling \$4,386 for travel to Iowa on March 24-25, 1987 by Alexander Haig and his wife, Committee treasurer Steve Jernigan, and CFA employees Pat Roberts, Dan Mariaschin, and Tim Jansen. The Audit staff's review also identified payment by CFA-VA to Premiere Travel for one trip to Washington, D.C. by a Haig family member. (Attachment 1, page 13). The Committee did not address CFA-VA's payment for travel expenses in its response to the Interim Audit Report. However, the Committee did state in response to another issue raised in the Interim Audit Report that a campaign tour of early primary states would take place after Alexander Haig's official announcement of candidacy on March 24, 1987. (Attachment 1, page 13).

According to the referral, these travel expenses, totaling \$4,386, were related to Alexander Haig's candidacy.

(Attachment 1, page 13). Thus, these expenses incurred by CFA-VA represent in-kind contributions to the Committee. In conclusion, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with polling and travel expenses.

3. Use of Telephone and Computer Systems

The audit revealed that the Committee used CFA's and CFA-VA's telephone and computer systems without charge from the period of December 1986 through April 1988. (Attachment 1, pages 3, 11). The Audit staff maintained that the failure of CFA and CFA-VA to charge the Committee for its use of telephone and computer systems at the usual and normal charge represents an in-kind contribution. (Attachment 1, page 12).

In response to the Interim Audit Report, the Committee submitted a copy of an equipment lease agreement which had been signed by the treasurers of CFA and the Committee. (Attachment 1, page 11). Under the terms of the agreement, CFA agreed to lease to the Committee the furniture and fixtures listed on Attachment A to the lease. Attachment A was a list of office furniture and computer equipment. The terms of the lease included a monthly payment of \$860 from April 30, 1987 through March 31, 1988, with a purchase option. The Committee stated that no payments had been made on the lease and requested that the amounts due (\$10,320) be considered a debt owed to CFA. (Attachment 1, page 12). The Committee did not provide a valuation of the telephone system in response to the Interim Audit Report.

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From the information available thus far, it appears that the Committee accepted in-kind contributions from CFA by using CFA's telephone and computer systems without charge. Although CFA and the Committee executed a lease agreement regarding the computer system, the Committee made no payments under the lease. Furthermore, neither CFA nor the Committee disclosed the amounts owed under the terms of the lease as outstanding obligations on their disclosure reports. No evidence exists that CFA demanded any payment from the Committee under the lease, or took any action under the default provisions of the lease. Because the parties' obligations under the lease agreement appear to be illusory, the Audit staff made an independent determination of the value of the Committee's use of CFA's telephone and computer systems. According to the Audit staff's calculations, the value of the Committee's use of CFA's telephone and computer systems was \$9,595.04 for the period of April 15, 1987 through May 30, 1988.¹⁰ (Attachment 1, page 33). Therefore, it appears that the Committee accepted in-kind contributions from CFA in connection with the use of CFA's telephone and computer systems.

4. Salary Expenses of C. Patrick Roberts

The Audit staff found that CFA and CFA-VA paid \$31,142.64 for salary and other expenses of a CFA staff member whose

10. The Audit staff's calculations are based on April 15, 1987 as the date of the contribution. The Audit staff maintains that, for all practical purposes, CFA ceased to function after April 15, 1987. The value of the Committee's use of CFA's telephone and computer systems from December 1, 1986 to April 15, 1987 is included in Section II.C.8 of this Report, "General, Administrative and Overhead Expenses."

activities were primarily presidential in nature. The audit revealed correspondence in the Committee's files indicating that Alexander Haig asked C. Patrick Roberts to undertake the leadership of his presidential campaign on December 20, 1986. (Attachment 1, pages 13-14). The parties agreed to a salary of \$8,500 per month. In January of 1987, C. Patrick Roberts joined CFA as vice chairman and chief operating officer. His salary at CFA was \$8,500 per month. CFA-VA paid Mr. Roberts' salary until April 30, 1987. The Committee paid for 50% of Mr. Roberts' April 30th salary payment, and 100% of the remaining salary payments until Mr. Roberts' termination of employment in June of 1987. (Attachment 1, page 14).

According to the referral materials, Mr. Roberts' activities were primarily presidential in nature. The correspondence identified by the Audit staff stated that "Mr. Roberts left an important and secure job . . . in order to lead [Alexander Haig's] campaign and did so in good faith and with the understanding that he would be the Campaign Manager." (Attachment 1, pages 13-14). Therefore, it appears that the payment of Mr. Roberts' salary and expenses by CFA and CFA-VA from January through April of 1987 may constitute an in-kind contribution to the Committee. The Audit staff's calculations indicated that CFA-VA paid \$30,975.89 in salary and related expenses for Mr. Roberts, and that CFA paid \$166.75 for Mr. Roberts' expenses. (Attachment 1, page 33). Therefore, it appears that the Committee accepted in-kind contributions from

CFA and CFA-VA in connection with the payment of Mr. Roberts' salary and other expenses.

5. Testing the Waters Activities

The Audit staff also identified expenses incurred by CFA and CFA-VA totaling \$6,009.08 for testing the waters activities which were found to be presidential in nature. (Attachment 1, page 14). These costs included travel expenses to Arizona and Nevada to meet with the Western States Caucus (\$1,674.50), travel expenses to Palm Beach, Florida (\$1,965.47) and travel expenses to New Hampshire (\$2,369.11). In addition, the Audit staff identified expenses totaling \$13,821.50 by CFA and CFA-VA which appear to be associated with testing the waters activities and require further investigation. (Attachment 1, pages 16-17). As detailed in the referral materials, it appears that all of these expenses were incurred by CFA and CFA-VA in connection with Alexander Haig's presidential campaign. (Attachment 1, pages 14-16). Therefore, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA for expenses associated with testing the waters activities.

6. Newspaper and Other Subscriptions

The referral indicated that CFA and CFA-VA made payments for newspaper and other subscriptions totaling \$2,510.99 during January through March of 1987. (Attachment 1, page 18). These subscriptions were in addition to the publications to which the Committee subscribed. It appears that the subscriptions paid for by CFA and CFA-VA were for the benefit of the Committee. (Attachment 1, page 18).

In February of 1987, CFA and CFA-VA paid for six month subscriptions to seven local New Hampshire newspapers and other national newspapers, including The Boston Globe, The Chicago Tribune and The Des Moines Register. The Audit staff also noted several other subscriptions that extended into 1988. The Audit staff found that a February 4, 1987 internal memo written by Russ McReynolds, CFA's assistant treasurer, recommended that "CFA be deactivated as soon as possible." The audit also revealed that after April 15, 1987, CFA's activities appeared to focus on winding down its operations. As stated earlier, CFA-VA terminated on May 29, 1987. Because these three committees shared office space, the Audit staff assumed that the Committee continued to receive the publications through the end of the subscription periods. (Attachment 1, page 18). Thus, it appears that CFA and CFA-VA paid for subscriptions that primarily benefited the Committee and that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with subscriptions to newspapers and other publications.

7. Miscellaneous In-Kind Contributions

The Audit staff noted payments to certain vendors for goods and services related to the presidential campaign. The total amount paid by CFA for these goods and services was \$4,720.22, and the total amount paid by CFA-VA was \$4,906.61. (Attachment 1, page 18). With one exception, these payments were associated with activities that occurred subsequent to Alexander Haig's formal announcement of candidacy.

The referral materials indicated that these miscellaneous

in-kind contributions include payments by CFA and CFA-VA to the coordinator of the "Salute to America" dinner and the publicity firm for the "Salute to America" dinner for services rendered in the latter part of March and April, for limousine and security services rendered to Alexander Haig, and Federal Express charges. (Attachment 1, page 18). Also included in the referral was a \$750 invoice dated March 9, 1987 for "21 different logo directions." (Attachment 1, page 18). The audit revealed that these expenses may have been incurred in connection with Alexander Haig's presidential campaign. (Attachment 1, page 18). Therefore, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with these miscellaneous contributions totaling \$9,626.83.

8. Undocumented Expenses

The referral indicated that CFA and CFA-VA made expenditures for travel expenses totaling \$37,127.44 for which adequate documentation is lacking.¹¹ (Attachment 1, page 21). These expenditures include payments to Mrs. Patricia Haig from CFA for travel expenses totaling \$12,780. Attached to this

11. The Audit staff identified \$51,423.24 in expenditures incurred by CFA and CFA-VA for which adequate documentation is lacking. Of this amount, \$37,127.44 represents travel expenses. The remaining \$14,295.80 represents expenses incurred by CFA and CFA-VA in connection with the Manchester Exchange Club, the Iowa agricultural speech, the Business Intelligence Program, press releases and computer equipment. The undocumented expenses incurred by CFA and CFA-VA in connection with the Manchester Exchange Club, the Iowa agricultural speech, the Business Intelligence Program, and the press releases are included in the expenses associated with testing the waters activities. (Attachment 1, page 20).

Report is a complete schedule of undocumented travel expenses incurred by CFA and CFA-VA. (Attachment 1, page 31). Additionally, the referral indicated that CFA made an expenditure in the amount of \$8,083.00 to Computer Rx for computer equipment. (Attachment 1, page 32). The Audit staff was unable to obtain documentation through the Audit process to determine the purpose of these undocumented expenses. The absence of adequate documentation suggests that these expenses constitute in-kind contributions from CFA and CFA-VA. Therefore, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with these undocumented expenses totaling \$45,210.44.

9. General, Administrative and Overhead Expenses

The referral indicated that, in addition to the in-kind contributions received by the Committee discussed above, CFA and CFA-VA also provided in-kind contributions related to general, administrative and overhead expenses totaling \$200,949.48. (Attachment 1, page 20). According to the referral, these in-kind contributions resulted from the Committee's use of CFA and CFA-VA's staff, office equipment, supplies and office space from the period of December 1, 1986 through April 15, 1987. (Attachment 1, page 19).

The Audit staff maintained that it is necessary to determine the Committee's share of the general, administrative, and overhead expenses incurred by CFA and CFA-VA from December 1, 1986 through April 15, 1987. The Audit staff based this position on the fact that the Committee shared office space

and equipment with CFA and CFA-VA during this period, and the only staff members employed during this period were paid by CFA and CFA-VA. The referral noted that CFA and CFA-VA's staff worked on several projects during this period which benefited the Committee. The Audit staff took the position that the Committee received the value of work performed by CFA and CFA-VA's staff, the value of the use of office equipment and supplies rented and purchased by CFA and CFA-VA, and the value of occupying CFA and CFA-VA's office space without charge during this period.¹²

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The Audit staff's calculations indicated that a reasonable valuation of the Committee's share of the general, administrative and overhead expenses for December 1, 1986 through April 15, 1987 would be 64.6% of the amount incurred by CFA and CFA-VA for such expenses. (Attachment 1, page 20). This amount totaled \$200,949.48. The Audit staff calculated the amount attributable to CFA as \$140,874.26, and the amount attributable to CFA-VA as \$60,075.22. In addition, the Audit staff calculated the value of the Committee's use of CFA's telephone and computer systems from the period of December 1, 1986 through April 15, 1987 as \$1,988.30. (Attachment 1, page 20).

This Office agrees with the Audit staff's position that any value received by the Committee for general, administrative and overhead expenses incurred by CFA and CFA-VA would represent an

12. The referral noted that the Committee paid the April 1987 rent for the use of office space. (Attachment 1, page 19).

in-kind contribution. In addition, the Committee's use of CFA's telephone and computer systems without charge also would represent an in-kind contribution. Therefore, it appears that the Committee received in-kind contributions totaling \$202,937.78 in the form of general, administrative and overhead expenses incurred by CFA and CFA-VA, as well as the use of CFA's telephone and computer equipment, during the period of December 1, 1986 through April 15, 1987.

10. Legal Analysis

Under 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. This limitation applies separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election. 2 U.S.C. § 441a(a)(6). The term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000.

Under 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section

441a of the Act. Furthermore, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act.

Under 2 U.S.C. § 441b(a), it is unlawful for any candidate, political committee, or other person knowingly to accept or receive any contribution from a corporation or labor organization in connection with a federal election.

2 U.S.C. § 431(8)(A)(i) provides that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987). The regulations further provide that unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987).

The referral concludes that CFA made in-kind contributions to the Committee totaling \$410,225.35 (\$267,467.47 direct and \$142,757.88 indirect).¹³ (Attachment 1, pages 33-34). The

13. The total amount of in-kind contributions made to the Committee by CFA and CFA-VA has been adjusted to include an additional \$45,210.44 for undocumented expenses, as discussed in Section II.B.8 of this Report.

referral also concludes that CFA-VA made in-kind contributions to the Committee totaling \$185,497.42 (\$125,317.52 direct and \$60,179.90 indirect).¹⁴ (Attachment 1, pages 33-34). This Office agrees with the Audit staff's position that the payment of expenses incurred in connection with Alexander Haig's presidential campaign by CFA and CFA-VA constitutes in-kind contributions to the Committee. This approach is consistent with prior Commission determinations. See AO 1985-40. The Audit staff's review revealed that CFA, CFA-VA and the Committee shared staff members, office space and equipment. The Audit staff's review also revealed that a significant amount of CFA and CFA-VA's expenditures were made directly or indirectly on behalf of Alexander Haig's presidential campaign. Because CFA was a multi-candidate committee, it was prohibited from making any contributions to the Committee in excess of \$5,000. Therefore, it appears that CFA made excessive contributions to the Committee totaling \$405,225.35. Furthermore, it appears that CFA-VA made excessive contributions to the Committee totaling \$184,497.42.

In addition, the in-kind contributions from CFA-VA may have included prohibited funds. Because CFA-VA was registered as a political committee in Virginia, CFA-VA was permitted to accept contributions from corporations and labor organizations. See Va. Code Ann. § 24.1-254.2. The Audit staff noted that

14. As discussed at pages 7 through 9 of this Report, this Office does not recommend that the Commission pursue CFA-VA because that committee terminated in 1987.

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documentation contained in the "Salute to America" files indicated that corporate funds may have been received by CFA-VA in connection with the fundraising dinner. (Attachment 1, page 24). The Audit staff's review of this information identified contributions totaling \$149,150 from 43 apparent corporations. (Attachment 1, page 24). Therefore, it appears that a portion of the excessive contributions received by the Committee from CFA-VA (totaling \$184,497.42) may have included prohibited contributions.

For all the reasons stated above, this Office recommends that the Commission find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a) in connection with the receipt of in-kind contributions from Committee for America and Committee for America-Virginia. This Office also recommends that the Commission find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

D. Joint Fundraising Activities

This item of the referral concerns the apparent alteration of nine contributor checks received in connection with joint fundraising activities. The Committee entered into a joint fundraising agreement with the Kevin Hermening for Congress ('88) Committee ("the Hermening Committee") regarding a series of three joint fundraising events. (Attachment 1, page 39 and 44). Under the terms of the agreement, the Hermening Committee was designated to act as the fundraising representative. The

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agreement provided that the net proceeds from the events would be distributed evenly between the two committees. The agreement also provided that "the only adjustment to this allocation formula will be those designated by law - contributor designated contribution, prohibited contribution, or contribution in excess of legal limits." (Attachment 1, page 44).

In the referral, the Audit staff noted that the three joint fundraising events were held in Wisconsin on May 28, 1987. Gross receipts from these events totaled \$13,930 in contributions from 125 contributors. (Attachment 1, pages 39-40).

The Audit staff compared copies of the checks submitted with the Committee's threshold submission to copies of the original checks from the Committee's files. The comparison revealed that twenty-four contributions that were designated for the Hermening Committee were included in the threshold submission.¹⁵ Of these twenty-four, nine contribution checks totaling \$437.50 had been altered to give the appearance that

15. The Audit staff's review also revealed that the Committee accepted 38 contribution checks that were either made payable to the Hermening Committee or designated to the Hermening Committee on the memo line of the check or the contributor response card. Based on the Audit staff's analysis, the distribution of proceeds to the Haig Committee may have been in excess of the amount to which it was entitled.

In addition, the Audit staff noted that the state of Wisconsin would not have been certified as a threshold state had the review of the threshold submission revealed these discrepancies. However, since the threshold submission included more than 20 states, the Committee still met the threshold requirements even without Wisconsin.

the contributor intended a contribution to both candidates. In eight instances, the copies of the contributor checks reviewed by the Audit staff were made payable to the Hermening Committee, and the check memo line was blank. On the copies of these same eight checks submitted with the threshold submission, however, the phrase "Hermening/Haig" or "Hermening/Haig event" was added on the check memo line. In another instance, the copy of the contributor check reviewed by the Audit staff was made payable to "Hermening/Hague (sic) Event," and the check memo line stated "Hermening." The copy of the same check submitted with the threshold submission had the phrase "Hermening/Haig" on the check memo line.

By letter dated May 7, 1988, Russell Primavera, a Committee staff member responsible for "FEC Compliance," gave the following explanation of the circumstances surrounding the altered checks:

After receiving the Haig/Hermening contribution check copies, I noticed that a few were made payable to Hermening For Congress. At that point I took three measures.

First, I reviewed the Haig/Hermening Event contract. From that, I gathered that the contributions received were to be split 50% for Haig and 50% for Hermening. This contract agreement (sic) did not give me reason to question why checks made payable to Hermening were included in the Haig/Hermening check contribution file, or why they were deposited, and later transferred (sic) to the Haig account accordingly.

My second attempt at my internal audit was to speak to Pam Mattox, who was our contact for the event. After asking her about event procedures and the possible error of having

accepted checks made payable to Hermening, her answers quieted my questions and doubts.

She said that contributors were instructed to earmark their contributions as Hermening Only or Haig Only if donors wished to contribute to only one candidate exclusively. Since the checks in question did not contain such a notation, this dismissed my questions of the campaign having received contributions made payable solely to Hermening. She also said that many contributors wrote their checks payable to Hermening For Congress because the solicitation material requested them to send it to Hermening For Congress. This dispelled my doubts altogether.

In an effort to clarify account records, my third attempt was to write Hermening/Haig Event in the memo section of each check copy that was made payable to Hermening For Congress. My abovementioned attempts to clarify the validity of these contributions gave me reason to inscribe such a memo to clearly reflect it's (sic) origin. In this way, it could not later be mistaken as a contribution made to Hermening only.

(Attachment 1, pages 45-46).

Under 26 U.S.C. § 9042(c), it is unlawful for a political committee to knowingly and willfully furnish false, fictitious, or fraudulent evidence, books, or information to the Commission, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under Chapter 96.

Under 11 C.F.R. § 9034.2(c)(7), contributions received from a joint fundraising activity conducted in accordance with 11 C.F.R. § 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising

agreement when they are submitted for matching. 11 C.F.R. § 9034.2(c)(7) (1987). 11 C.F.R. § 9034.8(c) sets forth the joint fundraising procedures for presidential primary candidates. 11 C.F.R. § 9034.8(c)(1) provides that the participants in a joint fundraising activity shall enter into a written agreement. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. 11 C.F.R. § 9034.8(c)(1) (1987).

Under 11 C.F.R. § 9034.8(c)(3), a joint fundraising notice shall be included with every solicitation for contributions. This notice shall include, inter alia, the allocation formula to be used for distributing joint fundraising proceeds, and a statement informing the contributors that they may designate their contributions for a particular participant notwithstanding the stated allocation formula. 11 C.F.R. § 9034.8(c)(3) (1987).

Under 11 C.F.R. § 9034.8(c)(7)(i), the fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. Each contribution received shall be allocated among the participants in accordance with the allocation formula, unless the circumstances described in sections 9034.8(c)(7)(ii), (iii) or (iv) apply.

Section 9034.8(c)(7) further provides that funds may not be distributed or reallocated so as to maximize the matchability of the contributions. Under 11 C.F.R. § 9034.8(c)(7)(iv), a written instrument made payable to one of the participants shall be considered an earmarked contribution unless a written

statement by the contributor indicates that it is intended for inclusion in the general proceeds of the fundraising activity. 11 C.F.R. § 9034.8(c)(7) (1987).

The information available thus far indicates that Haig for President and Dominic Saraceno, as treasurer, may have violated 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c) in connection with the joint fundraising activities. It appears that several contributors earmarked their contributions made in connection with the joint fundraising activities for the Hermening Committee, as permitted under 11 C.F.R. § 9034.8(c)(3) and (7). A Committee representative admitted that he altered checks made payable to "Hermening for Congress" and submitted these checks for matching funds. Furthermore, the audit work papers indicate that the fundraising representative did not allocate these contributions to the Haig Committee. Therefore, the Committee may have submitted checks for contributions it never received. For these reasons, this Office recommends that the Commission find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c).

E. Contributions from Individuals Associated with Kurt Saracen Associates and Saracen Investments

This section of the Report relates to numerous contributions made to the Committee and CFA from individuals associated with Kurt Saracen Associates and Saracen Investments. In addition, this section discusses contributions to Dole for President from individuals associated with Kurt Saracen

Associates, Saracen Investments, and J.J. O'Brien & Sons. As the following discussion illustrates, it appears that these contributions may have been reimbursed in violation of section 441f of the Act or, in the alternative, that corporate facilities were used to make the contributions in violation of section 441b(a) of the Act.

1. Applicable Law

Under 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. Further, under 2 U.S.C. § 441f, no person shall knowingly accept a contribution made by one person in the name of another person. Under 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with a federal election or for a candidate, political committee, or other person to knowingly accept or receive a corporate contribution. It is also unlawful for any corporate officer or director to consent to any such contribution. 2 U.S.C. § 441b(a). This broad prohibition extends to "anything of value" given to a federal candidate or campaign. 2 U.S.C. § 441b(b)(2).

Although corporations are prohibited from making any such contribution, the Act exempts a corporation's internal communications with its executive and administrative personnel. 2 U.S.C. § 441b(b)(2)(A).¹⁶ The Commission's regulations permit

16. Elaboration of the class of corporate employees that fall within this exception is found at 2 U.S.C. § 441b(b)(7) and 11 C.F.R. § 114.1(c) of the Commission's regulations.

a corporation to make partisan communications to its restricted class, including endorsing candidates and urging their support. 11 C.F.R. § 114.3(a)(1), (c)(1); A.O. 1987-29, 1982-2. The Commission has repeatedly made clear, however, that corporations may not step beyond the line of "communication" to actually collecting contribution checks or otherwise facilitating the making of contributions to a federal candidate. See A.O. 1987-29, 1986-4, 1982-2, and 1977 Explanation and Justification (describing permissible corporate communication).

Other Commission regulations provide that employees of a corporation may make "occasional, isolated or incidental use of the facilities of a corporation for individual volunteer activity in connection with a federal election" 11 C.F.R. § 114.9(a)(1). Employees must reimburse the corporation only for any increased overhead or operating costs. Id. In MUR 1690, however, this Office advised the Commission that "the plain intent of [11 C.F.R. § 114.9(a)] . . . excludes from the scope of 'individual volunteer activity' collective enterprises where the top executives of firms direct their subordinates in fundraising projects . . . , use resources of the corporation such as lists of vendors and customers . . . , solicit whole classes of corporate executives and employees . . . , or attempt to ensure that the corporation is the beneficiary of the candidate's appreciation" General Counsel's Report dated October 2, 1986. See also MUR 2668, General Counsel's Report dated November 17, 1988 at pp. 7-8 (corporate president's use of corporate television

network to contact employees and systematic involvement of corporate vice-presidents is basis for analysis that activity is outside "individual volunteer activity").

In summary, where fundraising activities involve the use of corporate resources and facilities and such activities are beyond the safe harbor of the Act and regulation's exceptions, the corporation has contributed something "of value" to the beneficiary candidate, in violation of section 441b.

2. Contributions to the Committee, CFA and Dole
for President

As noted in Exhibit B of the referral, the Audit staff reviewed contributions made to CFA in July and August of 1987 totaling \$30,000 from six individuals associated with Kurt Saracen Associates or Saracen Investments.¹⁷ The Audit staff also reviewed contributions totaling \$6,325 made to the Committee in April and May of 1987 from the same six

17. The place of employment for several contributors was listed as Kurt Saracen Inc. on reports filed by both CFA and the Committee. The Massachusetts Secretary of State, Corporation Division, has no listing for Kurt Saracen Inc. The Corporation Division also has no listing for Kurt Saracen Inc. as a corporation registered in 1987. The Corporation Division's records indicate that the following two corporations are registered in Massachusetts: Kurt Saracen Companies Ltd. and the Kurt Saracen Hotel Management Corp.

According to Dun & Bradstreet's Million Dollar Directory, Kurt Saracen Associates is a commercial and industrial building operation with approximately 40 employees. Kurt Saracen Associates is not incorporated. Dominic Saraceno is listed as the owner of Kurt Saracen Associates.

According to the Massachusetts Corporation Division, Saracen Investments was incorporated in Massachusetts on January 23, 1987. The officers of Saracen Investments are Jonathan Bragg, president, and Oswald C. Street IV, treasurer. The business addresses of Saracen Investments and Kurt Saracen Associates are the same.

individuals. In addition, the Audit staff reviewed contributions made to the Committee totaling \$11,150 from fifteen other individuals associated with Kurt Saracen Associates or Saracen Investments. Finally, the Audit staff also noted that Dominic Saraceno, the Committee's treasurer, contributed \$25,000 to CFA-VA on January 3, 1987.

The following is a list of contributions made to CFA from individuals associated with Kurt Saracen Associates:

<u>Name</u>	<u>Employer</u>	<u>Date</u>	<u>Amount</u>
Dominic Saraceno	Kurt Saracen Inc.	7-29-87	\$5000
Joe Freeman	Kurt Saracen Inc.	8-05-87	\$5000
K.W. Saraceno	Kurt Saracen Inc.	8-06-87	\$5000
Carleton Tarpinian	Kurt Saracen Inc.	8-24-87	\$5000
Martin Scafidi	Kurt Saracen Inc.	8-24-87	\$5000
Jonathan Bragg	Saracen Investments	7-30-87	\$1000
Jonathan Bragg		7-30-87	\$1000
Jonathan Bragg		8-17-87	<u>\$3000</u>
		Total	\$30,000

The Audit staff noted that the only significant funds raised by CFA after its cessation of activity in April of 1987 were from Dominic Saraceno and individuals who are apparent employees of Dominic Saraceno. (Attachment 1, page 35).

The chart below lists contributions made to the Committee from individuals associated with Kurt Saracen Associates or Saracen Investments:

<u>Name</u>	<u>Employer</u>	<u>Date</u>	<u>Amount</u>
Dominic Saraceno	Kurt Saracen Assoc.	3-04-87	\$ 225
Dominic Saraceno		4-15-87	\$ 250
Dominic Saraceno		4-29-87	\$ 750
Dominic Saraceno		4-29-87	\$ 50
Dominic Saraceno		11-10-87	\$ 50
Kurt Saraceno	Kurt Saracen Assoc.	4-15-87	\$ 250
Kurt Saraceno		4-29-87	\$ 750

<u>Name</u>	<u>Employer</u>	<u>Date</u>	<u>Amount</u>
Jonathan Bragg	Saracen Investments	4-28-87	\$1000
Margaret Bragg		4-15-87	\$ 750
Margaret Bragg		4-28-87	\$ 500
Joe Freeman	Kurt Saracen Inc.	5-04-87	\$1000
Alison Hong		9-29-87	\$ 250
Alison Hong		12-09-87	\$ 500
Carleton Tarpinian	Kurt Saracen Assoc.	4-15-87	\$ 250
Carleton Tarpinian		4-29-87	\$ 750
Martin Scafidi	Kurt Saracen Inc.	4-15-87	\$ 250
Martin Scafidi		5-04-87	\$ 750
Ann Goddard		8-14-87	\$1000
Peter Hille	Kurt Saracen Assoc.	9-25-87	\$ 250
Ellen Hille		9-25-87	\$ 250
Peter Klinkmuller	Kurt Saracen Assoc.	9-09-87	\$1000
John Lundberg	Kurt Saracen Assoc.	9-30-87	\$1000
Shelia McNamara	Kurt Saracen	12-07-87	\$ 500
Shelia McNamara		12-14-87	\$ 400
R. Reddington	Kurt Saracen Assoc.	9-24-87	\$1000
J. Reddington		9-24-87	\$1000
S. Reddington		9-25-87	\$ 250
T. Reddington		9-25-87	\$ 250
Oswald Street	Kurt Saracen Assoc.	4-14-87	\$ 250
		4-29-87	\$ 750
Walt Taylor	Kurt Saracen	4-15-87	\$ 250
Edward Werner	Kurt Saracen Assoc.	4-15-87	\$ 250
	R.E. developer	5-05-87	\$ 750
		Total	\$17,475

Furthermore, in addition to the contributions noted in the Audit referral, a review of the Commission's contributor indices for the 1987-1988 election cycle revealed that fifteen individuals associated with Kurt Saracen Associates and Saracen Investments made contributions to Dole for President. A review of audit records related to these fifteen contributions revealed that an additional 26 contributors made similar contributions to Dole for President. With one exception, these 41 contributions were written on checks made payable to "Americans for Dole." All of the contribution checks had the source code "01AHDC" written on the check memo line, and all of the contribution

checks were deposited by Dole for President on the same date.¹⁸

These contributions are listed below:

<u>Name</u>	<u>Employer</u>	<u>Deposit Date</u>	<u>Amount</u>
Joseph Bourgeois*	J.J. O'Brien	5-17-88	\$500
Mary Bourgeois		5-17-88	\$500
Linda Carmichael		5-17-88	\$500
R.F. Carmichael	J.J. O'Brien	5-17-88	\$500
Carol Chisholm*	Interpac Inc.	5-17-88	\$500
Clayton Chisholm*	Interpac Inc.	5-17-88	\$1000
Norma Chisholm*		5-17-88	\$900
Ann Clivio	Kurt Saracen Assoc.	5-17-88	\$500
Sandra Cravotta	CVS Corp.	5-17-88	\$500
Judith Curtin*	Olympic Bank	5-17-88	\$1000
Joe Freeman*	Kurt Saracen Assoc.	5-17-88	\$500
Cathryn Gallant	Gallant & Brock	5-17-88	\$500
Alice Harrington	J.J. O'Brien	5-17-88	\$500
Daniel Harrington	J.J. O'Brien	5-17-88	\$500
Jane Harrington	J.J. O'Brien	5-17-88	\$500
J. Harrington Jr.*	J.J. O'Brien	5-17-88	\$500
J. Harrington III	J.J. O'Brien	5-17-88	\$500
Michael Harrington*	J.J. O'Brien	5-17-88	\$500
Timothy Harrington	J.J. O'Brien	5-17-88	\$500
Peter Hille*	Kurt Saracen Assoc.	5-17-88	\$500
Alison Hong*		5-17-88	\$500
Barbara Kijanka*	Kurt Saracen Assoc.	5-17-88	\$500
Peter Klinkmuller*	Kurt Saracen Assoc.	5-17-88	\$500
Kevin Leddy	J.J. O'Brien	5-17-88	\$500
Maureen Leddy	J.J. O'Brien	5-17-88	\$500
Mark Licari		5-17-88	\$500
S.A. McEnaney*	J.J. O'Brien	5-17-88	\$500
Ursula McEnaney	J.J. O'Brien	5-17-88	\$500
Shelia McNamara*	Kurt Saracen Assoc.	5-17-88	\$500
Paul Murphy*		5-17-88	\$500
Virginia Murphy	J.J. O'Brien	5-17-88	\$500
N. Nikrui*		5-17-88	\$500
Karen Nocera	Kurt Saracen Assoc.	5-17-88	\$500
Gerard O'Brien*	J.J. O'Brien	5-17-88	\$500
Joan O'Brien*	J.J. O'Brien	5-17-88	\$500
J. Reddington*		5-17-88	\$500
R. Reddington*	Kurt Saracen Assoc.	5-17-88	\$500

18. All 41 contributions were submitted for matching funds. Of these, the 40 contributions that were written to "Americans for Dole" were identified as possible non-matchable contributions because they were made payable to an entity other than an authorized committee. Following discussions with the Audit staff, Dole for President re-submitted the request for matching funds after deleting the 40 contributions made payable to "Americans for Dole."

<u>Name</u>	<u>Employer</u>	<u>Deposit Date</u>	<u>Amount</u>
Ingeborg Saraceno*		5-17-88	\$1000
Kurt Saraceno*	Kurt Saraceno Assoc.	5-17-88	\$500
Martin Scafidi*	Kurt Saraceno Assoc.	5-17-88	\$500
Carl Tarpinian*	Kurt Saraceno Assoc.	5-17-88	\$500
		Total	\$22,400

* denotes those individuals who also contributed to Haig for President

As the above list indicates, Judith Curtin, a former Olympic Bank employee, made a \$1,000 contribution by personal check made payable to "Americans for Dole." Judith Curtin was named as a respondent in MUR 2717 for possible corporate reimbursement of contributions she made to the Haig Committee by Olympic Bank. The investigation in MUR 2717 did not reveal any information which demonstrated that Judith Curtin was reimbursed by Olympic Bank for contributions that she made to the Haig Committee. The investigation did reveal, however, that Judith Curtin violated 2 U.S.C. § 441f by making a \$1,000 contribution to the Haig Committee in the name of her son, Matthew Curtin.¹⁹

During her deposition with this Office, Judith Curtin testified that Dominic Saraceno had asked her if she was interested in contributing to the Haig campaign.²⁰ Judith Curtin

19. On August 26, 1992, the Commission accepted a conciliation agreement signed by Judith Curtin and closed the file as to this respondent. The conciliation agreement contained an admission of a violation of 2 U.S.C. § 441f and required payment of a \$500 civil penalty.

20. During this time period, Judith Curtin was an employee of Olympic Bank and Dominic Saraceno was an Olympic Bank director. Olympic Bank, the Committee and Dominic Saraceno, as treasurer, also are respondents in MUR 2903. MUR 2903 involves possible

also testified that she had attended two fundraisers for Alexander Haig, one of which was held at Dominic Saraceno's home.²¹ When asked on two separate occasions during the course of the deposition whether she had made contributions to any other presidential campaigns in 1988, Judith Curtin testified that she had not contributed to any presidential campaigns in 1988 other than Alexander Haig's campaign. Later in the deposition, Judith Curtin testified that she had never contributed to Dole for President:

Q: Did you ever receive a thank you note from the [Haig] committee?

A: I think so. They sent out -- they sent out a lot of material from Washington, but, you know, during that period of time I was getting stuff from -- from everybody. All the political candidates. So I don't remember specifically.

Q: You received mailings from a number of candidates?

A: M-hm. I got a Christmas card from Dole. I can't believe -- I didn't contribute to him. Yesterday. That's a riot. I wonder how he got me -- where he got that list.

At this point, it is unclear why Judith Curtin testified that she did not contribute to Dole for President when, in fact, she

(Footnote 20 continued from previous page)
violations of 2 U.S.C. § 441b(a) in connection with a \$375,000 line of credit extended to the Committee by Olympic Bank.

21. According to Committee records, Dominic Saraceno hosted three fundraisers for Haig: a fundraiser at Dominic Saraceno's home on April 28, 1987; a cocktail reception on August 28, 1987; and a "Salute to Al Haig" reception on September 26, 1987. Several of the contributions made to the Committee from individuals associated with Kurt Saraceno Associates or Saraceno Investments appear to coincide with these three fundraising events.

made a \$1,000 contribution to Dole for President by personal check made payable to "Americans for Dole." The available evidence, however, suggests a pattern of prohibited activity involving numerous individuals and three committees over a period of fourteen months.

The uniformity of date, amount, and place of employment of the contributions listed on pages 36 to 39 raises the possibility that contributions from individuals associated with Kurt Saracen Associates, Saracen Investments, and J.J. O'Brien & Sons were reimbursed in violation of 2 U.S.C. § 441f.²² In the alternative, Saracen Investments may have allowed the use of corporate facilities to make contributions in violation of 2 U.S.C. § 441b(a). Dominic Saraceno, the owner of Kurt Saracen Associates and a principal of Saracen Investments, became the Committee's treasurer on July 20, 1987. Jonathan Bragg, the President of Saracen Investments, is the Committee's assistant treasurer. The information available in this matter suggests that Dominic Saraceno may have been involved in the reimbursement of contributions to the Committee, CFA and Dole for President through Kurt Saracen Associates, Saracen Investments or J.J. O'Brien & Sons.

For the reasons stated above, it appears that Saracen

22. J.J. O'Brien & Sons is listed in Dun & Bradstreet's Million Dollar Directory as a construction company in Waltham, Massachusetts, with approximately 80 employees. The company is not incorporated. Gerard R. O'Brien is listed as the President. William J. O'Brien, the President and Chief Executive Officer of Olympic Bank, was a respondent in MUR 2717. It is unknown whether William J. O'Brien is related to Gerard R. O'Brien, or has any connection with J.J. O'Brien & Sons.

Investments may have reimbursed contributions to the Committee, CFA and Dole for President or allowed the use of its corporate facilities to make contributions to the Committee, CFA and Dole for President. Further, it appears that Kurt Saracen Associates and J.J. O'Brien & Sons may have reimbursed contributions to the Committee, CFA and Dole for President. For the reasons stated in the next section of this Report, however, this Office does not recommend that the Commission make reason to believe findings in connection with these apparent violations at this time. Rather, this Office recommends that the Commission report all available information in connection with these contributions to the Department of Justice for possible violations of statutes within that agency's jurisdiction.

F. Investigation

This Office recently received information from the Department of Justice ("DOJ") concerning an on-going investigation into the \$375,000 line of credit extended to the Committee by Olympic Bank. This line of credit is the subject of MUR 2903, along with the Committee's receipt of approximately \$35,000 of excessive contributions. During preliminary discussions with DOJ, it became apparent that DOJ was looking into patterns of contributions made to the Committee by individuals associated with Olympic Bank, as well as other patterns of contributions. In that context, it became apparent that DOJ also was looking into certain activities involving the Committee's treasurer, Dominic Saraceno.

In MUR 2717, the Commission made section 441f reason to

believe findings against the Committee, Dominic Saraceno (in an individual capacity and as the Committee's treasurer) and 60 other respondents in connection with five patterns of contributions made to the Committee. The investigation into MUR 2717 by this Office revealed no direct evidence that contributions made to the Committee from individuals associated with Olympic Bank had been reimbursed by Olympic Bank. See General Counsel's Report dated June 21, 1991. However, it is possible that contributions made to the Committee from individuals associated with Olympic Bank were reimbursed by Dominic Saraceno.

The investigation into MUR 2717 also revealed that 10 contributions totaling \$10,000 were made to the Committee by David Goldman, owner of the Fellows Corporation, in violation of 2 U.S.C. § 441f. See General Counsel's Report dated May 28, 1992. During the investigation, this Office learned that David Goldman was a close personal friend of Dominic Saraceno.

Finally, the investigation into MUR 2717 also revealed that 16 contributions totaling \$4,000 were made to the Committee in violation of 2 U.S.C. § 441f by Donald A. Cooke, Jr., the president of Trade Winds Systems. See General Counsel's Report dated October 16, 1992. Through investigation, this Office learned that Donald A. Cooke, Jr. was a business associate of Dominic Saraceno, and that Trade Winds Systems had performed work on several contracts for Dominic Saraceno.

The information available in MUR 3367 suggests that contributions made to the Committee, CFA and Dole for President

from individuals associated with Dominic Saraceno's businesses violated 2 U.S.C. §§ 441f and 441b(a). Further, the information available in MUR 3367 also suggests that contributions were made to Dole for President from individuals associated with J.J. O'Brien & Sons in violation of 2 U.S.C. § 441f, as discussed in Section E of this Report.

In light of the foregoing, this Office recommends that the Commission take no action at this time regarding reason to believe findings in MUR 3367 in connection with contributions made to the Committee, CFA and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons. This Office recommends that the Commission report to DOJ all information available in MUR 3367 concerning contributions made to the Committee, CFA and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons for possible violations of statutes within the jurisdiction of the Department. See 2 U.S.C. § 437d(a)(9). Additionally, this Office recommends that the Commission report MURs 2717 and 2903 to DOJ for possible violations by the Committee and Dominic Saraceno, as treasurer, of statutes within the jurisdiction of the Department. Finally, this Office recommends that the Commission hold MURs 2717 and 2903 in abeyance until it can be ascertained what actions DOJ is taking with regard to its on-going investigation. This Office believes that the reporting of these three matters to DOJ is appropriate in this instance because DOJ already has an on-going investigation concerning the

activity at issue. From preliminary discussions, this Office believes that the information ascertained by the Commission in connection with these three matters would be vital to DOJ's investigation.

Finally, this Office further recommends that the Commission take no action at this time regarding a probable cause to believe finding against Donald A. Cooke, Jr., Mary E. Cooke and Bobby Cowart in MUR 2717. On February 11, 1993, this Office forwarded briefs to these respondents associated with Trade Winds Systems recommending that the Commission find probable cause to believe that these individuals violated 2 U.S.C. § 441f.²³ None of these respondents submitted a response to the General Counsel's brief. This Office recommends that the Commission take no action regarding a probable cause finding against these respondents pending the outcome of DOJ's investigation into these matters.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

23. On that same date, this Office also forwarded a brief to Dennis M. Cooke, a respondent in MUR 2717 who was associated with Trade Winds Systems. This Office has been notified that Dennis M. Cooke is deceased.

IV. RECOMMENDATIONS

1. Find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 26 U.S.C. § 9042(c), and 11 C.F.R. § 9034.8(c), and enter into conciliation prior to a finding of probable cause to believe with respect to these reason to believe findings.

2. Find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and enter into conciliation prior to a finding of probable cause to believe with respect to this reason to believe finding.

3. Take no action at this time regarding reason to believe findings in connection with contributions made to Haig for President, Committee for America, and Dole for President from individuals associated with Kurt Saracen Associates, Saracen investments and J.J. O'Brien & Sons.

4. Report to the Department of Justice the information available in MUR 3367 concerning contributions made to Haig for President, Committee for America, and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons.

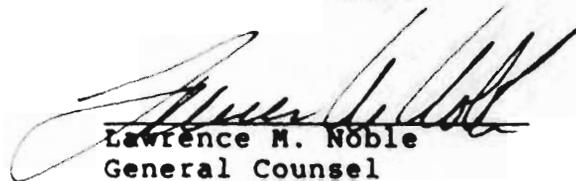
5. Report to the Department of Justice MURs 2717 and 2903 for possible violations by Haig for President and Dominic Saraceno, as treasurer, of statutes within the jurisdiction of the Department.

6. Hold MURs 2717 and 2903 in abeyance until it can be ascertained what actions the Department of Justice is taking with regard to the respondents in these matters.

7. Take no action regarding a probable cause to believe finding against Donald A. Cooke, Jr., Mary E. Cooke and Bobby Cowart at this time.

8. Approve the attached letter to the Department of Justice, the attached factual and legal analyses and conciliation agreements, and the appropriate letters.

4/26/93
Date


Lawrence M. Noble
General Counsel

Attachments:

1. Referral Materials
2. Proposed letter to Department of Justice
3. Factual and Legal Analyses (2)
4. Proposed Conciliation Agreements (2)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Haig for President and Dominic) MURs 3367, 2717
Saraceno, as treasurer;) and 2903
Committee for America and)
Sherwood D. Goldberg, as treasurer.)

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission executive session on Tuesday, May 11, 1993, do hereby certify that the Commission decided to take the following actions in MURs 3367, 2717, and 2903:

1. Decided by a vote of 6-0 to:
 - a) Find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 26 U.S.C. § 9042(c), and 11 C.F.R. § 9034.8(c), and enter into conciliation prior to a finding of probable cause to believe with respect to these reason to believe findings.

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- b) Find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and enter into conciliation prior to a finding of probable cause to believe with respect to this reason to believe finding.
 - c) Take no action at this time regarding reason to believe findings in connection with contributions made to Haig for President, Committee for America, and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons.
 - d) Report to the Department of Justice the information available in MUR 3367 concerning contributions made to Haig for President, Committee for America, and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons.
 - e) Take no action regarding a probable cause to believe finding against Donald A. Cooke, Jr., Mary E. Cooke and Bobby Cowart at this time.

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

(continued)

2. Decided by a vote of 6-0 to:

- a) Report to the Department of Justice MUR 2903 for possible violations by Haig for President and Dominic Saraceno, as treasurer, of statutes within the jurisdiction of the Department.
- b) Hold MUR 2903 in abeyance until it can be ascertained what actions the Department of Justice is taking with regard to the respondents in this matter.

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

3. Decided by a vote of 5-0 to:

- a) Report to the Department of Justice MUR 2717 for possible violations by Haig for President and Dominic Saraceno, as treasurer, of statutes within the jurisdiction of the Department.

(continued)

Federal Election Commission
Certification for
MURs 3367, 2717 and 2903
May 11, 1993

Page 4

- b) Hold MUR 2717 in abeyance until it can be ascertained what actions the Department of Justice is taking with regard to the respondents in this matter.
- c) Approve the letter to the Department of Justice, the factual and legal analyses and conciliation agreements, and the appropriate letters, as recommended in the General Counsel's report dated April 26, 1993.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused with respect to MUR 2717.

Attest:

May 13, 1993
Date

Delores Hardy
Delores Hardy
Administrative Assistant



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

MAY 21, 1993

Dominic Saraceno, Treasurer
Haig for President
c/o Kurt-Saraceno Associates
57 Wells Avenue
Newton Center, MA 02159

RE: MUR 3367
Haig for President
and Dominic Saraceno,
as treasurer

Dear Mr. Saraceno:

On May 11, 1993, the Federal Election Commission found that there is reason to believe that the Haig for President (the "Committee") and you, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), 11 C.F.R. § 9034.8(c) of the Commission's regulations and 26 U.S.C. § 9042(c). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of these violations, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of these violations prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

Page 2
Mr. Saraceno

If you are interested in expediting the resolution of these violations by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

cc: Alexander Haig

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Haig for President and
Dominic Saraceno, as treasurer

MUR 3367

I. Generation of the Matter

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") ascertained that there was a possibility of violations of the Federal Election Campaign Act of 1971, as amended, ("the Act") by Haig for President ("the Committee") and Dominic Saraceno, as treasurer. The first violation concerns the receipt of in-kind contributions from Committee for America ("CFA") and Committee for America-Virginia ("CFA-VA"). The second violation concerns the Committee's joint fundraising activities and the apparent alteration of contributor checks.

II. Factual and Legal Analysis

A. Receipt of In-Kind Contributions

The audit identified several types of in-kind contributions made to the Committee by the Committee For America and the Committee for America-Virginia. These in-kind contributions involved expenses paid in connection with a fundraising dinner held at the Waldorf-Astoria Hotel, polling and travel expenses, the Committee's use of CFA's and CFA-VA's telephone and computer systems, salary expenses, testing the waters activities, subscription expenses, other miscellaneous in-kind contributions, undocumented expenses, and general, administrative and overhead expenses. Attached to this Factual

and Legal Analysis is a list which summarizes the in-kind contributions from CFA and CFA-VA.

1. Applicable Statutory and Regulatory Provisions

Under 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. This limitation applies separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election. 2 U.S.C. § 441a(a)(6). The term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000.

Under 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section 441a of the Act. Furthermore, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act.

Under 2 U.S.C. § 441b(a), it is unlawful for any candidate, political committee, or other person knowingly to accept or receive any contribution from a corporation or labor organization in connection with a federal election.

2 U.S.C. § 431(8)(A)(i) provides that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987). The regulations further provide that unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987).

2. Salute to America Dinner

On March 23, 1987, CFA sponsored the "Salute to America" dinner at the Waldorf-Astoria Hotel in New York. The audit revealed that CFA made \$225,257.55 in expenditures associated with the dinner. "Salute to America" was a presidential announcement dinner, the purpose of which was to launch Alexander Haig's presidential campaign. Alexander Haig was the featured speaker at the dinner and used the event to announce that he would declare formally his candidacy for the Republican nomination for President the next day.

Apparently, the Committee at one time had intended to begin the Haig campaign with the fundraising dinner at the

Waldorf-Astoria Hotel. The audit identified solicitation materials produced for the Alexander Haig Announcement Dinner, sponsored by the Committee for Alexander Haig-Exploratory, to be held March 23, 1987 at the Waldorf-Astoria Hotel. A \$5,000 deposit was made from the Committee's exploratory bank account to the Waldorf-Astoria Hotel on December 22, 1986. On March 4, 1987, a \$5,000 refund from the Waldorf-Astoria was deposited to the Committee's exploratory bank account. The audit noted \$11,000 in contributions made payable to Haig for President-Exploratory that were accompanied by solicitation response cards requesting reservations for the event.¹

In response to the Interim Audit Report, the Committee disputed the audit finding that the expenses associated with the dinner that were paid by CFA represented in-kind contributions to the Committee. The Committee acknowledged that it had planned to launch Alexander Haig's candidacy by sponsoring a major fundraising event at the Waldorf-Astoria Hotel. The Committee stated that it had paid a \$5,000 deposit to the hotel in connection with the dinner, and produced and distributed solicitation and response materials for the dinner. The Committee further stated that it subsequently decided to make the formal announcement of candidacy at a press conference followed by a campaign tour of early primary states. The press

1. The Audit also noted \$9,750 in contributions made payable to the Committee for Alexander Haig-Exploratory that were dated prior to Alexander Haig's March 24, 1987 announcement of his candidacy.

conference was held at the Waldorf-Astoria Hotel on March 24, 1987.

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The Committee asserted that the dinner was a CFA fundraising event to finance CFA's political activities, unrelated to the presidential campaign. The Committee admitted that Alexander Haig's use of the dinner to state that he intended to announce his candidacy for the Presidency on the following day may have had some inherent value. The Committee disputed, however, the audit report's conclusion that the entire cost of the event constituted an in-kind contribution from CFA to the Committee. The Committee asserted that the real value of the event, the proceeds raised, did not flow to the Committee. The Committee asserted that the maximum value received by the Committee in connection with the event was \$8,250. In its supplemental response to the Interim Audit Report, the Committee submitted a list of twenty-one contributions deposited to the Committee's Exploratory bank account that the Committee contends had some relation to the dinner, based upon check notations and response cards. The Committee stated that these contributions, totaling \$8,250, were received in response to the solicitation that was withdrawn.² The Committee asserted that the \$8,250 in contributions represented the maximum value received by the Committee from CFA in connection with the "Salute to America" dinner.

Additionally, the audit revealed that CFA-VA paid for

2. In order to permit these contributors to attend the event, CFA issued "complimentary" tickets to these individuals.

\$20,714.42 in expenditures associated with the event. The Interim Audit Report concluded that \$20,714.42 in expenditures incurred by CFA-VA in connection with the "Salute to America" dinner also represented in-kind contributions to the Committee. The Committee did not address this finding in its response to the Interim Audit Report.

The information available thus far demonstrates that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with the "Salute to America" dinner. The audit indicated that CFA paid \$225,257.55 for expenses associated with the "Salute to America" dinner, and that CFA-VA paid \$20,714.42 for expenses associated with the dinner. Contrary to the Committee's assertion, the entire amount of expenses paid by CFA in connection with the event constitutes an in-kind contribution received by the Committee. The audit noted that press accounts of the "Salute to America" dinner described the event as an announcement gala and as a nominating convention. Alexander Haig was the featured speaker of the evening. At the dinner, Alexander Haig declared that he would announce his candidacy for the Republican nomination for President on the following day. Thus, it appears that the true purpose of the "Salute to America" dinner was to further Alexander Haig's presidential bid. Therefore, all expenses associated with the event incurred by CFA and CFA-VA constitute in-kind contributions to the Committee.

3. Polling and Travel Expenses

The audit identified payments made by CFA and CFA-VA

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totaling \$24,510.50 to Marketing Research Institute (MRI) for polling expenses and \$4,386 to Premiere Travel for travel expenses related to the Committee. These expenditures are summarized below:

<u>Committee</u>	<u>Payee</u>	<u>Amount</u>
CFA	MRI	\$ 541.00
CFA-VA	MRI	\$ 23,969.50
CFA-VA	Premiere Travel	\$ 4,386.00

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Regarding the polling expenses, the audit revealed payments to MRI from CFA, CFA-VA and the Committee for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll. The audit noted that the questions asked in the two polls were identical in content and format to those in a poll conducted for the Committee in Iowa. The audit revealed that the contents of the polls were presidential in nature, and included questions specifically focusing on Alexander Haig's name recognition and qualifications for the office of President. The audit also noted that the contents of the polls do not relate to the stated organizational objectives of CFA and CFA-VA. Because these polls were for the Committee's benefit, the payments to MRI represent in-kind contributions from CFA and CFA-VA. In response to the Interim Audit Report, the Committee asserted that "[the Committee] paid for the polling results it actually received." The Committee did not, however, provide any additional documentation in support of this assertion.

With respect to the payments made to Premiere Travel by CFA-VA, the audit found that CFA-VA paid for travel expenses incurred by Committee staff totaling \$4,386. The audit

identified Premiere Travel invoices totaling \$4,386 for travel to Iowa on March 24-25, 1987 by Alexander Haig and his wife, Committee treasurer Steve Jernigan, and CFA employees Pat Roberts, Dan Mariaschin, and Tim Jansen. The audit also identified payment by CFA-VA to Premiere Travel for one trip to Washington, D.C. by a Haig family member. The Committee did not address CFA-VA's payment for travel expenses in its response to the Interim Audit Report. However, the Committee did state in response to another issue raised in the Interim Audit Report that a campaign tour of early primary states would take place after Alexander Haig's official announcement of candidacy on March 24, 1987.

The audit revealed that these travel expenses, totaling \$4,386, were related to Alexander Haig's candidacy. Thus, these expenses incurred by CFA-VA represent in-kind contributions to the Committee. In conclusion, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with polling and travel expenses.

4. Use of Telephone and Computer Systems

The audit revealed that the Committee used CFA's and CFA-VA's telephone and computer systems without charge from the period of December 1986 through April 1988. The failure of CFA and CFA-VA to charge the Committee for its use of telephone and computer systems at the usual and normal charge represents in-kind contributions.

In response to the Interim Audit Report, the Committee submitted a copy of an equipment lease agreement which had been

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signed by the treasurers of CFA and the Committee. Under the terms of the agreement, CFA agreed to lease to the Committee the furniture and fixtures listed on Attachment A to the lease. Attachment A was a list of office furniture and computer equipment. The terms of the lease included a monthly payment of \$860 from April 30, 1987 through March 31, 1988, with a purchase option. The Committee stated that no payments had been made on the lease and requested that the amounts due (\$10,320) be considered a debt owed to CFA. The Committee did not provide a valuation of the telephone system in response to the Interim Audit Report.

From the information available thus far, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA by using the telephone and computer systems without charge. Although CFA and the Committee executed a lease agreement regarding the computer system, the Committee made no payments under the lease. Furthermore, neither CFA nor the Committee disclosed the amounts owed under the terms of the lease as outstanding obligations on their disclosure reports. No evidence exists that CFA demanded any payment from the Committee under the lease, or took any action under the default provisions of the lease. Because the parties' obligations under the lease agreement appear to be illusory, the Audit staff made an independent determination of the value of the Committee's use of the telephone and computer systems. According to the Audit staff's calculations, the value of the Committee's use of the telephone and computer systems was \$9,595.04 for the period of

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April 15, 1987 through May 30, 1988.³ For all of the above reasons, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with the use of the telephone and computer systems.

5. Salary Expenses of C. Patrick Roberts

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The audit found that CFA and CFA-VA paid \$31,142.64 for salary and other expenses of a CFA staff member whose activities were primarily presidential in nature. The audit revealed correspondence in the Committee's files indicating that Alexander Haig asked C. Patrick Roberts to undertake the leadership of his presidential campaign on December 20, 1986. The parties agreed to a salary of \$8,500 per month. In January of 1987, C. Patrick Roberts joined CFA as vice chairman and chief operating officer. His salary at CFA was \$8,500 per month. CFA-VA paid Mr. Roberts' salary until April 30, 1987. The Committee paid for 50% of Mr. Roberts' April 30th salary payment, and 100% of the remaining salary payments until Mr. Roberts' termination of employment in June of 1987.

The audit revealed that Mr. Roberts' activities were primarily presidential in nature. The correspondence identified by the audit stated that "Mr. Roberts left an important and secure job . . . in order to lead [Alexander Haig's] campaign and did so in good faith and with the understanding that he

3. The Audit staff's calculations are based on April 15, 1987 as the date of the contribution. The value of the Committee's use of CFA's telephone and computer systems from December 1, 1986 to April 15, 1987 is included in "General, Administrative and Overhead Expenses."

would be the Campaign Manager." Therefore, it appears that the payment of Mr. Roberts' salary and expenses by CFA and CFA-VA from January through April of 1987 constitutes an in-kind contribution to the Committee. The audit indicated that CFA-VA paid \$30,975.89 in salary and related expenses for Mr. Roberts, and that CFA paid \$166.75 for Mr. Roberts' expenses. For these reasons, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with the payment of Mr. Roberts' salary and other expenses.

6. Testing the Waters Activities

The audit also identified expenses incurred by CFA and CFA-VA totaling \$6,009.08 for testing the waters activities which were found to be presidential in nature. These costs included travel expenses to Arizona and Nevada to meet with the Western States Caucus (\$1,674.50), travel expenses to Palm Beach, Florida (\$1,965.47) and travel expenses to New Hampshire (\$2,369.11).

The audit identified \$1,674.50 in travel costs incurred by CFA in connection with meetings of the Western States Caucus. The Western States Caucus, a group made up of members from 13 western states, invited possible 1988 Presidential candidates to attend a meeting on November 14-16, 1986 in Scottsdale, Arizona. The meeting was attended by Dan and Jeannette Clement on behalf of Alexander Haig. The Western States Caucus met again on March 6-7, 1987 in Las Vegas, Nevada. Alexander Haig was scheduled to be the featured speaker at this meeting, but he did not attend the meeting. Thomas Christo attended the meeting on

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behalf of Alexander Haig. In an "After Action Report", Thomas Christo recommended that Alexander Haig write each member, stating: "I think you are a very important group and I look forward to meeting you personally and soliciting your support now that I am an announced candidate." Based upon this information, it appears that the travel expenses incurred in connection with meetings of the Western States Caucus were directly related to Alexander Haig's presidential campaign. Therefore, these travel expenses incurred by CFA constitute in-kind contributions to the Committee.

The audit identified \$1,965.47 in travel expenses incurred by CFA for employees C. Patrick Roberts and Tim Jansen to travel to West Palm Beach, Florida, from February 28 through March 3, 1987. The audit revealed that the only identifiable activities which occurred in the Palm Beach vicinity were related to the presidential campaign. Therefore, the costs associated with travel by CFA employees to Palm Beach, Florida constitute in-kind contributions from CFA and CFA-VA to the Committee.

The audit also identified \$2,369.11 in travel expenses incurred by CFA and CFA-VA in connection with a meeting on March 8-9 in Manchester, New Hampshire and the Olde Tyme Picnic Event on March 13-14, 1987 in Manchester, New Hampshire. The Olde Tyme Picnic event was held by the Committee in connection with Alexander Haig's campaign. The audit identified \$57.25 in expenses associated with the picnic that were paid for by CFA and CFA-VA. The meeting in Manchester, New Hampshire, on March 8-9, 1987 was attended by Dan Mariaschin, Tim Jansen and

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Thomas Christo. It appears that the purpose of the meeting was to prepare for the presidential campaign activities which took place on March 13-14, 1987. Therefore, the expenses incurred by CFA and CFA-VA in connection with the March 8-9, 1987 meeting, totaling \$2,311.86, constitute in-kind contributions from CFA and CFA-VA to the Committee.

In addition to the foregoing expenses, the audit identified expenses totaling \$13,821.50 by CFA and CFA-VA which appear to be associated with testing the waters activities. These expenses are itemized as follows:

<u>Date</u>	<u>Purpose</u>	<u>Amount</u>
Jan. 14-15, 1987	Manchester, NH travel	\$1,085.22 (CFA-VA) \$ 173.41 (CFA)
Feb. 12-13, 1987	Nashville, TN travel	\$ 145.50 (CFA-VA) \$2,297.79 (CFA)
Feb. 16-17, 1987	Manchester, NH travel	\$ 502.06 (CFA-VA) \$1,263.57 (CFA)
Feb. 23, 1987	press releases	\$ 562.80 (CFA-VA)
March 15, 1987	Iowa	\$2,262.90 (CFA-VA) \$ 528.25 (CFA)
March 30, 1987 & April 15, 1987	The Naisbitt Group - Business Intell. Program	\$2,500.00 (CFA-VA) \$2,500.00 (CFA-VA)

The audit indicated that the expenses itemized above were incurred by CFA and CFA-VA in connection with Alexander Haig's presidential campaign by virtue of the location, timing and nature of the activity. For these reasons, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA for expenses associated with testing the waters activities.

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7. Newspaper and Other Subscriptions

The audit indicated that CFA and CFA-VA made payments for newspaper and other subscriptions totaling \$2,510.99 during January through March of 1987. These subscriptions were in addition to the publications to which the Committee subscribed. It appears that the subscriptions paid for by CFA and CFA-VA were for the benefit of the Committee.

In February of 1987, CFA and CFA-VA paid for six month subscriptions to seven local New Hampshire newspapers and other national newspapers, including The Boston Globe, The Chicago Tribune and The Des Moines Register. The audit also noted several other subscriptions that extended into 1988. The audit revealed that a February 4, 1987 internal memo written by Russ McReynolds, CFA's assistant treasurer, recommended that "CFA be deactivated as soon as possible." The audit also revealed that after April 15, 1987, CFA's activities appeared to focus on winding down its operations. CFA-VA terminated on May 29, 1987. Because these three committees shared office space, it appears that the Committee continued to receive the publications through the end of the subscription periods. Thus, it appears that CFA and CFA-VA paid for subscriptions that primarily benefited the Committee. Therefore, the Committee accepted in-kind contributions from CFA and CFA-VA in connection with subscriptions to newspapers and other publications.

8. Miscellaneous In-Kind Contributions

The audit also noted payments to certain vendors for goods and services related to the presidential campaign. The total

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amount paid by CFA for these goods and services was \$4,720.22, and the total amount paid by CFA-VA was \$4,906.61. With one exception, these payments were associated with activities that occurred subsequent to Alexander Haig's formal announcement of candidacy.

The audit indicated that these miscellaneous in-kind contributions include payments by CFA and CFA-VA to the coordinator of the "Salute to America" dinner and the publicity firm for the "Salute to America" dinner for services rendered in the latter part of March and April of 1987, for limousine and security services rendered to Alexander Haig, and Federal Express charges. Also included in the audit materials was a \$750 invoice dated March 9, 1987 for "21 different logo directions." The audit revealed that these expenses were incurred in connection with Alexander Haig's presidential campaign. Therefore, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with these miscellaneous contributions totaling \$9,626.83.

9. Undocumented Expenses

The audit indicated that CFA and CFA-VA made expenditures for travel expenses totaling \$37,127.44 for which adequate documentation is lacking. These expenditures include payments to Mrs. Patricia Haig from CFA for travel expenses totaling \$12,780. Additionally, the audit indicated that CFA made an expenditure in the amount of \$8,083.00 to Computer Rx for computer equipment. The Audit staff was unable to obtain documentation through the audit process to determine the purpose

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of these undocumented expenses. The absence of adequate documentation suggests that these expenses constitute in-kind contributions from CFA and CFA-VA. Therefore, it appears that the Committee accepted in-kind contributions from CFA and CFA-VA in connection with these undocumented expenses totaling \$45,210.44.

10. General, Administrative and Overhead Expenses

The audit indicated that, in addition to the in-kind contributions received by the Committee discussed above, CFA and CFA-VA also provided in-kind contributions related to general, administrative and overhead expenses totaling \$200,949.48. These in-kind contributions resulted from the Committee's use of CFA and CFA-VA's staff, office equipment, supplies and office space from the period of December 1, 1986 through April 15, 1987.

The Committee shared office space and equipment with CFA and CFA-VA from December 1, 1986 through April 15, 1987. The only staff members employed during this period were paid by CFA and CFA-VA. CFA and CFA-VA's staff worked on several projects during this period which benefited the Committee. Thus, the Committee received the value of work performed by CFA and CFA-VA's staff, the value of the use of office equipment and supplies rented and purchased by CFA and CFA-VA, and the value of occupying CFA and CFA-VA's office space without charge during this period.⁴

4. The Committee paid the April 1987 rent for the use of office space.

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The audit determined that the Committee's share of the general, administrative and overhead expenses for December 1, 1986 through April 15, 1987 is 64.6% of the amount incurred by CFA and CFA-VA for such expenses. This amount totals \$200,949.48. The amount attributable to CFA is \$140,874.26, and the amount attributable to CFA-VA is \$60,075.22. In addition, the value of the Committee's use of CFA's and CFA-VA's telephone and computer systems from the period of December 1, 1986 through April 15, 1987 as \$1,988.30.

In conclusion, any value received by the Committee for general, administrative and overhead expenses incurred by CFA and CFA-VA represents an in-kind contribution. In addition, the Committee's use of CFA's and CFA-VA's telephone and computer systems without charge also represents an in-kind contribution. Therefore, it appears that the Committee received in-kind contributions totaling \$202,937.78 in the form of general, administrative and overhead expenses incurred by CFA and CFA-VA, as well as the use of CFA's and CFA-VA's telephone and computer equipment, during the period of December 1, 1986 through April 15, 1987.

11. Conclusion

The payment of expenses incurred in connection with Alexander Haig's presidential campaign by CFA and CFA-VA constitutes in-kind contributions to the Committee. See AO 1985-40. The audit indicates that CFA made in-kind contributions to the Committee totaling \$410,225.35 (\$267,467.47 direct and \$142,757.88 indirect). The audit also indicates that

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CFA-VA made in-kind contributions to the Committee totaling \$185,497.42 (\$125,317.52 direct and \$60,179.90 indirect). The audit revealed that CFA, CFA-VA and the Committee shared staff members, office space and equipment. The audit also revealed that a significant amount of CFA and CFA-VA's expenditures were made directly or indirectly on behalf of Alexander Haig's presidential campaign. Because CFA was a multi-candidate committee, it was prohibited from making any contributions to the Committee in excess of \$5,000. Therefore, it appears that the Committee accepted excessive contributions from CFA totaling \$405,225.35. Furthermore, it appears that the Committee accepted excessive contributions from CFA-VA totaling \$184,497.42.

In addition, the in-kind contributions from CFA-VA may have included prohibited funds. Because CFA-VA was registered as a political committee in Virginia, CFA-VA was permitted to accept contributions from corporations and labor organizations. See Va. Code Ann. § 24.1-254.2. The audit noted that documentation contained in the "Salute to America" files indicated that corporate funds may have been received by CFA-VA in connection with the fundraising dinner. The audit identified contributions totaling \$149,150 from 43 apparent corporations. Therefore, it appears that a portion of the excessive contributions made by CFA-VA to the Committee (totaling \$184,497.42) may have included prohibited contributions.

For all the reasons stated above, there is reason to believe Haig for President and Dominic Saraceno, as treasurer,

violated 2 U.S.C. §§ 441a(f) and 441b(a) in connection with the receipt of in-kind contributions from Committee for America and Committee for America-Virginia totaling \$589,722.77.

B. Joint Fundraising Activities

1. Applicable Statutory and Regulatory Provisions

Under 11 C.F.R. § 9034.2(c)(7), contributions received from a joint fundraising activity conducted in accordance with 11 C.F.R. § 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising agreement when they are submitted for matching. 11 C.F.R. § 9034.2(c)(7) (1987). 11 C.F.R. § 9034.8(c) sets forth the joint fundraising procedures for presidential primary candidates. 11 C.F.R. § 9034.8(c)(1) provides that the participants in a joint fundraising activity shall enter into a written agreement. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. 11 C.F.R. § 9034.8(c)(1) (1987).

Under 11 C.F.R. § 9034.8(c)(3), a joint fundraising notice shall be included with every solicitation for contributions. This notice shall include, inter alia, the allocation formula to be used for distributing joint fundraising proceeds, and a statement informing the contributors that they may designate their contributions for a particular participant notwithstanding the stated allocation formula. 11 C.F.R. § 9034.8(c)(3) (1987).

Under 11 C.F.R. § 9034.8(c)(7)(i), the fundraising representative shall allocate proceeds according to the formula

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stated in the fundraising agreement. Each contribution received shall be allocated among the participants in accordance with the allocation formula, unless the circumstances described in sections 9034.8(c)(7)(ii), (iii) or (iv) apply.

Section 9034.8(c)(7) further provides that funds may not be distributed or reallocated so as to maximize the matchability of the contributions. Under 11 C.F.R. § 9034.8(c)(7)(iv), a written instrument made payable to one of the participants shall be considered an earmarked contribution unless a written statement by the contributor indicates that it is intended for inclusion in the general proceeds of the fundraising activity. 11 C.F.R. § 9034.8(c)(7) (1987).

2. Contributions Received by the Committee

This violation concerns the apparent alteration of nine contributor checks received in connection with joint fundraising activities. The Committee entered into a joint fundraising agreement with the Kevin Hermening for Congress ('88) Committee ("the Hermening Committee") regarding a series of three joint fundraising events. Under the terms of the agreement, the Hermening Committee was designated to act as the fundraising representative. The agreement provided that the net proceeds from the events would be distributed evenly between the two committees. The agreement also provided that "the only adjustment to this allocation formula will be those designated by law - contributor designated contribution, prohibited contribution, or contribution in excess of legal limits." The audit noted that the three joint fundraising events were held in

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Wisconsin on May 28, 1987. Gross receipts from these events totaled \$13,930 in contributions from 125 contributors.

During the audit, copies of the checks submitted with the Committee's threshold submission were compared to copies of the original checks from the Committee's files. The comparison revealed that twenty-four contributions that were designated for the Hermening Committee were included in the threshold submission. Of these twenty-four, nine contribution checks totaling \$437.50 had been altered to give the appearance that the contributor intended a contribution to both candidates. In eight instances, the copies of the contributor checks reviewed during the audit were made payable to the Hermening Committee, and the check memo line was blank. On the copies of these same eight checks submitted with the threshold submission, however, the phrase "Hermening/Haig" or "Hermening/Haig event" was added on the check memo line. In another instance, the copy of the contributor check reviewed during the audit was made payable to "Hermening/Hague (sic) Event", and the check memo line stated "Hermening." The copy of the same check submitted with the threshold submission had the phrase "Hermening/Haig" on the check memo line.

By letter dated May 7, 1988, Russell Primavera, a Committee staff member responsible for "FEC Compliance", gave the following explanation of the circumstances surrounding the altered checks:

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After receiving the Haig/Hermening contribution check copies, I noticed that a few were made payable to Hermening For Congress. At that point I took three measures.

First, I reviewed the Haig/Hermening Event contract. From that, I gathered that the contributions received were to be split 50% for Haig and 50% for Hermening. This contract agreement (sic) did not give me reason to question why checks made payable to Hermening were included in the Haig/Hermening check contribution file, or why they were deposited, and later transferred (sic) to the Haig account accordingly.

My second attempt at my internal audit was to speak to Pam Mattox, who was our contact for the event. After asking her about event procedures and the possible error of having accepted checks made payable to Hermening, her answers quieted my questions and doubts.

She said that contributors were instructed to earmark their contributions as Hermening Only or Haig Only if donors wished to contribute to only one candidate exclusively. Since the checks in question did not contain such a notation, this dismissed my questions of the campaign having received contributions made payable solely to Hermening. She also said that many contributors wrote their checks payable to Hermening For Congress because the solicitation material requested them to send it to Hermening For Congress. This dispelled my doubts altogether.

In an effort to clarify account records, my third attempt was to write hermening/Haig Event in the memo section of each check copy that was made payable to Hermening For Congress. My abovementioned attempts to clarify the validity of these contributions gave me reason to inscribe such a memo to clearly reflect it's (sic) origin. In this way, it could not later be mistaken as a contribution made to Hermening only.

The information available thus far indicates that Haig for President and Dominic Saraceno, as treasurer, violated 26 U.S.C.

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§ 9042(c) and 11 C.F.R. § 9034.8(c) in connection with the joint fundraising activities. It appears that several contributors earmarked their contributions made in connection with the joint fundraising activities for the Hermening Committee, as permitted under 11 C.F.R. § 9034.8(c)(3) and (7). A Committee representative admitted that he altered checks made payable to "Hermening for Congress" and submitted these checks for matching funds. Furthermore, the audit indicated that the fundraising representative did not allocate these contributions to the Haig Committee. Thus, the Committee may have submitted checks for contributions it never received. For the reasons stated above, there is reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c).

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HAIG FOR PRESIDENT
Summary of In-Kind Contributions
Made by CFA and CFA-VA

<u>Report Category</u>	<u>CFA</u>	<u>CFA-VA</u>	<u>Total</u>
Salute to America	\$225,257.55	\$ 20,714.42	\$245,971.97
Market Research Institute	\$ 541.00	\$ 23,969.50	\$ 24,510.50
Computer Equipment	\$ 3,387.36		\$ 3,387.36
Telephone System	\$ 5,332.58	\$ 875.10	\$ 6,207.68
Premiere Travel		\$ 4,386.00	\$ 4,386.00
C. Patrick Roberts	\$ 166.75	\$ 30,975.89	\$ 31,142.64
Testing the Waters Activities			
Western States Caucus	\$ 1,674.50		\$ 1,674.50
Palm Beach	\$ 30.00	\$ 1,945.47	\$ 1,965.47
Manchester 3/8 - 3/9	\$ 710.69	\$ 1,601.17	\$ 2,311.86
Olde Tyme Picnic	\$ 43.25	\$ 14.00	\$ 57.25
Subtotal - Direct Testing Waters	\$ 2,448.44	\$ 3,560.64	\$ 6,009.08
Manchester 1/14 - 1/15	\$ 173.41	\$ 1,085.22	\$ 1,258.63
Manchester 2/17	\$ 1,263.57	\$ 502.06	\$ 1,765.63
Nasnville 2/12 - 2/13	\$ 2,297.79	\$ 145.50	\$ 2,443.29
Business Intell. Report		\$ 5,000.00	\$ 5,000.00
Iowa 3/15	\$ 528.25	\$ 2,262.90	\$ 2,791.15
Press Releases		\$ 562.80	\$ 562.80
Subtotal - Other Testing Waters	\$ 4,263.02	\$ 9,558.48	\$ 13,821.50
Newspapers	\$ 183.75	\$ 2,327.24	\$ 2,510.99
Miscellaneous			
Solters Roskin	\$ 3,238.62		\$ 3,238.62
O'Sullivan	\$ 750.00		\$ 750.00
Eleanor Williams		\$ 3,800.00	\$ 3,800.00
Misc.	\$ 731.60	\$ 1,106.61	\$ 1,838.21
Subtotal - Misc.	\$ 4,720.22	\$ 4,906.61	\$ 9,626.83

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HAIG FOR PRESIDENT
Summary of In-Kind Contributions
Made by CFA and CFA-VA

<u>Report Category</u>	<u>CFA</u>	<u>CFA-VA</u>	<u>Total</u>
Undocumented Expenses			
Travel Expenses	\$ 13,083.80	\$ 24,043.64	\$ 37,127.44
Computer Rx	<u>\$ 8,083.00</u>	<u> </u>	<u>\$ 8,083.00</u>
Subtotal - Undocumented Expenses	\$ 21,166.80	\$ 24,043.64	\$ 45,210.44
TOTAL DIRECT CONTRIBUTIONS	\$ 267,467.47	\$125,317.52	\$392,784.99
General, Administrative and Overhead	\$140,874.26	\$ 60,075.22	\$200,949.48
Computer 12/1/86 - 4/15/87	\$ 787.73		\$ 787.73
Telephone 12/1/86 - 4/15/87	<u>\$ 1,095.89</u>	<u>\$ 104.68</u>	<u>\$ 1,200.57</u>
TOTAL INDIRECT CONTRIBUTIONS	\$142,757.88	\$ 60,179.90	\$202,937.78
TOTAL DIRECT AND INDIRECT	\$410,225.35	\$185,497.42	\$595,722.77

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

MAY 21, 1993

Sherwood D. Goldberg, Treasurer
Committee for America
c/o World Wide Associates
1155 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 3367
Committee for America
and Sherwood D.
Goldberg, as treasurer

Dear Mr. Goldberg:

On May 11, 1993, the Federal Election Commission found that there is reason to believe that the Committee for America (the "Committee") and you, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this violation, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this violation prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

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Mr. Goldberg

If you are interested in expediting the resolution of this violation by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Committee for America and MUR 3367
Sherwood D. Goldberg, as treasurer

I. Generation of the Matter

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") ascertained that there was a possibility of a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") by Committee for America ("CFA") and Sherwood D. Goldberg, as treasurer. This violation concerns the making of excessive in-kind contributions to Haig for President ("the Committee").

II. Factual and Legal Analysis

Information ascertained by the Commission revealed several types of in-kind contributions made to the Committee by the Committee for America. These in-kind contributions include expenses paid in connection with a fundraising dinner held at the Waldorf-Astoria Hotel, polling expenses, the Committee's use of CFA's telephone and computer systems, salary expenses, testing the waters activities, subscription expenses, other miscellaneous in-kind contributions, undocumented expenses, and general, administrative and overhead expenses. Attached to this Factual and Legal Analysis is a list which summarizes the in-kind contributions made to the Committee from CFA.

1. Applicable Statutory and Regulatory Provisions

Under 2 U.S.C. § 441a(a)(1)(A), no person shall make

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contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. This limitation applies separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election. 2 U.S.C. § 441a(a)(6). The term "person" includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000.

Under 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section 441a of the Act. Furthermore, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act.

Under 2 U.S.C. § 441b(a), it is unlawful for any candidate, political committee, or other person knowingly to accept or receive any contribution from a corporation or labor organization in connection with a federal election.

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2 U.S.C. § 431(8)(A)(i) provides that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987). The regulations further provide that unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A) (1987).

2. Salute to America Dinner

On March 23, 1987, CFA sponsored the "Salute to America" dinner at the Waldorf-Astoria Hotel in New York. CFA made \$225,257.55 in expenditures associated with the dinner. "Salute to America" was a presidential announcement dinner, the purpose of which was to launch Alexander Haig's presidential campaign. Alexander Haig was the featured speaker at the dinner and used the event to announce that he would declare formally his candidacy for the Republican nomination for President the next day.

Apparently, the Committee at one time had intended to begin the Haig campaign with the fundraising dinner at the Waldorf-Astoria Hotel. Solicitation materials were produced for the Alexander Haig Announcement Dinner, sponsored by the Committee for Alexander Haig-Exploratory, to be held March 23, 1987 at the Waldorf-Astoria Hotel. A \$5,000 deposit was made

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from the Committee's exploratory bank account to the Waldorf-Astoria Hotel on December 22, 1986. On March 4, 1987, a \$5,000 rerund from the Waldorf-Astoria was deposited to the Committee's exploratory bank account.

The information available demonstrates that the Committee accepted in-kind contributions from CFA in connection with the "Salute to America" dinner. CFA paid \$225,257.55 for expenses associated with the "Salute to America" dinner. The entire amount of expenses paid by CFA in connection with the event constitutes in-kind contributions received by the Committee. Press accounts of the "Salute to America" dinner described the event as an announcement gala and as a nominating convention. Alexander Haig was the featured speaker of the evening. At the dinner, Alexander Haig declared that he would announce his candidacy for the Republican nomination for President on the following day. Thus, it appears that the true purpose of the "Salute to America" dinner was to further Alexander Haig's presidential bid. Therefore, all expenses associated with the event incurred by CFA constitute in-kind contributions to the Committee.

3. Polling and Travel Expenses

CFA made payments totaling \$541.00 to Marketing Research Institute (MRI) for polling expenses. These payments from CFA were for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll. The questions asked in the two polls were identical in content and format to those in a poll conducted for the Committee in Iowa. The contents of the

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polls were presidential in nature, and included questions specifically focusing on Alexander Haig's name recognition and qualifications for the office of President. The contents of the polls do not relate to the stated organizational objectives of CFA. Because these polls were for the Committee's benefit, the payments to MRI represent an in-kind contribution from CFA.

4. Use of Telephone and Computer Systems

The Committee used CFA's telephone and computer systems without charge from the period of December 1986 through April 1988. The failure of CFA to charge the Committee for its use of telephone and computer systems at the usual and normal charge represents an in-kind contribution.

Under the terms of an equipment lease agreement that had been signed by the treasurers of CFA and the Committee, CFA agreed to lease to the Committee the furniture and fixtures listed on Attachment A to the lease. Attachment A was a list of office furniture and computer equipment. The terms of the lease included a monthly payment of \$860 from April 30, 1987 through March 31, 1988, with a purchase option. No payments were made on the lease.

From the information available, it appears that CFA made in-kind contributions to the Committee by allowing the Committee to use CFA's telephone and computer systems without charge. Although CFA and the Committee executed a lease agreement regarding the computer system, the Committee made no payments under the lease. Furthermore, neither CFA nor the Committee disclosed the amounts owed under the terms of the lease as

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outstanding obligations on their disclosure reports. No evidence exists that CFA demanded any payment from the Committee under the lease, or took any action under the default provisions of the lease. Because the parties' obligations under the lease agreement appear to be illusory, the Commission made an independent determination of the value of the Committee's use of CFA's telephone and computer systems. According to the Audit staff's calculations, the value of the Committee's use of CFA's telephone and computer systems was \$8,719.94 for the period of April 15, 1987 through May 30, 1988.¹ For all of the above reasons, it appears that CFA made in-kind contributions to the Committee in connection with the Committee's use of CFA's telephone and computer systems.

5. Salary Expenses of C. Patrick Roberts

CFA paid \$166.75 for expenses of a CFA staff member whose activities were primarily presidential in nature. Correspondence in the Committee's files indicated that Alexander Haig asked C. Patrick Roberts to undertake the leadership of his presidential campaign on December 20, 1986. The parties agreed to a salary of \$8,500 per month. In January of 1987, C. Patrick Roberts joined CFA as vice chairman and chief operating officer. His salary at CFA was \$8,500 per month.

1. The Audit staff's calculations are based on April 15, 1987 as the date of the contribution. The value of the Committee's use of CFA's telephone and computer systems from December 1, 1986 to April 15, 1987 is included in "General, Administrative and Overhead Expenses."

Mr. Roberts' activities were primarily presidential in nature. Correspondence in the Committee's files stated that "Mr. Roberts left an important and secure job . . . in order to lead [Alexander Haig's] campaign and did so in good faith and with the understanding that he would be the Campaign Manager." Available information suggests that CFA paid for expenses incurred by Mr. Roberts while performing duties in support of Alexander Haig's presidential campaign. Therefore, it appears that CFA made an in-kind contribution to the Committee in connection with the payment of Mr. Roberts' expenses.

6. Testing the Waters Activities

CFA incurred expenses totaling \$2,448.44 for testing the waters activities which were presidential in nature. These costs included travel expenses to Arizona and Nevada to meet with the Western States Caucus (\$1,674.50), travel expenses to Palm Beach, Florida (\$20.00) and travel expenses to New Hampshire (\$753.94).

CFA incurred \$1,674.50 in travel costs in connection with meetings of the Western States Caucus. The Western States Caucus, a group made up of members from 13 western states, invited possible 1988 Presidential candidates to attend a meeting on November 14-16, 1986 in Scottsdale, Arizona. The meeting was attended by Dan and Jeannette Clement on behalf of Alexander Haig. The Western States Caucus met again on March 6-7, 1987 in Las Vegas, Nevada. Alexander Haig was scheduled to be the featured speaker at this meeting, but he did not attend the meeting. Thomas Christo attended the meeting on

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behalf of Alexander Haig. In an "After Action Report", Thomas Christo recommended that Alexander Haig write each member, stating: "I think you are a very important group and I look forward to meeting you personally and soliciting your support now that I am an announced candidate." Based upon this information, it appears that the travel expenses incurred in connection with meetings of the Western States Caucus were directly related to Alexander Haig's presidential campaign. Therefore, these travel expenses incurred by CFA constitute in-kind contributions to the Committee.

CFA also incurred \$20.00 in travel expenses for CFA employees C. Patrick Roberts and Tim Jansen to travel to West Palm Beach, Florida, from February 28 through March 3, 1987. The only identifiable activities which occurred in the Palm Beach vicinity were related to the presidential campaign. Therefore, the costs associated with travel by CFA employees to Palm Beach, Florida constitute in-kind contributions from CFA to the Committee.

CFA also incurred \$753.94 in travel expenses in connection with a meeting on March 8-9 in Manchester, New Hampshire and the Olde Tyme Picnic event on March 13-14, 1987 in Manchester, New Hampshire. The Olde Tyme Picnic was held by the Committee in connection with Alexander Haig's campaign. The meeting in Manchester, New Hampshire, on March 8-9, 1987 was attended by Dan Mariaschin, Tim Jansen and Thomas Christo. It appears that the purpose of the meeting was to prepare for the presidential campaign activities which took place on March 13-14, 1987.

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Therefore, the expenses incurred by CFA in connection with the March 8-9, 1987 meeting and the Olde Tyme Picnic, totaling \$753.94, constitute in-kind contributions from CFA to the Committee.

In addition to the foregoing expenses, CFA incurred \$4,263.02 for expenses which appear to be associated with testing the waters activities. These expenses are itemized as follows:

<u>Date</u>	<u>Purpose</u>	<u>Amount</u>
Jan. 14-15, 1987	Manchester, NH travel	\$ 173.41
Feb. 12-13, 1987	Nashville, TN travel	\$2,297.79
Feb. 16-17, 1987	Manchester, NH travel	\$1,263.57
March 15, 1987	Iowa	\$ 528.25

The location, timing and nature of the activity suggests that the expenses itemized above were incurred by CFA in connection with Alexander Haig's presidential campaign. For these reasons, it appears that CFA made in-kind contributions to the Committee for expenses associated with testing the waters activities.

7. Newspaper Subscriptions

CFA made payments for newspaper subscriptions totaling \$183.75 during January through March of 1987. It appears that the subscriptions paid for by CFA were for the benefit of the Committee.

In February of 1987, CFA paid for subscriptions to newspapers, some of which extended into 1988. A February 4,

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1987 internal memo written by Russ McReynolds, CFA's assistant treasurer, recommended that "CFA be deactivated as soon as possible." The information ascertained by the Commission revealed that after April 15, 1987, CFA's activities appeared to focus on winding down its operations. Because CFA and the Committee shared office space, the Committee continued to receive the publications through the end of the subscription periods. Thus, it appears that CFA paid for subscriptions that primarily benefited the Committee. Therefore, the CFA made in-kind contributions to the Committee in connection with newspaper subscriptions.

8. Miscellaneous In-Kind Contributions

CFA made payments to certain vendors for goods and services related to the presidential campaign. The total amount paid by CFA for these goods and services was \$4,720.22. With one exception, these payments were associated with activities that occurred subsequent to Alexander Haig's formal announcement of candidacy.

These miscellaneous in-kind contributions include payments by CFA to the coordinator of the "Salute to America" dinner and the publicity firm for the "Salute to America" dinner for services rendered in the latter part of March and April of 1987, for limousine and security services rendered to Alexander Haig, and Federal Express charges. Also included in these expenses is a \$750 invoice dated March 9, 1987 for "21 different logo directions." The information ascertained by the Commission revealed that these expenses were incurred in connection with

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Alexander Haig's presidential campaign. Therefore, it appears that CFA made in-kind contributions to the Committee totaling \$4,720.22.

8. Undocumented Expenses

CFA also made expenditures for travel expenses totaling \$13,083.80 for which adequate documentation is lacking. These expenditures include payments to Mrs. Patricia Haig from CFA for travel expenses totaling \$12,780. Additionally, CFA made an expenditure in the amount of \$8,083.00 to Computer Rx for computer equipment. The Commission's Audit staff was unable to obtain documentation through the Audit process to determine the purpose of these undocumented expenses. The absence of adequate documentation suggests that these expenses constitute in-kind contributions from CFA. Therefore, it appears that the CFA made in-kind contributions to the Committee in connection with these undocumented expenses totaling \$21,166.80.

9. General, Administrative and Overhead Expenses

In addition to the in-kind contributions made to the Committee discussed above, CFA also provided in-kind contributions related to general, administrative and overhead expenses totaling \$142,757.88. These in-kind contributions resulted from the Committee's use of CFA's staff, office equipment, supplies and office space from the period of December 1, 1986 through April 15, 1987.

The Committee shared office space and equipment with CFA from December 1, 1986 through April 15, 1987. The staff members employed during this period were paid by CFA. CFA's staff

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worked on several projects during this period which benefited the Committee. Thus, the Committee received the value of work performed by CFA's staff, the value of the use of office equipment and supplies rented and purchased by CFA, and the value of occupying CFA's office space without charge during this period.²

The Commission's Audit staff determined that the Committee's share of the general, administrative and overhead expenses for December 1, 1986 through April 15, 1987 is 64.6% of the amount incurred by CFA and CFA-VA for such expenses. This amount totals \$200,949.48. The amount attributable to CFA is \$140,874.26. In addition, the value of the Committee's use of CFA's telephone and computer systems from the period of December 1, 1986 through April 15, 1987 as \$1,883.62.

In conclusion, any value received by the Committee for general, administrative and overhead expenses incurred by CFA represents an in-kind contribution. In addition, the Committee's use of CFA's telephone and computer systems without charge also represents an in-kind contribution. Therefore, it appears that the Committee received in-kind contributions totaling \$142,757.88 in the form of general, administrative and overhead expenses incurred by CFA, as well as the use of CFA's telephone and computer equipment, during the period of December 1, 1986 through April 15, 1987.

2. The Committee paid the April 1987 rent for the use of office space.

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10. Conclusion

The payment of expenses incurred in connection with Alexander Haig's presidential campaign by CFA constitutes in-kind contributions to the Committee. See AO 1985-40. The information ascertained by the Commission indicates that CFA made in-kind contributions to the Committee totaling \$410,225.35. (\$267,467.47 direct and \$142,757.88 indirect). CFA and the Committee shared staff members, office space and equipment. A significant amount of CFA's expenditures were made directly or indirectly on behalf of Alexander Haig's presidential campaign. Because CFA was a multi-candidate committee, it was prohibited from making any contributions to the Committee in excess of \$5,000. Therefore, it appears that CFA made excessive contributions to the Committee totaling \$405,225.35.

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COMMITTEE FOR AMERICA
Summary of In-Kind Contributions
to Haig for President

<u>Report Category</u>	<u>Amount</u>
Salute to America	\$225,257.55
Market Research Institute	\$ 541.00
Computer Equipment	\$ 3,387.36
Telephone System	\$ 5,332.58
C. Patrick Roberts	\$ 166.75
Testing the Waters Activities	
Western States Caucus	\$ 1,674.50
Palm Beach	\$ 20.00
Manchester 3/8 - 3/9	\$ 710.69
Olde Tyme Picnic	\$ 43.25
Subtotal - Direct Testing Waters	\$ 2,448.44
Manchester 1/14 - 1/15	\$ 173.41
Manchester 2/17	\$ 1,263.57
Nashville 2/12 - 2/13	\$ 2,297.79
Iowa 3/15	\$ 528.25
Subtotal - Other Testing Waters	\$ 4,263.02
Newspapers	\$ 183.75
Miscellaneous	
Solters Roskin	\$ 3,238.62
O'Sullivan	\$ 750.00
Misc.	\$ 731.60
Subtotal - Misc.	\$ 4,720.22
Undocumented Expenses	
Travel Expenses	\$ 13,083.80
Computer Rx	\$ 8,083.00
Subtotal - Undocumented Expenses	\$ 21,166.80
TOTAL DIRECT CONTRIBUTIONS	\$267,467.47

75043643186

COMMITTEE FOR AMERICA
Summary of In-Kind Contributions
to Haig for President

<u>Report Category</u>	<u>Amount</u>
General, Administrative and Overhead	\$140,874.26
Computer 12/1/86 - 4/15/87	5 787.73
Telephone 12/1/86 - 4/15/87	\$ 1,095.89
TOTAL INDIRECT CONTRIBUTIONS	\$142,757.88
TOTAL DIRECT AND INDIRECT	\$410,225.35

7504-043107



WORLDWIDE ASSOCIATES, INC.

ALEXANDER M. HAIG, JR.
PRESIDENT

SHERWOOD D. GOLDBERG
DIRECTOR

June 3, 1993

Mary Ann Bumgarner, Esq.
Federal Election Commission
Washington, DC 20463

RE: MUR 3367
Committee for America

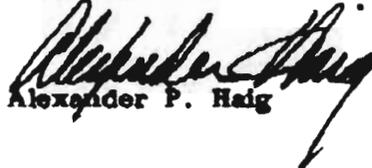
Dear Ms. Bumgarner:

Enclosed please find a copy of the designation of counsel statement signed by Mr. Sherwood Goldberg, Treasurer for Committee for America.

On his behalf, we are hereby requesting an extension of time in which to respond to the FRC Factual and Legal Analysis, a copy of which was received on May 24. Mr. Goldberg has been and will be engaged in domestic and overseas business travel through much of the months of May and June. (May 24 - New York, May 26 through 27 - San Diego, May 29 through June 4 - overseas, June 12 through 13 - overseas, June 21 - New York). In view of this schedule, Mr. Goldberg will require an extension of time in order to review documents and properly respond to the factual and legal positions of the FEC.

Accordingly, we request an extension until June 30 in which to prepare a response.

Sincerely,


Alexander P. Haig

Enclosures

RECEIVED
FEDERAL ELECTION COMMISSION
MAY 11 1993
93 JUN -4 AM 8:25

5043643188

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3367

NAME OF COUNSEL: Alexander P. Haig

ADDRESS: 1155 15th St., NW Suite 800
Washington, DC 20005

TELEPHONE: 202/429-9788

93 JUN -4 AM 8:29

RECEIVED
GENERAL INVESTIGATIVE DIVISION

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

3 June 1993
Date

Sherwood D. Goldberg
Signature

RESPONDENT'S NAME: Sherwood D. Goldberg

ADDRESS: 1155 15th St., NW Suite 800
Washington, DC 20005

HOME PHONE: 202/296-4263

BUSINESS PHONE: 202/429-9788

75043643189

STATEMENT OF DESIGNATION OF COUNSEL

NUM. 3867

NAME OF COUNSEL: Alexander P. Haig

ADDRESS: 1155 15th St. N.W. Suite 800
Washington D.C. 20005

TELEPHONE: 202-429-9788

The above-named individual is hereby designated as my
counsel and is authorized to receive any notifications and other
communications from the Commission and to act on my behalf before
the Commission.

June 3 1993
Date

[Signature]
Signature

RESPONDENT'S NAME: Donnie J Saraceno

ADDRESS: 15 SURAWAY RD
NEWTON. MA. 02458

HOME PHONE: 617-527-8034

BUSINESS PHONE: 617-965-8030

25043643190



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20461

JUNE 8, 1993

Alexander P. Haig, Esquire
c/o Worldwide Associates, Inc.
Suite 800
1155 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 3367
Committee for America and
Sherwood D. Goldberg, as
treasurer

Dear Mr. Haig:

This is in response to your letter dated June 3, 1993, which we received on that same date, requesting an extension until June 30, 1993, to respond to the Commission's reason to believe finding in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 30, 1993.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary Ann Bumgarner".

Mary Ann Bumgarner
Attorney

25043643191



WORLDWIDE ASSOCIATES, INC.

ALEXANDER M. HAIG, JR.
PRESIDENT

SHERWOOD D. GOLDBERG
DIRECTOR

June 14, 1993

Mary Ann Bumgarner, Esq.
Federal Election Commission
Washington, DC 20463

Re: MUR 3367
Haig For President

Dear Ms. Bumgarner:

On behalf of Haig for President and its Treasurer, Mr. Dominic Saraceno, we are hereby requesting an extension of time in which to respond to the FEC Factual and Legal Analysis, a copy of which was received on June 2, 1993. The request is made as a result of a heavy overseas travel schedule (May 29 through June 4 - overseas, June 12-18 - overseas, June 21 - New York) by General Haig and key members of his staff responsible for retrieving files and relevant information necessary to properly respond to the factual and legal positions of presented by the FEC.

Accordingly, we request an extension until June 30 in which to prepare a response.

Sincerely,

Alexander P. Haig
Alexander P. Haig, Esq.

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FEDERAL ELECTION COMMISSION

15043643192



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUNE 17, 1993

Alexander P. Haig, Esquire
c/o Worldwide Associates, Inc.
Suite 800
1155 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 3367
Haig for President and
Dominic Saraceno, as
treasurer

Dear Mr. Haig:

This is in response to your letter dated June 14, 1993, which we received on June 15, 1993, requesting an extension until June 30, 1993, to respond to the Commission's reason to believe findings in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on June 30, 1993.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,


Mary Ann Bumgarner
Attorney

25043643193

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

OAC 9302
RECEIVED
FEDERAL ELECTION COMMISSION
93 JUN 29 PM 3:43

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

June 29, 1993

Mary Ann Bumgarner, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3367

Dear Ms. Bumgarner:

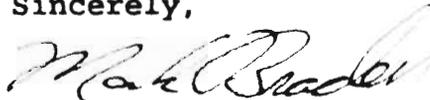
Enclosed with this letter is a Statement of Designation of Counsel from the Haig For President Committee designating me as counsel to the Committee.

Since I have just been retained as counsel to the Committee, I have insufficient time to prepare an adequate response to the General Counsel's factual and legal analysis and proposed conciliation agreement prior to the date a response is presently due June 30th. As discussed in our telephone conversation Friday, June 25th, I would request that the Commission extend the date for response until July 15th. This will provide me with the opportunity to review the Committee's records which are principally in the Commission's possession and to formulate a detailed response following the examination.

I wish to thank you in advance for your cooperation in this matter.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



E. Mark Braden

EMB/bss
Enclosure

cc: Alexander Haig

25043643194

93 JUN 29 PM 3:43

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3367/2717/2903

NAME OF COUNSEL: E. Mark Braden

ADDRESS: Baker & Hostetler
Washington Square
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 861-1500

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

June 29, 1993
Date

Clutterbuck M. Haig
Signature

RESPONDENT'S NAME: Haig For President

ADDRESS: 1155 15th Street, N.W., Suite 800
Washington, D.C. 20005

TELEPHONE: HOME (703) 734-1742

BUSINESS (202) 429-9788

125 436431



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUNE 30, 1993

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3367
Haig for President

Dear Mr. Braden:

This is in response to your letter dated June 29, 1993, which we received on June 29, 1993, requesting an extension until July 15, 1993, to respond to the Commission's reason to believe findings in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 15, 1993.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Bumgarner".

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION MAIL ROOM

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3367/2717/2903

NAME OF COUNSEL: E. Mark Braden

ADDRESS: Baker & Hostetler

Washington Square

1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

TELEPHONE: (202) 861-1500

93 JUL -6 PM 3:43
FEDERAL ELECTION COMMISSION

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/29/93
Date

Clifford M. Haig
Signature

RESPONDENT'S NAME: Haig For President

ADDRESS: 1155 15th Street, N.W., Suite 800

Washington, D.C. 20005

TELEPHONE: HOME (703) 734-1742

BUSINESS (202) 429-9788

25043643197

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**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

JUL 12 11 02 AM '93

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357278
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

July 8, 1993

Mary Ann Bumgarner, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3367

Dear Ms. Bumgarner:

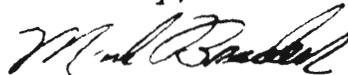
Enclosed with this letter is a Statement of Designation of Counsel from the Committee for America designating me as counsel to the Committee.

Since I have just been retained as counsel to the Committee, I have insufficient time to prepare an adequate response to the General Counsel's factual and legal analysis and proposed conciliation agreement prior to the date a response is presently due June 30th. As discussed in our telephone conversation today, I request that the Commission extend the date for response until July 15th. This will provide me with the opportunity to review the Committee's records which are principally in the Commission's possession and to formulate a detailed response following the examination.

I wish to thank you in advance for your cooperation in this matter.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



E. Mark Braden

EMB/bss
Enclosure

cc: Sherwood D. Goldberg
Committee for America

93 JUL 12 PM 3:34
RECEIVED
FEDERAL ELECTION COMMISSION

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3367

NAME OF COUNSEL: E. Mark Braden, Esq.

ADDRESS: Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Ave., NW
Washington, DC 20036

TELEPHONE: 202/861-1500

93 JUL 12 PM 3:34

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

6/25/93
Date


Signature

RESPONDENT'S NAME: Sherwood D. Goldberg

ADDRESS: 1155 15th St., NW Suite 800
Washington, DC 20005

HOME PHONE: 202/296-4263

BUSINESS PHONE: 202/429-9788

15043643199



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JULY 14, 1993

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3367
Committee for America
and Sherwood D.
Goldberg, as treasurer

Dear Mr. Braden:

This is in response to your letter dated July 8, 1993, which we received on July 12, 1993, requesting an extension until July 15, 1993, to respond to the Commission's reason to believe finding in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on July 15, 1993.

If you have any questions, please contact me at
(202) 219-3690.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Bumgarner".

Mary Ann Bumgarner
Attorney

15043643200

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**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357278
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

July 14, 1993

The Honorable Scott Thomas
Chairman
Federal Election Commission
999 E Street., N.W.
Washington, D.C. 20463

Attention: Mary Ann Bumgarner, Esquire

Re: MUR 3367, Haig for President
and Committee for America

Dear Chairman Thomas:

This letter is in response to the Federal Election Commission ("Commission") letters of May 21, 1993 to Haig for President ("HFP") and the Committee for America ("CFA"). Your letters stated that the Commission had found that there was reason to believe that Haig for President and Committee for America had violated 2 U.S.C. §§ 441a(f) and 441b(a), provisions of the Federal Election Campaign Act of 1971 as amended ("the Act"), 11 C.F.R. § 9034.8(c) of the Commission's regulations and 26 U.S.C. § 9042(c). Your letters also enclosed a Factual and Legal Analysis which formed the basis for the Commission's findings and proposed Conciliation Agreements for HFP and CFA.

A single response is being filed on behalf of HFP and CFA since the financial circumstances of the two organizations dictate the most economical method of formulating a response. Each organization has been inactive for more than five years. Each has a debt exceeding its assets.

HFP and CFA recognize that certain actions were taken during their operations which resulted in inadvertent violations of the Act. For this reason, the Committees are interested in entering into negotiations directed towards reaching a conciliation agreement to settle possible violations at the earliest practical

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The Honorable Scott Thomas
July 15, 1993
Page 2

date. This acknowledgement that some actions by HFP and CFA may have resulted in inadvertent violation of certain provisions of the Act does not indicate an agreement with the Factual and Legal Analysis on which the Commission based its reasons to believe findings. Its conclusions and analysis are significantly flawed. We will address our disagreement with the Factual and Legal Analysis in a detailed supplemental response. We will provide the Commission with affidavits from the individuals named in the Factual and Legal Analysis which will refute certain conclusions and their factual basis.

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Significant portions of the Factual and Legal Analysis provided with the notification letters are summarizations of audit findings. The respondents are unable to respond to these issues in any meaningful manner without substantial additional information from the Commission's Audit Division explaining the basis for the conclusions contained in the Factual and Legal Analysis. The General Counsel's office has authorized the Audit Division to provide access to the individuals involved in the audit of CFA and HFP. This will permit the respondents to formulate a coherent response. An initial meeting is scheduled for Monday, July 19.

The Commission should be aware of the astonishment engendered when HFP and CFA received notification of the opening of new enforcement actions more than five years after these committees last activities. Since HFP and CFA have been inactive for more than five years, the individuals, volunteer and paid, who were involved in their operation are scattered across the world. We are diligently seeking to contact these individuals to obtain information from them in order to respond accurately and in detail to the Factual and Legal Analysis. After accessing the audit materials and contacting the individuals we can locate, the Committees will respond specifically to each point in the Factual and Legal Analysis.

There are two other matters under review at the Commission involving Haig for President (MUR 2903 and MUR 2717). For three years, HFP has received no communication from the Commission in regards to these matters.

HFP and CFA believe that conciliation and negotiations are the appropriate vehicles for the resolution of all the outstanding issues regarding their activities. It is the respondents' position that it is not appropriate for a conciliation process to move to conclusion if there are other pending matters involving the same parties whose status is unknown to them. Any other pending MURs and any other matters which the Commission may be considering should be closed and/or conciliation agreements proposed.

The Honorable Scott Thomas
July 15, 1993
Page 3

Fairness demands that this process not be interminable. It is grossly unfair for the Commission to expect HFP or CFA to resolve these matters without assurance as to the status of the other enforcement matters and the potential ramifications of the Commission's analysis of other issues. These participants should be able to resolve these matters in a single proceeding.

HFP and CFA were not operated by experienced political professionals. Each was comparatively small and underfunded. The HFP committee was the first and only political campaign experience of Alexander Haig. This lack of resources and experience combined with the undeniable complexity and vagueness of the distinctions which the Commission has attempted to make between campaign, testing the waters, and other legitimate political activities of multi-candidate political committee all mediate strongly against a significant financial penalty. The proposed civil fines in the conciliation agreements are wholly inappropriate even if the General Counsel's Factual and Legal Analysis were without flaw.

The relationships between principal campaign committees and multi-candidate political committees with which presidential candidates and potential candidates have been closely associated is not a new issue for the Commission. The relationship between CFA and HFP is fundamentally no different than that of virtually every major non incumbent candidate for the Republican or Democratic presidential nomination and numerous related political committees. The proposed fines are vastly greater than those which the Commission imposed in these similar situations in numerous past presidential cycles.

Respondents respectfully request that the Commission stay its conciliation process pending the release of information regarding any other outstanding Commission matters involving respondents. The respondents will, during this period, provide specific responses to each issue raised in the Factual and Legal Analysis.

Sincerely,



E. Mark Braden

EMB/bss

15043643203



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 27, 1993

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3367
Haig for President
and Committee for America
and Sherwood D. Goldberg,
as treasurer

Dear Mr. Braden:

This letter confirms our conversation of July 27, 1993, during which this Office inquired as to when you would be submitting the supplemental response to the Commission's reason to believe findings in the above-referenced matter. As agreed, your response is due by the close of business on July 30, 1993.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner
Mary Ann Bumgarner
Attorney

25043643204



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

July 30, 1993

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3367
Haig for President
and Committee for America
and Sherwood D. Goldberg,
as treasurer

Dear Mr. Braden:

As per our discussion on July 30, 1993, it is this Office's understanding that you will be unable to submit the respondents' supplemental response which was due by close of business on July 30, 1993. As agreed, your response is now due by the close of business Monday, August 2, 1993.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,


Mary Ann Bumgarner
Attorney

25043643205

**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

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AUG 2 RECD
Aug 2, 1993 5:40

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276 --1504
WRITER'S DIRECT DIAL NUMBER (202)

August 2, 1993

The Honorable Scott Thomas
Chairman
Federal Election Commission
999 E Street., N.W.
Washington, D.C. 20463

Attention: Mary Ann Bumgarner, Esquire
General Counsel Office

Re: MUR 3367, Haig for President
and Committee for America

Dear Chairman Thomas:

This letter and accompanying material is a supplemental response to the July 14, 1993 letter to the Federal Election Commission ("Commission") from Haig for President ("HFP") and Committee for America ("CFA").

This letter provides specific responses to each of the issues raised in the Factual and Legal Analysis which was enclosed with the Commission letters of May 21, 1993 to these Respondents. This letter will not reiterate those process arguments made in the July 14, 1993 response, but deals solely with the specific issues raised in the Factual and Legal Analysis.

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AUG 2 1993

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I. COMMITTEE FOR AMERICA

Committee for America ("CFA") is a multi-candidate political committee which was formed for the purpose of supporting Republican candidates for the United States House and Senate, state legislatures and gubernatorial races and to advocate certain policies and ideals with regard to economics and United States foreign policy. See Exhibit A.

In support of its goals and purposes, CFA made contributions totalling \$14,325.00 to House and Senate candidates, as well as local party efforts, in 1986. See Exhibit B.

In addition, Alexander M. Haig ("Haig") traveled throughout the United States on behalf of CFA for the purpose of raising money for local Republican parties and other organizations and to advocate certain public policy positions. Haig also made appearances in support of federal, state and local candidates. A list of some of the events CFA participated in is provided to illustrate the Committee's activities:

- August 19, 1986 - Haig attended the bipartisan Southern Governor's Association annual meeting in Charlotte, North Carolina.
- On October 19, 1986 - CFA conducted a joint fundraiser with the California Lincoln Club's Political Action Committee.
- On October 30, 1986 - CFA conducted a joint fundraiser with Salamonti for Congress in Old Bridge, New Jersey.

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October 30, 1986 - Haig participated in Flagler College's "Forum 86" in St. Augustine, Florida.

- January 7, 1987 - Haig addressed a gathering of the University of Arizona College Republicans in Tucson, Arizona.
- January 10, 1987 - Haig attended a meeting of the Jewish Federation of Memphis in Memphis, Tennessee. Haig addressed the group and discussed U.S./Israeli relations and other foreign policy subjects.
- January 10, 1987 - Haig attended a meeting of the Pacesetters Club of the Jewish Federation of Central New Jersey. Haig addressed the group and discussed foreign policy matters.
- February 12, 1987 - Haig addressed the Stanton Group in Washington, D.C. Haig spoke regarding defense and foreign policy matters.
- February 19, 1987 - Haig was the speaker at the annual Staten Island Lincoln Day Dinner in Staten Island, New York.
- February 26, 1987 - Haig addressed a meeting of the Banker's Club of Cincinnati in Cincinnati, Ohio.
- February 27, 1987 - Haig addressed the Suncoast Tiger Bay Club in St. Petersburg, Florida. The Suncoast Tiger Bay Club is a non-partisan group of business and political leaders.

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- February 27, 1987 - Haig was the speaker at the Hillsborough County Republican Committee's annual Lincoln Day Dinner.
- February 28, 1987 - Haig attended a dinner gathering of the Council for National Policy in Palm Beach, Florida.
- March 7, 1987 - Haig addressed a gathering of the Beacon Society in Boston, Massachusetts.

II. SALUTE TO AMERICA DINNER

On March 23, 1987, CFA sponsored the Salute to America Dinner ("the dinner") at the Waldorf Astoria Hotel in New York City. The Commission's audit determined that \$225,257.55 in expenditures were made by CFA for that dinner. CFA does not dispute that this amount was spent on the dinner. CFA does dispute the Commission's conclusion that the total cost of this dinner was an in-kind contribution to Haig for President ("HFP") by CFA. The analysis provides scant support for this conclusion. The Commission notes only three factors as to why the total costs of this dinner should be viewed as an in-kind contribution to HFP:

(1) unnamed press accounts which "described the event as an announcement gala and as a nominating convention" (sic).¹;

(2) Alexander Haig was the featured speaker at the dinner and stated that he would declare his candidacy for the

¹ Factual and Legal analysis, Page 6.

25043643209

Republican nomination the next day; and

(3) HFP originally considered having an announcement fundraising dinner.

Salute to America was a fundraising dinner for CFA. See Affidavit of C. Patrick Roberts, ¶ 6. The invitations to the dinner stated it was a fundraising dinner for CFA. See Exhibit C. The invitations make no mention of a presidential campaign. Id. The proceeds of the dinner were received by CFA, not HFP.

No Haig for President material was distributed at the dinner, additionally, there were no Haig for President banners at the dinner, nor any speeches given expressly advocating that Alexander Haig be the Republican nominee for President of the United States. Id. No speaker asked the audience to support the Haig candidacy. Id. No one asked for votes for Haig nor for contributions to his campaign. Alexander Haig did not announce his candidacy at the dinner. (emphasis added). All of these essential facts are absent from the Commission's Factual and Legal analysis.

Numerous candidates, future candidates and potential candidates appear across the country in hundreds of fundraising events for political committees. Their appearances have theoretical political value for them, as would appearances on various news programs, commencement podiums and virtually every other type of public appearance. Whether such appearances result

25043643210

The Honorable Scott Thomas
August 2, 1993
Page 6

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in contributions is not a new issue for the Commission. Advisory Opinion 1977-42 states "recent advisory opinions of the Commissions have concluded that a 'contribution' or 'expenditure' would not necessarily occur in certain specific circumstances where the major purpose of activities involving appearances of candidates for federal office was not to influence their nomination or election. These opinions were, however, conditioned on (i) the absence of any communication expressly advocating the nomination or election of the candidate involved or the defeat of any other candidate, and (ii) the avoidance of any solicitation, making, or acceptance of campaign contributions for the candidate in connection with the activity". See Advisory Opinions 1977-54 and 1978-15, see also Advisory Opinion 1977-42 and Advisory Opinion 1978-4.

The Commission consistently returns to these two factors when analyzing whether particular activities involving the participation of a candidate or potential candidate result in the contribution to or expenditure on behalf of such candidate under the Act. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-20, 1978-56, 1978-15, 1977-54. Most recently, in Advisory Opinion 1992-5, the Commission again reiterated that these two factors were the basic tests for determining whether particular event expenditures are contributions to a federal candidate. The Commission has specifically recognized that contributions or expenditures for

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federal candidates would not necessarily result in circumstances involving candidates serving as chairpersons of political, charitable or issue organizations. See Advisory Opinion 1978-5, 1978-15, 1977-54.

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The Factual and Legal analysis provides the Commission with no evidence of any communication at the dinner expressly advocating the nomination or election of Alexander Haig or the defeat of any other candidate. The political contributions solicited at the dinner were for CFA, not HFP. In order to conclude that this dinner is an in-kind contribution to HFP, when it raised money for CFA and at which no expressed advocacy is even alleged, the Commission would be required to ignore its prior publicly expressed tests. The Factual and Legal analysis suggests retroactively applying a new review method to this issue. The parameters of this new method are less than clear.

The Commission's regulatory responsibilities involve the most sensitive First Amendment political rights. For the Act to be constitutional in light of its significant impact on fundamental First Amendment rights, the Supreme Court requires it be interpreted narrowly. Buckley v. Valeo, 424 U.S. 1 (1976). The Commission enforcement process must provide clear guidelines to political participants so as not to chill political activity. If political committees are not granted wide latitude to disseminate information and to operate without government interference, they will steer far wide of the unlawful zone,

thereby depriving citizens of valuable opinions, information and political expression. Speiser v. Randall, 357 U.S. 513, 526 (1958). This danger is especially acute when an official agency of the government has been created to "scrutinize political activity and expression, for such bureaucracies feed upon speech and almost ineluctably come to view unrestrained expression as a potential evil to be tamed, muzzled or sterilized." Central Long Island Tax Reform v. FEC, 616 F.2d 45 at 54-55 (2d Cir. 1980). A purely subjective analysis, such as recommended in this enforcement action is impractical, unwise and probably unconstitutional. Such a vague and undelineated analysis will provide future campaigns with little or no guidance as to permissible activities, and will inevitably chill political free speech rights.

The "true purpose"² of the Salute to America Dinner was to raise money for CFA and CFA-VA. The event was not "an announcement gala" or a "nominating convention"³ (sic). The Salute to America dinner became the subject of the media's speculation that Haig would announce his candidacy for President. CFA had no direct control over how the press reported this event. In fact, the event was never described to the press as an announcement gala. No documents nor statements from the CFA's

² Factual and Legal analysis, Page 6.

³ Id.

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press spokesman ever indicated to the press that the event was an announcement gala.⁴ The program and other printed materials for the dinner make no reference to a potential presidential campaign. It is therefore unreasonable for the Commission to conclude that this event was an announcement gala based on unnamed press accounts which inaccurately reflect the purpose of the dinner.

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HFP did at one time consider having an announcement dinner and undertook some steps to arrange such an event. However, HFP later changed its plans. General Haig made a political decision that he would announce his candidacy at a morning press conference. There would be no announcement dinner. CFA determined that a fundraising dinner could be held on the date and location originally contemplated for an announcement event. There was some slight initial confusion over the intent and sponsor of the event. HFP made significant efforts to clarify that the event was sponsored by and was a fundraising dinner for CFA with those few individuals who had received invitations to the originally contemplated event for the presidential campaign. The Act does not prohibit a presidential campaign from changing its intentions.

III. POLLING AND TRAVEL EXPENSES

⁴ See Affidavit of Dan Mariaschin, ¶ 5.

HFP does not dispute that the payments made to MRI by CFA-VA and CFA for polling expenses totalling \$24,510.50 should have been paid by HFP. At this point, six years after these payments were made neither HFP nor CFA are able to determine why this mistake occurred.

HFP does not dispute that the payments made to Premier Travel by CFA-VA for travel expenses totaling \$4,386 for travel to Iowa on March 24-25, 1987 by Alexander Haig and his wife, should have been paid for by HFP. At this point, six years after these payments were made neither HFP nor CFA are able to determine why this mistake occurred.

IV. USE OF TELEPHONE AND COMPUTER SYSTEMS

HFP entered into an agreement with CFA for the lease of office furniture, computer equipment and other fixtures. The terms of the lease included a monthly payment which reflected a fair market price. The terms of the lease are commercially reasonable. HFP did fail to make payments pursuant to the lease and presently owes CFA \$10,320.00 pursuant to the lease agreement. HFP and CFA are prepared at the Commission's direction to amend their disclosure reports to reflect this outstanding obligation. The obligation of HFP is not illusory. The agreement is valid and enforceable. The fact that a committee is unable to pay debts reasonably and lawfully incurred does not mean that the creditor has made a contribution to the

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debtor political committee. An examination of disclosure reports of numerous principal campaign committees of defeated candidates provides ample evidence of how often such circumstances arise.

V. SALARY EXPENSES OF C. PATRICK ROBERTS

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The Factual Legal Analysis concludes that all salary and expenses paid by CFA and CFA-VA to C. Patrick Roberts were in-kind contributions to HFP. The Commission's findings appear to be based principally upon a single correspondence from Mr. Roberts' attorney to CFA which was an attempt to resolve a financial dispute arising out of Mr. Roberts' resignation from CFA. The Respondents do not dispute that Mr. Roberts was contacted by General Alexander Haig about possibly undertaking the management of a potential presidential campaign. It was certainly contemplated by these parties that Roberts would become the campaign manager if Alexander Haig determined to seek the Republican Presidential nomination. However, Roberts was hired to be the vice chairman and chief operating officer of CFA. See C. Patrick Roberts Affidavit, ¶ 3. The fact that Haig and Roberts discussed a potential role as campaign manager does not change the fact that he was paid by CFA to operate and manage CFA.

The Factual and Legal Analysis would require Mr. Roberts to have managed CFA as a volunteer. He was paid for his work for CFA. Id. The fact that a potential role as campaign manager in a

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Page 12

possible future campaign was discussed does not change that Roberts was employed by CFA and received payment for his services. Id. The Factual and Legal Analysis contemplates that CFA should have received services from Mr. Roberts for free, that the management of this multi-candidate political committee was a task that justified no compensation. No rationale for this conclusion is provided. Mr. Roberts' affidavit is clear.

VI. TESTING THE WATERS ACTIVITIES

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The Factual and Legal Analysis asserts that a variety of travel expenses to Arizona, Nevada, Palm Beach, and New Hampshire were testing the waters activities paid for by CFA and CFA- VA which should be considered in-kind contributions to HFP. The Commission's audit report provides remarkably inadequate support for these assertions. There are no illustrations or examples of specific campaign activities at any of these locations. The audit decision that Thomas Christo's trips to the Western States Caucus were 'testing the waters' activity is based solely on a note sent to General Haig after he announced his candidacy suggesting that he re-contact individuals that Christo met in Arizona and Nevada. What testing the waters activities did Christo conduct in Arizona and Nevada? No examples of testing the water activities appear in the Commission's analysis. No description is given of activities in Palm Beach which relate to a presidential campaign. The Commission cannot presume that

travel paid for by CFA is presidential or testing the waters activity. It is the Commission's responsibility to delineate clearly why these activities were presidential or testing the waters. Only then would it be appropriate for CFA to explain its purposes behind these trips.

VII. NEWSPAPER & OTHER SUBSCRIPTIONS

CFA does not dispute that payments for newspaper and other subscriptions totalling \$2,510.99 were made during January through March 1987.

During these months, the staff and management of CFA was in transition. Contrary to the conclusion drawn from a single memorandum reference,⁵ when CFA and CFA-VA would "deactivate" was far from finally decided when these subscriptions were obtained. The subscriptions were routine, little considered expenditures for the benefit of CFA and CFA-VA. There is nothing unusual about political committees subscribing to publications. Six month subscriptions are of modest duration. If this were a scheme to provide these publications to HFP without cost the subscriptions would certainly have been for more than six months. CFA-VA terminated on May 29, 1987. When CFA-VA terminated, it was possible that some subscriptions which it had purchased may have continued to be delivered at its prior address. At most, a

⁵ Factual and Legal Analysis, p. 14.

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six-month newspaper subscription begun in January or February, might have continued for an additional month. In the normal course of business a refund is not available if a newspaper subscription is cancelled. The actual value received by HFP of newspapers after CFA-VA terminated and CFA activities diminished, is minimal and significantly less than the total subscription costs which are alleged to be in-kind contributions. CFA and CFA-VA received the majority of newspaper subscription copies prior to the establishment of HFP.

This issue is not an appropriate matter for the Commission's enforcement process. Is a volunteer bringing in newspaper into a the campaign headquarters on a daily basis making an in-kind contribution to the campaign? Newspaper and other subscriptions are the types of minor continuing activities which do not warrant a the Commission attempt to classify them as contributions or expenditures.

VIII. MISCELLANEOUS IN-KIND CONTRIBUTIONS

The Factual and Legal analysis states that miscellaneous in-kind contributions occurred when payments were made "by CFA and CFA-VA to the coordinator of the 'Salute to America' dinner and the publicity firm for the 'Salute to America dinner'. Since the Salute to America dinner was not an HFP campaign event, the expenditures for the coordinator and the publicity for the dinner are not in-kind contributions to HFP. This section additionally

stated that: "Also included in the audit materials was a \$750 invoice dated March 9, 1987 for '21 different logo directions.'⁶ There is no statement in the analysis that these are Haig for President "logo directions." The Commission has no factual basis to conclude that this expenditure was an in-kind contribution.

IX. UNDOCUMENTED EXPENDITURES

The Commission's analysis states that there were expenditures for travel totaling \$37,127.44 for which the audit staff was unable to obtain documentation. The Factual and Legal Analysis then concludes that "the absence of adequate documentation suggests that these expenditures constitute an in-kind contribution from CFA and CFA-VA."⁷

The presumption that any expenditure that the audit staff cannot understand is a Presidential exploratory expenditure is not supported by the Act, the Commission's regulations nor prior Commission action. There is no indication that CFA lacks sufficient records to meet its statutory record keeping obligations for these expenditures. CFA had all of the records the Act or the Commission's regulations require. 11 CFR § 102.9(b)(i)(iv); 11 CFR § 104.3(b)(3)(i)(A). Apparently, the audit staff was unable to conclude to its complete satisfaction

⁶ Factual and Legal analysis, p. 15.

⁷ Factual and Legal analysis, 16.

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what was the "political reason or purpose" of these expenditures. For the Commission to leap from its staff's inability to understand CFA's purpose in making these expenditures to the conclusion that the expenditures must then be in-kind contributions to a presidential campaign is unreasonable.

CFA and CFA-VA should not be required to carry the burden of proving these expenditures were not in-kind contributions to HFP six years after these expenditures were disbursed. If CFA had received public funding, then possibly there would be an affirmative obligation. CFA received no public funds, therefore the burden is upon the Commission to present evidence as to why these expenditures should be considered in-kind contributions to HFP. The Commission makes no allegation that it has insufficient records from CFA to meet the Act's record keeping requirements. CFA's records and the participant's memories are simply inadequate to meet a new and novel requirement that political committees prove that each and every committee expenditure was not an in-kind contribution to a campaign. The Commission cannot lawfully demand that a political committee which has not received public funds explain and justify each disbursement to an extent not required by the Act or Commission regulations (2 U.S.C. § 434(b)(6)(A)(B)(V); 11 CFR § 104.3). CFA has provided the Commission with the "purpose", a brief statement or description of why each disbursement was made in a manner as illustrated in the Commission's regulations (11 CFR § 104.3(b)(3)(i)(B)). To

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explain the "purpose" of a disbursement more than six years later in greater detail than the Commission's regulations require is a substantial burden for a functioning political committee, and intolerable for one that has been effectively dormant for many years.

X. GENERAL ADMINISTRATIVE OVERHEAD AND EXPENSES

The audit determined that HFP's share of the general and administrative overhead expenses for December 1, 1986 through December 15, 1987, was 64.6 percent of the total amount of \$200,949.48 incurred by CFA and CFA-VA. If this conclusion is accepted, the Commissioners will have turned the Commission's enforcement process down an uncharted and dangerous path.

The relationship between a multi-candidate political committee associated with a particular potential presidential candidate and their principal campaign committee, cannot be an issue of first impression for the Commission. The Commission has dealt with similar relationships between committees such as Citizens for Republic and the Reagan for President Committee; George Bush for President Committee and the Fund for Limited Government; George Bush for President Committee and Fund for America's Future; the John Connally for President Committee and the John Connally Citizens' Forum; and Bob Dole for President and Campaign America; Kemp and Campaign for Prosperity; a complete list would be much longer. Are there any major non-incumbent

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candidates for the Republican or Democratic presidential nomination in the last 20 years who are not or were not associated with, founders of or chairmen of organizations like CFA? A review of the Commission's audit and public enforcement files fails to disclose a single multi-candidate/Presidential committee relationship analyzed by the Commissioners in the manner proposed in M.U.R. 3367.

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The relationship between CFA and HFP is fundamentally no different than that of these other organization and campaigns. The operation of CFA was patterned after these operations. The Commission gave these respondents no indication that the "rules of the game" would be changed in 1993 and applied retroactively to 1986. This M.U.R. is a fundamental change in the Commission's enforcement policies. For the Commission to have the audit staff examine each expenditure of a multi-candidate political committee associated with a potential presidential candidate and make a determination as to whether each expenditure is a presidential expenditure, not based upon any specific campaign event or expressed advocacy language but an auditor's opinion with a vague reference as to appearance or location, this is a new and unenforceable review standard. Commission regulations provide that "[e]xpenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a

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clearly identified candidate and the expenditure can be directly attributed to that candidate." 11 C.F.R. § 106.1(c); see also 11 C.F.R. § 100.7(a)(3).

Even if the underlying theory and methodology was not flawed, the expenditures assigned to "Presidential purpose" which provide the basis for the percentage analysis are grossly inflated. They include the Salute to American dinner, salary expenses of C. Patrick Roberts, undocumented expenses and other miscellaneous alleged in-kind contributions which are improperly defined as Presidential. If these expenditures are removed from the audit analysis, the percentage of general administrative and overhead expenses which are alleged to be in-kind contributions diminish substantially.

If the Commission wishes to change its position on how these organizations must be operated to comply with the Act, the change should be publicly enacted and through the regulatory process. The participants in Presidential campaigns and other political committees then would be provided with appropriate notice on which to base their actions. The Commission's retroactive position on these relationships is fundamentally unfair to HFP, CFA and Alexander Haig.

HFP should be treated the same as other presidential committees. CFA should be treated the same as Citizens for the Republic, John Connally Citizens' Forum, Democratic Leadership Council, Fund for Limited Government, Fund for America Future

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Campaign America, Campaign for Prosperity, PUSH, or any of the myriad of other committees and organizations which have involved presidential aspirants.

XI. JOINT FUNDRAISING ACTIVITIES

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HFP does not contest that checks totalling \$437.50 received in connection with joint fund raising activities with the Kevin Hermening for Congress Committee were altered. The factual description on this issue in the analysis is correct but incomplete. The analysis fails to explain HFP's proactive efforts to resolve this problem. At issue here are the misguided actions of an inexperienced employee of the campaign, Russell Primavera. As soon as HFP became aware of any concerns regarding this joint fund raising event, immediate steps were taken to ascertain the facts and to undertake corrective measures. The campaign's management insisted that Mr. Primavera fully disclose his actions to the Commission. The letter from Mr. Primavera is his personally drafted attempt to explain his actions. HFP immediately terminated the employment of Mr. Primavera upon finding that he had altered documents submitted to the Commission.

The Commission's joint fund raising regulations are complex which may in part explain Mr. Primavera's actions. He may not have understood that the actions he was taking were inappropriate even though HFP employees had received guidance on these issues.

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While reviewing this issue, the Commission should give careful consideration to two other mitigating factors:

- (1) the small monetary sum at issue; and
- (2) the absence of other problems with HFP matching funds submissions which provide evidence as to the care that was taken in assuring compliance in the public funding process.

CONCLUSION

CFA and HPF are interested in negotiations to reach conciliation agreements, to settle all outstanding issues from their operations. The Respondents repeat their request that the Commission provide guidance on the status of other issues which are, or may be pending at the Commission involving these political committees and individuals.

These Respondents cannot enter into meaningful conciliation negotiations without this indispensable information.

We look forward to cooperating with the Commission in resolving this matter.

Respectfully submitted,



E. Mark Braden
Counsel for Haig for President
and Committee for America

EMB/bss

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Committee for America

The Honorable Alexander M. Haig, Jr.
Chairman

C. Patrick Roberts
Vice Chairman

Sherwood D. Goldberg
Treasurer

James T. Flack
National Finance Director

Daniel S. Mariaschin
Communications and Research Director

ADVISORY BOARD

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The Honorable Arthur Hummel

Mr. Gerald F. Jones, Jr.

Mr. George Konheim

The Honorable Clare Boothe Luce

Mr. Frank J. Lynch

The Honorable Powell Moore

Mr. James S. Munn

Mr. Robert B. O'Brien, Jr.

Mr. Walter B. Schubert

Mr. Harvey L. Silber

The Honorable William E. Simon

The Honorable Helmut Sonnenfeldt

Mr. W. Clement Stone

The Committee for America, founded and chaired by Alexander M. Haig, Jr., has been formed to support Republican candidates for the House and Senate, and help Republicans at all political levels. We do so in the belief that a Republican majority throughout the United States will make it more possible to redesign America's vision of a world of free peoples at peace. There can be no more important task.

As we extend help to candidates, the Committee will advocate the following principles:

- American policy must be a Harmonious Balance of Ideals and Reality.*
- A Coalition of Free Nations is Essential to American Security.*
- Terrorism can only be Defeated if We are Willing to Defend Interests Firmly and Effectively. Despite the Ambiguities of the Challenge.*
- Domestic Economic Choices must take into Account International Consequences.*
- American Policy Towards the Soviet Union must be based on Strength, Restraint and Reciprocity.*

As a federally-organized political action committee, the Committee For America may accept personal contributions up to \$5,000 per person (\$10,000 per married couple) each calendar year.

Contributions in any amount, are welcome and should be made payable to "The Committee For America," 1154 15th Street, N.W., Washington, DC 20005.

EXHIBIT B

1986

COMMITTEE FOR AMERICA CONTRIBUTIONS
TO CANDIDATES

<u>CANDIDATE/ORGANIZATION</u>	<u>AMOUNT</u>	<u>DATE OF CONTRIBUTION</u>
Jackie McGregor McGregor for Congress	\$ 1,000	6/30/86
Cong. Pat Swindall Swindall for Congress Comt.	\$ 300	7/2/86
Cong. Jim Courter Courter for Congress	\$ 625 125	7/10/86 9/5/86
Gov. Richard Snelling Snelling for Senate '86	\$ 500	7/15/86
Sen. James Broyhill Broyhill for Senate Comt.	\$ 1,000	7/15/86
Jim Benedetti Neighbors for Benedetti	\$ 500	7/25/86
Cong. Margaret Roukema Committee to Re-Elect Roukema	\$ 125	9/6/86
Virginia Victory '86 Committee	\$ 1,000	9/16/86
Henson Moore Moore for Senate	\$ 1,000	9/19/86
Brian Lees Lees for Congress Committee	\$ 150	9/23/86
Fred Grandy Fred Grandy for Congress	\$ 250	10/30/86
Helen Bentley Bentley for Congress	\$ 250	10/30/86

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<u>CANDIDATE/ORGANIZATION</u>	<u>AMOUNT</u>	<u>DATE OF CONTRIBUTION</u>
George Wortley People for Wortley	\$ 250	10/30/86
John McIntee McIntee for Congress	\$ 250	10/30/86
Greg Blass	\$ 250	10/30/86
John Holmes John Holmes for Congress	\$ 250	10/30/86
Ken Kramer Ken Kramer for U.S. Senate	\$ 500	10/30/86
Thomas N. Kindness	\$ 500	10/30/86
Kit Bond Missourians for Kit Bond	\$ 500	10/30/86
Friends of Paul Trible	\$ 2,000	12/3/86
CPAC 87	\$ 2,000	12/9/86
Canada for Congress	\$ 500	12/16/86
Victory 87, House of Delegates	\$ 500	12/16/86
	<u>\$ 14,325</u>	

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EXHIBIT C



A Salute to America

MONDAY, MARCH 23, 1987
WALDORF-ASTORIA HOTEL
NEW YORK, NEW YORK

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Salute to America Dinner

Mr. Edward L. Hennessey, Jr.
Chairman

The Honorable William E. McCann
Finance Chairman

DINNER VICE CHAIRMEN

Mr. George Allen	Mr. and Mrs. James J. Maguire
Mrs. Patricia Arden	The Honorable Virginia B. McCann
Mr. John P. Baker, Jr.	Mr. Robert F. Meyerson
Mr. and Mrs. Norman Brokaw	Mr. and Mrs. George W. Newman
Mr. Stillman Brown	Mr. Robert B. O'Brien, Jr.
Mr. and Mrs. John C. Cassidy	Mr. and Mrs. Alfred A. Rapetti
The Honorable Anna Chennault	Mr. and Mrs. Dominic Saraceno
Mr. and Mrs. Thomas K. Christo	Mr. Walter B. Schubert
Mr. Leon Finley	The Honorable William E. Simon
Mr. and Mrs. Stephen W. Foss	Mr. W. Clement Stone
Mr. and Mrs. Roger M. Freedman	Mrs. John Swearingen
Mr. and Mrs. Sherwood D. Goldberg	Mr. Michael I. Tenzer
Mr. and Mrs. Alexander P. Haig	Mr. and Mrs. Laurence A. Tosi, Jr.
Mr. and Mrs. Gerald F. Jones, Jr.	Mr. and Mrs. Alonzo V. Walleffe
Mr. Edward W. Lorge	Mr. Paul Weyrich
The Honorable Clare Boothe Luce	Mr. James J. White, III
Mr. and Mrs. Frank J. Lynch	Mr. and Mrs. Loyd E. Williams

DINNER COMMITTEE

Mr. and Mrs. James E. Altmeyer	Brigadier General and Mrs. Robert J. Koch
Mr. Richard Appleby	Mr. David W. Kopelman
Mr. and Mrs. Dwight Avis	Mr. and Mrs. Vlastimil Koubek
Mr. Linden Blue	Mr. and Mrs. John A. Kraeutler
Mr. and Mrs. Harvey Borkin	Mr. and Mrs. Charles A. Mahoney
Mr. John Brogan	Mr. and Mrs. James P. Mongey
Mr. and Mrs. Thomas G. Ferguson	Mr. and Mrs. Philip M. O'Conor
Mr. and Mrs. Homer Perry Gainey, Jr.	Mr. and Mrs. David L. Orr
Mr. and Mrs. James Guerin	Mr. and Mrs. Owen M. O'Sullivan
Mr. and Mrs. Jack W. Guernero	Mr. Russell A. Post
Mr. and Mrs. Umberto I. Guido, Jr.	Mr. Christopher C. Quick
Mr. Harold R. Hamilton	Miss Joan C. Rashid
Mrs. A. Billie Heebner	Colonel and Mrs. Merton Singer
Mr. Robert I. Henderson	Mr. and Mrs. Charles Snodgrass
Mrs. Gertrude Horwitz	Mr. and Mrs. Clifford M. Sittel
Mr. and Mrs. John Alan James	Mr. and Mrs. Oliver S. Travers
Mr. and Mrs. Steve Jernigan	Mr. and Mrs. Martin Trust
Admiral and Mrs. Means Johnston, Jr.	Mr. Charles W. B. Wardell, III
Mr. and Mrs. James P. Joyce	Mr. and Mrs. Fred Webba
Mr. and Mrs. E. Robert Keller	Miss Eleanor Evans Williams, III
	Mr. James M. Wordsworth

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*The Committee for America
requests the pleasure of your company
at a*

*Salute to America Dinner
honoring its Chairman and Founder*

The Honorable Alexander M. Haig, Jr.

*on Monday, the twenty-third of March
nineteen hundred and eighty-seven*

Cocktail Reception at six o'clock

Dinner at seven o'clock

Grand Ballroom

Waldorf-Astoria Hotel

New York

Black Tie

Music

Peter Luchin

R. J. T. P.

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Committee for America

The Honorable Alexander M. Haig, Jr.

Chairman

C. Patrick Roberts

Vice Chairman

Sherwood D. Goldberg

Treasurer

James T. Flack

National Finance Director

Daniel S. Mariaschin

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Mr. Walter B. Schubert

Mr. Harvey L. Silbert

The Honorable William E. Simon

The Honorable Helmut Sonnenfeldt

Mr. W. Clement Stone

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Salute to America Dinner

WALDORF-ASTORIA HOTEL • NEW YORK • MONDAY, MARCH 23, 1987

Enclosed is a contribution of \$ _____ for _____
reservations tables for the Dinner. Please make checks payable to "Committee for
America".

- _____ Table(s) at \$5,000.00 per table of 10
- _____ Reservations at \$1,000.00 per couple
- _____ Reservations at \$500.00 per person
- _____ I am unable to attend. Please accept my contribution of \$ _____

NAME _____

ADDRESS _____

_____ PHONE _____

Paid for by Committee for America

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AFFIDAVIT OF C. DANIEL CLEMENTE

C. Daniel Clemente, for his affidavit, states as follows:

1. I have personal knowledge of the facts contained herein and am competent to testify thereto.

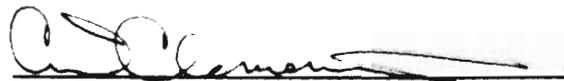
2. I served as Vice Chairman of Committee for America ("CFA") from May 1986 to February 1987.

3. During my tenure the activities of CFA were related to the solicitation of funds to be used to promote Republican Congressional, State legislative and Gubernatorial candidates.

4. As part of CFA's activities, Alexander Haig frequently travelled throughout the United States in his capacity as Chairman of CFA to speak on behalf of Congressional, State and local candidates.

5. I attended a meeting of the Western States Caucus on November 14-16, 1986, in Scottsdale, Arizona, at which I represented CFA. I attended the meeting primarily to meet and solicit the financial support of Holly Coors for CFA. I did not attend the meeting on behalf of any presidential candidate or committee.

6. I was reimbursed by CFA for my travel and other expenses related to my representation of CFA at the Western States Caucus meeting.


C. Daniel Clemente

Subscribed and sworn to before me on this 2nd day of August, 1993
State of: Virginia
County of: Fairfax


Notary Public

My commission expires: 06/30/94

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AFFIDAVIT OF C. PATRICK ROBERTS

1. I, C. Patrick Roberts reside at 916 HILLCREST
COURT, TALLAHASSEE, FL.

2. I was retained in December of 1986 by the Committee for America ("CFA"). I understood CFA to be a multi-candidate political committee. My position was Vice Chairman and Chief Operating Officer. I remained in these positions until I resigned in approximately June 1987.

3. I did discuss the possibility of becoming the campaigning manager for a Haig for President campaign with Alexander Haig in November or December of 1986. At that time, Alexander Haig had not determined whether he would seek the Republican nomination for President. We did agree that if or when he became a Presidential candidate, that I would be the manager of the campaign.

4. The payments I received form CFA and CFA Virginia were for my expenses and services in the management of these committees.

5. I was Co-Chairman of the Salute to America dinner. The dinner was a fundraising event for CFA. No Haig for President material was distributed at this dinner. There were no Haig for President banners displayed at this dinner. There were no speeches given at this dinner expressly advocating the nomination of Alexander Haig for President of the United States. No one was asked to vote for Alexander Haig at this dinner. The theme of this dinner was patriotic, not political.

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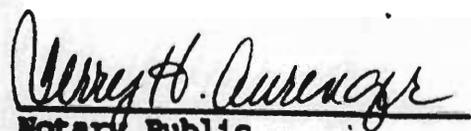
93 NOV 10 PM 3:14

Date: 8-6-93


C. Patrick Roberts

Subscribed and Sworn before me this 6 day of August 1993

Date: 8/6/93


Notary Public



TERRY H AUERGER
My Commission OC888000
Expires Jan. 29, 1997
Bonded by AAB
600-682-8878

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FEDERAL ELECTION COMMISSION
93 AUG -4 PM 4:30

AFFIDAVIT OF DANIEL S. MARIASCHIN

Daniel S. Mariaschin, for his affidavit, states as follows:

1. I have personal knowledge of the information contained herein and am competent to testify thereto.

2. I, Daniel S. Mariaschin reside at 5500 Friendship Boulevard, Apartment 1223 North, Chevy Chase, Maryland 20815.

3. To the best of my recollection, I was retained in January of 1987 by the Committee for America ("CFA"). I understood CFA to be a multi-candidate political committee. I was communications and Research Director for CFA.

4. To the best of my recollection, any payments I received from CFA were for my expenses and service to these committees.

5. I was involved in the planning and press for CFA's Salute to America dinner. The dinner was a fundraising event for CFA. To the best of my recollection, (1) no Haig for President material was distributed at the dinner; (2) no Haig for President banners were displayed at the dinner; (3) no speeches were given at the dinner expressly advocating the nomination of Alexander Haig for President of the United States; and (4) no one was asked to vote for Alexander Haig for political office.

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Daniel S. Mariaschin
Daniel S. Mariaschin

Subscribed and Sworn before me this 4th day of August 1993.

B. Jennie Harbaugh
Notary Public

My Commission expires

My Commission Expires June 30, 1994

93 AUG -2 AM 11: 22

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

SENSITIVE

Haig for President and)
Dominic Saraceno, as treasurer)
Committee for America and Sherwood D.)
Goldberg, as treasurer)

MUR 3367

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 11, 1993, the Federal Election Commission (the "Commission") found there is reason to believe that Haig for President (the "Committee") and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b, provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), 11 C.F.R. § 9034.8(c) of the Commission's regulations and 26 U.S.C. § 9042(c). On that same date, the Commission also found there is reason to believe that the Committee for America ("CFA") and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). The Commission further determined to enter into conciliation negotiations prior to probable cause to believe with the Committee and CFA and approved conciliation agreements in this matter.

On July 14, 1993, counsel for the Committee and CFA submitted a response in which counsel requests that the Commission stay the conciliation process in this matter pending the release of information relating to other outstanding

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Commission matters involving respondents (MURs 2717 and 2903).¹
Attachment 1. As discussed below, this Office recommends that
the Commission deny this request.

II. ANALYSIS

A. Response from Haig for President and CFA

In the combined response from the Committee and CFA, counsel states that respondents are interested in pursuing pre-probable cause conciliation at the "earliest practical date." However, at this time, counsel requests that the Commission "stay its conciliation process pending the release of information regarding any other outstanding Commission matters involving respondents." Counsel refers to two other matters under review (MURs 2717 and 2903) involving the Committee. Counsel asserts that for three years the Committee has received no communication from the Commission in regard to these matters and that it would not be appropriate for a "conciliation process to move to conclusion if there are other pending matters involving the same parties whose status is unknown to them." According to counsel, it would be grossly unfair for the Commission to expect the Committee or CFA to "resolve these matters without assurance as to the status of the other enforcement matters and the potential ramifications of the Commission's analysis of other issues." Therefore, counsel

1. The Committee and CFA are both represented by the same counsel in this matter. This counsel also represents the Committee in MURs 2717 and 2903.

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argues that the Committee and CFA should be able to resolve these matters in a single proceeding.

In addition, counsel states that during the time of the requested "stay," respondents will provide responses to each issue raised in the factual and legal analysis. According to counsel, certain actions were taken by respondents "during their operations which resulted in inadvertent violations of the Act." However, counsel argues that this acknowledgment does not indicate agreement with the Commission's reason to believe findings. Counsel asserts that the Commission's conclusions and analysis are "significantly flawed" and respondents will address their disagreements with the Commission's findings in a detailed supplemental response. Counsel states that the supplemental response will include affidavits from the individuals named in the factual and legal analysis which will "refute certain conclusions and their factual basis." Counsel also states that respondents will seek substantial additional information and documents from the Audit Division which will permit respondents to "formulate a coherent response."²

B. Discussion

This Office recommends that the Commission deny respondents' request for a stay in the conciliation process. First, the activities giving rise to the violations in this

2. On July 19, 1993, counsel in this matter met with Audit staff to review documents that had been submitted by Haig for President and CFA during the Audit process. At that time, counsel also reviewed documentation relating to testing the waters activities, undocumented expenses and the allocation of overhead expenses to the Committee.

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matter are separate and distinct from the activities involved in MURs 2717 and 2903. The violations in this matter arose from the Committee's receipt of excessive and prohibited in-kind contributions from CFA and the alteration of contributor checks. In contrast, the violations in MUR 2717 derived from activities involving the Committee's treasurer, Dominic Saraceno, and 60 other respondents in connection with five patterns of contributions made to the Committee. In MUR 2903, the violations derived from a \$375,000 line of credit extended to the Committee by Olympic Bank. Moreover, based on an on-going Department of Justice ("DOJ") investigation into the activities which gave rise to the violations in MURs 2717 and 2903, the Commission voted on May 11, 1993, to report these matters over to DOJ.³ As a result of these referrals, these matters are being held in abeyance until it can be ascertained what actions DOJ is taking with regard to the respondents in these matters.⁴ Therefore, as determined by the Commission, it is not necessary to resolve these matters in a single proceeding

3. On May 11, 1993, the Commission also voted to take no action regarding reason to believe findings in MUR 3367 in connection with contributions made to the Committee, CFA and Dole for President from individuals associated with Kurt Saracen Associates, Saracen Investments and J.J. O'Brien & Sons. Instead, the Commission reported over to DOJ all information available in MUR 3367 concerning the foregoing contributions. See 2 U.S.C. § 437d(a)(9).

4. At the request of DOJ, this Office has not informed respondents that it reported these three matters to DOJ. However, this Office notes that counsel for respondents is fully aware of the existence of the on-going DOJ investigation.

as requested by respondents. Further, this Office does not believe that respondents are prejudiced by this course of action.

Second, this Office believes that respondents' request for a "stay" is premature in this matter since respondents have not yet submitted a substantive response to the Commission's reason to believe findings. According to counsel, respondents intend to submit a supplemental response which will refute "certain conclusions and their factual basis." This Office notes that after receipt of the Commission's findings, counsel for respondents made two extension of time requests. This Office granted the requested extensions which totaled 20 and 14 days, respectively. Despite the additional time in which to respond, respondents have not yet submitted a substantive response to the Commission's findings.⁵

For the foregoing reasons, this Office recommends that the Commission reject respondents' request that the Commission stay the conciliation process in this matter. Further, upon receipt and review of the supplemental response from respondents, this Office will make additional recommendations to the Commission.

III. RECOMMENDATIONS

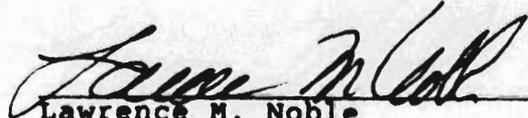
1. Reject the request by Haig for President and the Committee for America and Sherwood D. Goldberg, as treasurer, to stay the conciliation process.

5. As agreed in a telephone conversation with counsel for respondents on July 27, 1993, respondents will submit a substantive response by close of business on July 30, 1993.

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2. Approve the appropriate letter.

Date 8/2/93


Lawrence M. Noble
General Counsel

Attachment

1. Response from the Committee and CFA dated July 15, 1993

Staff Member: Mary Ann Bumgarner

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3367
Haig for President and)
Dominic Saraceno, as treasurer;)
Committee for America and Sherwood)
D. Goldberg, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 10, 1993, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3367:

1. Reject the request by Haig for President and the Committee for America and Sherwood D. Goldberg, as treasurer, to stay the conciliation process.
2. Approve the appropriate letter as recommended in the General Counsel's report dated August 2, 1993.

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

Attest:

8-12-93
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 13, 1993

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MUR 3367
Haig for President
and Committee for America
and Sherwood D. Goldberg,
as treasurer

Dear Mr. Braden:

1504364216
On May 21, 1993, your client, Haig for President, was notified that the Federal Election Commission (the "Commission") found reason to believe it had violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c). On that same date, your clients, the Committee for America and Sherwood D. Goldberg, as treasurer, were notified that the Commission found reason to believe they had violated 2 U.S.C. § 441a(a)(2)(A). By letter dated July 14, 1993, you requested a stay of the conciliation process in this matter "pending the release of information" regarding other matters involving Haig for President (MURs 2717 and 2903).

On August 10, 1993, the Commission reviewed your request and determined not to stay the conciliation process in this matter. The Commission's decision reflects the fact that the reason to believe findings in MUR 3367 are unrelated to the other matters under review. This Office is currently in the process of reviewing your most recent response in MUR 3367 submitted on August 2, 1993. At the same time, this Office would encourage you to engage in pre-probable cause conciliation negotiations.

If you have any questions, please contact me at
(202) 219-3690.

Sincerely,

Mary Ann Bumgarner
Attorney

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On July 30, 1991, the Commission referred to the Office of the General Counsel three items arising from the Audit of Haig for President and Dominic Saraceno, as treasurer, (the "Committee") and determined to open a Matter Under Review ("MUR"). On May 11, 1993, the Commission found reason to believe that the Committee violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c); the Commission determined to enter into conciliation prior to a finding of probable cause to believe with respect to these findings. On that same date, the Commission also found reason to believe that Committee for America and Sherwood D. Goldberg, as treasurer, ("CFA") violated 2 U.S.C. § 441a(a)(2)(A); the Commission determined to enter into conciliation prior to a finding of probable cause to believe with respect to this finding.

This report contains recommendations to assure that this matter conforms to the Court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993) ("NRA").

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II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Based upon the original audit and consistent with the Commission's November 9, 1993, decisions concerning compliance with the NRA opinion, this Office recommends that the Commission revoke the determinations to: (1) find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c); (2) find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (3) approve the factual and legal analyses that were attached to the First General Counsel's Report dated April 26, 1993; (4) enter into conciliation prior to a finding of probable cause to believe with Respondents; and (5) approve the conciliation agreements that were attached to the First General Counsel's Report dated April 26, 1993, and that are attached to this report. For the convenience of the Commission, this Office has attached the certification in this matter dated May 13, 1993. Attachment 1.

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IV. RECOMMENDATIONS

1. Find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c), and enter into conciliation prior to a finding of probable cause to believe with respect to these reason to believe findings.
 2. Find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), and enter into conciliation prior to a finding of probable cause to believe with respect to this reason to believe finding.
 3. Approve the factual and legal analyses attached to the First General Counsel's Report dated April 26, 1993.
-
4. The terms of the attached agreements are the same as the terms of the agreements approved by the Commission on May 11, 1993.

4. Approve the proposed conciliation agreements.
5. Approve the appropriate letters.

1-25-94
Date

LM Noble (1/2)
Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer;)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on February 1, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3367:

1. Find reason to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c), and enter into conciliation prior to a finding of probable cause to believe with respect to these reason to believe findings.
2. Find reason to believe Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2) (A), and enter into conciliation prior to a finding of probable cause to believe with respect to this reason to believe finding.

(continued)

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3. Approve the factual and legal analyses attached to the First General Counsel's Report dated April 26, 1993.
4. Approve the proposed conciliation agreements as recommended in the General Counsel's report dated January 25, 1994.
5. Approve the appropriate letters as recommended in the General Counsel's Report dated January 25, 1994.

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

Attest:

2-2-94
Date

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

25043643255



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

FEBRUARY 8, 1994

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

RE: MUR 3367
Haig for President and
Dominic Saraceno, as
treasurer
Committee for America and
Sherwood D. Goldberg, as
treasurer

Dear Mr. Braden:

On May 11, 1993, the Federal Election Commission found reason to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c) and the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). On that same date, the Commission also entered into negotiations directed towards reaching conciliation agreements in settlement of these matters prior to a finding of probable cause to believe.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, (U.S. No. 93-1151, Jan. 18, 1994). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

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Mr. Braden
Page 2

In this matter, on February 1, 1994, the Commission revoted to find reason to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c) and the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). The Commission also revoted to approve the Factual and Legal Analyses previously mailed to the Respondents. You should refer to those documents for the bases of the Commission's decisions. If you need additional copies, they will be provided upon request.

Furthermore, the Commission revoted to enter into conciliation negotiations with the Respondents prior to a finding of probable cause to believe

If your clients agree with the provisions of the enclosed agreements, please sign and return them to the Commission. Please make the checks for the civil penalties payable to the Federal Election Commission.

Given the unique circumstances engendered by the NRA decision, conciliation negotiations, prior to a finding of probable cause to believe, will be limited to a maximum of 30 days. If you have any questions, please contact Mary Ann Bungarner, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,


Trevor Potter
Chairman

Enclosure
Conciliation Agreements

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

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SEPTEMBER 12, 1994

SENSITIVE

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

RE: MUR 3367
Haig for President and
Dominic Saraceno, as
treasurer
Committee for America and
Sherwood D. Goldberg, as
treasurer

Dear Mr. Braden:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on February 1, 1994, the Federal Election Commission revoked its determination that there was reason to believe that your client, the Haig for President Committee, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c). On that same date, the Commission also revoked its determination that there was reason to believe your clients, the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendations. Submitted for your review are briefs stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief(s) (ten copies if possible) stating your position on the issues and replying to the briefs of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's briefs and any brief(s) which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe violations have occurred.

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Mr. Braden
Page 2

If you are unable to file a responsive brief(s) within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Briefs

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On February 1, 1994, the Federal Election Commission (the "Commission") found that there was reason to believe Haig for President and Dominic Saraceno, as treasurer, ("Respondents" or the "Committee") violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c).¹ Respondents have failed to respond to the Commission's findings.

II. ANALYSIS

A. Receipt of In-Kind Contributions

The Federal Election Campaign Act of 1971 as amended, (the "Act") provides that no person shall make contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election. 2 U.S.C. § 441a(a)(6). The term "person"

1. The Commission made its original reason to believe findings on May 11, 1993. The Commission revoked its findings in light of FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, U.S. No. 93-1151, Jan. 18, 1994).

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includes an individual, partnership, committee, association, corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

Further, the Act prohibits multicandidate political committees from making contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000.

2 U.S.C. § 441a(a)(2)(A). Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section 441a of the Act. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act. 2 U.S.C. § 441a(f).

The Act also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any contribution from a corporation or labor organization in connection with a federal election. 2 U.S.C. § 441b(a).

Pursuant to 2 U.S.C. § 431(8)(A)(i), the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The regulations further

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provide that unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Id.

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This matter resulted from an audit of the Haig for President Committee, which revealed impermissible in-kind contributions made to the Committee by the Committee for America ("CFA") and the Committee for America-Virginia ("CFA-VA"). CFA filed a statement of organization with the Commission on April 2, 1986. On October 2, 1986, CFA qualified as a multicandidate committee. The stated purpose of CFA was to raise money and support for Republican candidates across the country. CFA-VA filed a statement of organization with the Virginia Board of Elections on October 15, 1986.² CFA-VA's stated purpose was to operate on a statewide basis supporting candidates seeking state office.³ The audit process revealed that CFA, CFA-VA and the Committee shared vendors, office space, equipment and personnel and that CFA and CFA-VA devoted a substantial amount of their efforts towards Alexander Haig's presidential campaign. Mr. Haig was the Chairman of both CFA and CFA-VA.

As discussed below, the in-kind contributions made by CFA and CFA-VA on behalf of the Committee included expenses paid in

2. On May 29, 1987, CFA-VA filed a termination report with the Virginia State Board of Elections.

3. Pursuant to 2 U.S.C. § 431(11), CFA-VA fell within the definition of "person" under the Act.

connection with a fundraising dinner held at the Waldorf-Astoria Hotel; polling and travel expenses; the Committee's use of CFA's and CFA-VA's telephone and computer systems; salary expenses; testing the waters activities; subscription expenses; undocumented expenses; and general, administrative and overhead expenses.

1. Salute to America Dinner

On March 23, 1987, CFA sponsored the "Salute to America" dinner at the Waldorf-Astoria Hotel in New York. The audit revealed that CFA made \$225,257.55 in expenditures associated with the dinner. "Salute to America" was a presidential announcement dinner, the purpose of which was to launch Alexander Haig's presidential campaign. Alexander Haig was the featured speaker at the dinner and used the event to announce that he would declare formally his candidacy for the Republican nomination for President the next day.

Apparently, Respondents had originally intended to announce Haig's candidacy formally at this dinner. The audit identified solicitation materials produced for the Alexander Haig Announcement Dinner, sponsored by the Committee for Alexander Haig-Exploratory, to be held March 23, 1987, at the Waldorf-Astoria Hotel. A \$5,000 deposit was made from the Exploratory Committee's bank account to the Waldorf-Astoria Hotel on December 22, 1986.⁴ The audit also noted \$11,000 in contributions made payable to Haig for President-Exploratory

4. On March 4, 1987, a \$5,000 refund from the Waldorf-Astoria was deposited to the Exploratory Committee's bank account.

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that were accompanied by solicitation response cards requesting reservations for the event.⁵

In response to the Interim Audit Report, the Committee denies that the dinner expenses paid for by CFA represented in-kind contributions to the Committee. The Committee acknowledges that it had planned to sponsor a major fundraising event to announce formally Alexander Haig's candidacy. The Committee admits that it had paid a \$5,000 deposit to the Waldorf-Astoria Hotel in connection with the dinner, and produced and distributed solicitation and response materials for the dinner. The Committee asserts that it subsequently decided to make the formal announcement of candidacy at a press conference the next day, followed by a campaign tour of early primary states. The press conference was held at the Waldorf-Astoria Hotel on March 24, 1987.

The Committee contends that the dinner was a CFA fundraising event to finance CFA's political activities, unrelated to the presidential campaign. The Committee admits that Alexander Haig's use of the dinner to state that he intended to announce his candidacy for the Presidency on the following day may have had some "inherent value." The Committee disputes, however, the audit report's conclusion that the entire cost of the event constituted an in-kind contribution from CFA to the Committee.

5. The audit also noted \$9,750 in contributions made payable to the Committee for Alexander Haig-Exploratory that were dated prior to Alexander Haig's March 24, 1987 announcement of his candidacy.

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The Committee asserts that the "real value of the event" -- the proceeds raised -- did not flow to the Committee. The Committee asserts that the maximum value it received in connection with the event was \$8,250. In its supplemental response to the Interim Audit Report, the Committee submitted a list of twenty-one contributions deposited to the Exploratory Committee's bank account that the Committee contends had some relation to the dinner, based upon check notations and response cards. The Committee states that these contributions, totaling \$8,250, were received in response to the solicitation for the dinner at which Mr. Haig planned to announce formally his candidacy. Because the Committee decided subsequently to make the announcement at a press conference, this solicitation was withdrawn.⁶ The Committee asserts that the \$8,250 in contributions represented the maximum value received by the Committee from CFA in connection with the "Salute to America" dinner.⁷

Additionally, the audit revealed that CFA-VA paid for \$20,714.42 in expenditures associated with the event. The Interim Audit Report concluded that \$20,714.42 in expenditures incurred by CFA-VA in connection with the "Salute to America"

6. In order to permit these contributors to attend the event, CFA issued "complimentary" tickets to these individuals.

7. As previously noted, there were also \$11,000 in contributions made payable to the Haig for President-Exploratory that were accompanied by solicitation response cards requesting reservations for the event.

dinner also represented in-kind contributions to the Committee. The Committee did not contest this finding in its response to the Interim Audit Report.

Based on the evidence, the Committee accepted in-kind contributions from CFA and CFA-VA in connection with the "Salute to America" dinner. The audit indicated that CFA paid \$225,257.55 for expenses associated with the "Salute to America" dinner, and that CFA-VA paid \$20,714.42 for expenses associated with the dinner. Contrary to the Committee's assertion, press accounts of the "Salute to America" dinner described the event as an announcement gala and as a nominating convention. It is undisputed that Alexander Haig was the featured speaker of the evening and that, at the dinner, Mr. Haig declared that he would announce his candidacy for the Republican nomination for President on the following day. The "Salute to America" dinner was for the purpose of influencing Alexander Haig's election to President. 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R. § 100.7(a)(1)(iii)(A). Therefore, all expenses associated with the event incurred by CFA and CFA-VA constitute in-kind contributions to the Committee.

2. Polling and Travel Expenses

The audit identified payments made by CFA and CFA-VA totaling \$24,510.50 to Marketing Research Institute (MRI) for polling expenses and \$4,386 to Premiere Travel for travel

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expenses relating to the Committee. These expenditures are summarized below:

<u>Committee</u>	<u>Payee</u>	<u>Amount</u>
CFA	MRI	\$ 541.00
CFA-VA	MRI	\$ 23,969.50
CFA-VA	Premiere Travel	\$ 4,386.00

Regarding the polling expenses, the audit revealed payments to MRI from CFA, CFA-VA and the Committee for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll. The audit noted that the questions asked in these two polls were identical in content and format to those in a poll conducted for the Committee in Iowa. The audit revealed that the contents of the polls were presidential in nature, and included questions specifically focusing on Alexander Haig's name recognition and qualifications for the office of President. The audit also noted that the contents of the polls do not relate to the stated organizational objectives of CFA and CFA-VA. Because these polls were clearly for the Committee's benefit, the payments to MRI represent in-kind contributions from CFA and CFA-VA.

In response to the Interim Audit Report, the Committee asserts that "[the Committee] paid for the polling results it actually received." Presumably, Respondents are asserting that they physically never "actually received" the New Hampshire and Super Tuesday polling results. The Committee did not explain or expand upon this assertion. Their assertion, however, does not rule out that the Committee was advised of the polling results.

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With respect to the payments made to Premiere Travel by CFA-VA, the audit found that CFA-VA paid for travel expenses incurred by Committee staff totaling \$4,386. The audit identified Premiere Travel invoices totaling \$4,386 for travel to Iowa on March 24-25, 1987, by Alexander Haig and his wife, Committee treasurer Steve Jernigan, and CFA employees Pat Roberts, Dan Mariaschin, and Tim Jansen. The audit also identified payment by CFA-VA to Premiere Travel for one trip to Washington, D.C. by a Haig family member.

The Committee did not contest CFA-VA's payment for travel expenses in its response to the Interim Audit Report. Moreover, the Committee did state in response to another issue raised in the Interim Audit Report that a campaign tour of early primary states would take place after Alexander Haig's official announcement of candidacy on March 24, 1987.

The audit revealed that these travel expenses, totaling \$4,386, were related to Alexander Haig's candidacy. Thus, these expenses incurred by CFA-VA represent in-kind contributions to the Committee. In conclusion, the Committee accepted in-kind contributions from CFA and CFA-VA in connection with polling and travel expenses.

3. Use of Telephone and Computer Systems

The audit revealed that the Committee used CFA's and CFA-VA's telephone and computer systems without charge from the period of December 1986 through April 1988. The failure of CFA and CFA-VA to charge the Committee for its use of telephone and

computer systems at the usual and normal charge represents in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A).

In response to the Interim Audit Report, the Committee submitted a copy of an equipment lease agreement which had been signed by the treasurers of CFA and the Committee. Under the terms of the agreement, CFA agreed to lease to the Committee the furniture and fixtures listed on Attachment A to the lease. Attachment A was a list of office furniture and computer equipment. The terms of the lease included a monthly payment of \$860 from April 30, 1987 through March 31, 1988, with a purchase option. The Committee states that no payments had actually been made on the lease and requested that the amount due (\$10,320) be considered a debt owed to CFA. The Committee did not provide a valuation of the telephone system in response to the Interim Audit Report.

First, the Committee's response completely ignores its use of the telephone system from December 1986 through April 1988. It also fails to address the Committee's use of the computer systems from December 1986 through April 1987 and in April 1988. Further, although CFA and the Committee may have executed a lease agreement regarding the computer system, the Committee made no payments under the lease. In addition, there is no indication that CFA demanded any payment from the Committee under the lease or took any action under the default provisions of the lease. Finally, neither CFA nor the Committee disclosed the amounts owed under the terms of the lease as outstanding obligations on their disclosure reports.

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Because the lease agreement did not reflect the market value for leasing computer systems and did not mention the telephone system, the Audit staff made an independent determination of the value of the Committee's use of the telephone and computer systems.⁸ According to the Audit staff's calculations, the value of the Committee's use of the telephone and computer systems was \$9,595.04 for the period of April 15, 1987 through May 30, 1988.⁹ For the reasons set out above, the Committee accepted in-kind contributions from CFA and CFA-VA, totaling \$9,595.04, in connection with the use of the telephone and computer systems.

4. Salary Expenses of C. Patrick Roberts

The audit found that CFA and CFA-VA paid \$31,142.64 for salary and other expenses of a CFA staff member whose activities were primarily presidential campaigning. The audit revealed correspondence in the Committee's files indicating that

8. In order to calculate the value of the Committee's use of the telephone and computer systems, the Audit staff first identified the total costs paid by CFA to obtain the computer equipment and telephone systems. The useful life of these assets was determined to be from the date purchased through May 30, 1988, which was shortly after the Committee vacated its Washington area office space. The Audit staff also took into consideration the book value of these systems minus depreciation expenses.

9. The \$9,595.04 amount represents the value of the Committee's use of the telephone and computer systems for the period of April 15, 1987 through May 30, 1988. The date of this in-kind contribution is April 15, 1987, which is the date the Committee began using the equipment exclusively. The cost of the Committee's use of CFA's telephone and computer systems from December 1, 1986 to April 15, 1987 is included in "General, Administrative and Overhead Expenses." See, pp. 18-19, infra.

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Alexander Haig asked C. Patrick Roberts to undertake the leadership of his presidential campaign on December 20, 1986. The correspondence also stated that "Mr. Roberts left an important and secure job . . . in order to lead [Alexander Haig's] campaign and did so in good faith and with the understanding that he would be the Campaign Manager." The parties agreed to a salary of \$8,500 per month. In January of 1987, C. Patrick Roberts joined CFA as vice chairman and chief operating officer. His salary at CFA was \$8,500 per month. CFA-VA paid all of Mr. Roberts' salary until April 30, 1987. Payment of Mr. Roberts' April 30th salary was split between CFA-VA and the Committee, and the Committee paid all of the remaining two months of salary payments until his termination in June, 1987.

Because of Mr. Roberts' campaign activities, the payment of his salary and expenses by CFA and CFA-VA from January through April of 1987, constitutes an in-kind contribution to the Committee. The audit indicated that CFA-VA paid \$30,975.89 in salary and related expenses for Mr. Roberts, and that CFA paid \$166.75 for Mr. Roberts' expenses. Accordingly, the Committee accepted in-kind contributions from CFA and CFA-VA, totaling \$31,142.64, in connection with the payment of Mr. Roberts' salary and expenses.

5. Testing the Waters Activities

The audit also identified expenses incurred by CFA and CFA-VA totaling \$6,009.08 for testing the waters activities which were found to be presidential in nature. These costs

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included travel expenses to Arizona and Nevada to meet with the Western States Caucus (\$1,674.50); travel expenses to Palm Beach, Florida (\$1,965.47); and travel expenses to New Hampshire (\$2,369.11). These expenses are discussed in turn below.

The Western States Caucus, a group made up of members from 13 western states, invited possible 1988 Presidential candidates to attend a meeting on November 14-16, 1986 in Scottsdale, Arizona. The meeting was attended by Dan and Jeannette Clement on behalf of Alexander Haig. The Western States Caucus met again on March 6-7, 1987 in Las Vegas, Nevada. Alexander Haig was scheduled to be the featured speaker at this meeting, but he did not attend the meeting. Thomas Christo attended the meeting on behalf of Alexander Haig. In an "After Action Report," Thomas Christo recommended that Alexander Haig write each member, stating: "I think you are a very important group and I look forward to meeting you personally and soliciting your support now that I am an announced candidate." Based upon the evidence, the travel expenses incurred in connection with meetings of the Western States Caucus were directly related to Alexander Haig's presidential campaign. Therefore, these travel expenses, totaling \$1674.50, incurred by CFA constitute in-kind contributions to the Committee.

The audit identified \$1,965.47 in travel expenses incurred by CFA for its employees C. Patrick Roberts and Tim Jansen to travel to West Palm Beach, Florida, from February 28 through

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March 3, 1987. The audit revealed that the only identifiable activities which occurred in the Palm Beach vicinity were related to the presidential campaign. These activities included collecting \$20,000 in ticket sales to the "Salute to America" dinner and the collection of matching fund contributions. Therefore, the costs associated with travel by CFA employees to Palm Beach, Florida constitute in-kind contributions from CFA and CFA-VA to the Committee.

The audit also identified \$2,369.11 in travel expenses incurred by CFA and CFA-VA in connection with a meeting on March 8-9, 1987, in Manchester, New Hampshire and the Olde Tyme Picnic Event subsequently held there on March 13-14th. The Olde Tyme Picnic event was held by the Committee in connection with Alexander Haig's campaign. The audit identified \$57.25 in expenses associated with the picnic that were paid for by CFA and CFA-VA. The meeting in Manchester, New Hampshire, on March 8-9, 1987, was attended by Dan Mariaschin, Tim Jansen and Thomas Christo. The apparent purpose of the meeting was to prepare for the presidential campaign activities which took place at the Old Tyme Picnic Event on March 13-14, 1987.

Therefore, the expenses incurred by CFA and CFA-VA in connection with the March 8-9, 1987 meeting, totaling \$2,311.86, constitute in-kind contributions from CFA and CFA-VA to the Committee.

In addition to the foregoing expenses, the audit identified expenses totaling \$13,821.50 by CFA and CFA-VA which appear to

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be associated with testing the waters activities. These expenses are itemized as follows:

<u>Date</u>	<u>Purpose</u>	<u>Amount</u>
Jan. 14-15, 1987	Manchester, NH travel	\$1,085.22 (CFA-VA) \$ 173.41 (CFA)
Feb. 12-13, 1987	Nashville, TN travel	\$ 145.50 (CFA-VA) \$2,297.79 (CFA)
Feb. 16-17, 1987	Manchester, NH travel	\$ 502.06 (CFA-VA) \$1,263.57 (CFA)
Feb. 23, 1987	press releases	\$ 562.80 (CFA-VA)
March 15, 1987	Iowa	\$2,262.90 (CFA-VA) \$ 528.25 (CFA)
March 30, 1987 & April 15, 1987	The Naisbitt Group - Business Intell. Program	\$2,500.00 (CFA-VA) \$2,500.00 (CFA-VA)

The audit indicated that the expenses itemized above were incurred by CFA and CFA-VA in connection with Alexander Haig's presidential campaign by virtue of the location, timing and nature of the activity. Therefore, the Committee accepted in-kind contributions from CFA and CFA-VA for expenses associated with testing the waters activities.

6. Newspaper and Other Subscriptions

The audit indicated that CFA and CFA-VA made payments for newspaper and other subscriptions totaling \$2,510.99 during January through March of 1987. For example, in February of 1987, CFA and CFA-VA paid for six month subscriptions to seven local New Hampshire newspapers and other national newspapers, including The Boston Globe, The Chicago Tribune and The Des Moines Register. The audit also noted several other subscriptions that extended into 1988. These subscriptions were

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in addition to the publications to which the Committee subscribed. Because of the primary election locale of the newspapers and periodicals paid for by CFA and CFA-VA -- for example, The Des Moines Register -- it appears they were for the benefit of the Committee.

The audit revealed that a February 4, 1987, internal memo written by Russ McReynolds, CFA's assistant treasurer, recommended that "CFA be deactivated as soon as possible." CFA-VA terminated on May 29, 1987, but because these committees shared office space, the Haig Committee continued to receive the publications through the end of the subscription periods.

Because CFA and CFA-VA paid for these subscriptions which were primarily for the benefit of the Committee and continued after CFA-VA was terminated, Respondents accepted in-kind contributions from CFA and CFA-VA totaling \$2,510.99.

7. Miscellaneous In-Kind Contributions

The audit also noted payments to certain vendors for goods and services relating to the presidential campaign. The total amount paid by CFA for these goods and services was \$4,720.22, and the total amount paid by CFA-VA was \$4,906.61. With one exception, these payments were associated with activities that occurred subsequent to Alexander Haig's formal announcement of candidacy.

The audit indicated that these miscellaneous in-kind contributions include payments by CFA and CFA-VA: (1) to the coordinator of the "Salute to America" dinner; (2) to the publicity firm for the "Salute to America" dinner for services

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rendered in March and April, 1987; (3) for limousine and security services rendered to Alexander Haig; and (4) for Federal Express charges. Also included in the audit materials was a \$750 invoice dated March 9, 1987, prior to Mr. Haig's formal announcement, for "21 different logo directions." The audit revealed that all of these expenses were incurred in connection with Alexander Haig's presidential campaign. The Committee accepted in-kind contributions from CFA and CFA-VA in connection with these miscellaneous contributions totaling \$9,626.83.

8. Undocumented Expenses

The audit indicated that CFA and CFA-VA inadequately documented expenditures they made for travel expenses totaling \$37,127.44.¹⁰ Additionally, the audit indicated that CFA made an expenditure in the amount of \$8,083.00 to Computer Rx for computer equipment. The Audit staff was unable to obtain documentation through the audit process to determine the purpose of these undocumented expenses. Nor have Respondents provided any documentation in response to the Interim Audit Report. Because of the nature of these expenses and the absence of adequate documentation, it appears that these expenses constitute in-kind contributions from CFA and CFA-VA. Accordingly, the Committee accepted in-kind contributions from CFA and CFA-VA in connection with these undocumented expenses totaling \$45,210.44.

10. These expenditures include payments to Mrs. Patricia Haig from CFA for travel expenses totaling \$12,780.

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9. General, Administrative and Overhead Expenses

The audit indicated that, in addition to the in-kind contributions received by the Committee discussed above, CFA and CFA-VA also provided in-kind contributions relating to general, administrative and overhead expenses totaling \$200,949.48. These in-kind contributions resulted from the Committee's use of CFA and CFA-VA's staff, office equipment, supplies and office space from the period of December 1, 1986 through April 15, 1987.

The Committee shared office space and equipment with CFA and CFA-VA from December 1, 1986 through April 15, 1987. The only staff members employed during this period were paid by CFA and CFA-VA. These staff members, however, were key participants in Mr. Haig's exploratory activities and the "Salute to America" dinner. CFA and CFA-VA's staff worked on several projects during this period which benefited the Committee. These projects included, among other things, the processing of \$11,000 in exploratory contributions for the "Salute to America" dinner and a draft of "Accounting Procedures and Internal Controls" for the Haig Committee. Thus, the Committee received the value of work performed by CFA and CFA-VA's staff; the value of the use of office equipment and supplies rented and purchased by CFA and CFA-VA; and the value of occupying CFA and CFA-VA's office space without charge during this period.¹¹

11. The Committee did pay rent for the use of office space one month, April 1987, which is not included in the total.

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The audit determined that the Committee's share of the general, administrative and overhead expenses for December 1, 1986 through April 15, 1987 is 64.6% of the amount incurred by CFA and CFA-VA for such expenses. This amount totals \$200,949.48. The amount attributable to CFA is \$140,874.26, and the amount attributable to CFA-VA is \$60,075.22. In addition, the value of the Committee's use of CFA's and CFA-VA's telephone and computer systems from the period of December 1, 1986 through April 15, 1987 was \$1,988.30.

In conclusion, any value received by the Committee for general, administrative and overhead expenses incurred by CFA and CFA-VA represents an in-kind contribution. In addition, the Committee's use of CFA's and CFA-VA's telephone and computer systems without charge also represents an in-kind contribution. Therefore, the Committee received in-kind contributions totaling \$202,937.78 in the form of: (1) general, administrative and overhead expenses incurred by CFA and CFA-VA; and (2) the use of CFA's and CFA-VA's telephone and computer equipment, during the period of December 1, 1986 through April 15, 1987.¹²

10. Conclusion

CFA and CFA-VA's payment of expenses incurred in connection with Alexander Haig's presidential campaign constitutes in-kind contributions to the Committee. 2 U.S.C. § 431(a)(8)(i) and 11 C.F.R. § 100.7(a)(1)(iii)(A). The audit

12. The expense for the use of telephone and computer systems from April 15, 1987 through May 30, 1988, are not included in this total. These costs were discussed separately on pages 9-11, supra.

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indicates that CFA made in-kind contributions to the Committee totaling \$410,225.35 (\$267,467.47 direct and \$142,757.88 indirect). The audit also indicates that CFA-VA made in-kind contributions to the Committee totaling \$185,497.42 (\$125,317.52 direct and \$60,179.90 indirect). Because CFA was a multicandidate committee, it was prohibited from making any contributions to the Committee in excess of \$5,000. 2 U.S.C. § 441a(a)(2)(A). Therefore, the Committee accepted excessive contributions from CFA totaling \$405,225.35. Furthermore, CFA-VA fell within the definition of "person" under the Act and, therefore, was prohibited from making any contributions to the Committee in excess of \$1,000. 2 U.S.C. § 441a(a)(1)(A). Therefore, the Committee accepted excessive contributions from CFA-VA totaling \$184,497.42.

In addition, the in-kind contributions from CFA-VA may have included prohibited funds. Because CFA-VA was registered as a political committee in Virginia, CFA-VA was permitted to accept contributions from corporations and labor organizations. See Va. Code Ann. § 24.1-254.2. The audit noted that documentation contained in the "Salute to America" files indicated that corporate funds may have been received by CFA-VA in connection with the fundraising dinner. The audit identified contributions totaling \$149,150 from 43 apparent corporations. Therefore, it appears that a portion of the excessive contributions made by CFA-VA to the Committee (totaling \$184,497.42) included prohibited contributions, in violation of 2 U.S.C. § 441b(a).

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Based on the foregoing, this Office recommends that the Commission find there is probable cause to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a) in connection with the receipt of excessive and impermissible in-kind contributions from the Committee for America and the Committee for America-Virginia, totaling \$589,722.77.

B. Joint Fundraising Activities

Under 26 U.S.C. § 9042(c), it is unlawful for a political committee "knowingly and willfully to furnish false, fictitious, or fraudulent evidence, books, or information to the Commission" under Chapter 95 or "to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter."

Contributions received from a joint fundraising activity conducted in accordance with 11 C.F.R. § 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising agreement when they are submitted for matching. 11 C.F.R. § 9034.2(c)(7) (1987). The joint fundraising procedures for presidential primary candidates are set forth at 11 C.F.R. § 9034.8(c). 11 C.F.R. § 9034.8(c)(1) provides that the participants in a joint fundraising activity shall enter into a written agreement. The written agreement

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shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. 11 C.F.R. § 9034.8(c)(1).

Pursuant to 11 C.F.R. § 9034.8(c)(3), a joint fundraising notice shall be included with every solicitation for contributions. This notice shall include, inter alia, the allocation formula to be used for distributing joint fundraising proceeds, and a statement informing the contributors that they may designate their contributions for a particular participant notwithstanding the stated allocation formula. 11 C.F.R. § 9034.8(c)(3).

In addition, the fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. 11 C.F.R. § 9034.8(c)(7)(i). Each contribution received shall be allocated among the participants in accordance with the allocation formula, unless the circumstances described in sections 9034.8(c)(7)(ii), (iii) or (iv) apply. Section 9034.8(c)(7) further provides that funds may not be distributed or reallocated so as to maximize the matchability of the contributions. Under 11 C.F.R. § 9034.8(c)(7)(iv), a written instrument made payable to one of the participants shall be considered an earmarked contribution unless a written statement by the contributor indicates that it is intended for inclusion in the general proceeds of the fundraising activity. 11 C.F.R. § 9034.8(c)(7).

The Committee entered into a joint fundraising agreement with the Kevin Hermening for Congress ('88) Committee ("the

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Hermening Committee") regarding a series of three joint fundraising events. Under the terms of the agreement, the Hermening Committee was designated to act as the fundraising representative. The agreement provided that the net proceeds from the events would be distributed evenly between the two committees. The agreement also provided that "the only adjustment to this allocation formula will be those designated by law - contributor designated contribution, prohibited contribution, or contribution in excess of legal limits." The audit noted that the three joint fundraising events were held in Wisconsin on May 28, 1987. Gross receipts from these events totaled \$13,930 in contributions from 125 contributors. Respondents apparently altered nine contributor checks received in connection with these joint fundraising activities.

During the audit, copies of the checks submitted with the Committee's threshold submission were compared to copies of the original checks from the Committee's files. The comparison revealed that twenty-four contributions that were designated for the Hermening Committee were included in the threshold submission. Of these twenty-four, nine contribution checks totaling \$437.50 had been altered to give the appearance that the contributor intended a contribution to both candidates. In eight instances, the copies of the contributor checks reviewed during the audit were made payable to the Hermening Committee, and the check memo line was blank. On the copies of these same eight checks submitted with the threshold submission, however, the phrase "Hermening/Haig" or "Hermening/Haig event" was added

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on the check memo line. In another instance, the copy of the contributor check reviewed during the audit was made payable to "Hermening/Hague [sic] Event", and the check memo line stated "Hermening." The copy of the same check submitted with the threshold submission had the phrase "Hermening/Haig" on the check memo line.

By letter dated May 7, 1988, Russell Primavera, a Committee staff member responsible for "FEC Compliance", gave the following explanation of the circumstances surrounding the altered checks:

After receiving the Haig/Hermening contribution check copies, I noticed that a few were made payable to Hermening For Congress. At that point I took three measures.

First, I reviewed the Haig/Hermening Event contract. From that, I gathered that the contributions received were to be split 50% for Haig and 50% for Hermening. This contract agreement [sic] did not give me reason to question why checks made payable to Hermening were included in the Haig/Hermening check contribution file, or why they were deposited, and later transferred [sic] to the Haig account accordingly.

My second attempt at my internal audit was to speak to Pam Mattox, who was our contact for the event. After asking her about event procedures and the possible error of having accepted checks made payable to Hermening, her answers quieted my questions and doubts.

She said that contributors were instructed to earmark their contributions as Hermening Only or Haig Only if donors wished to contribute to only one candidate exclusively. Since the checks in question did not contain such a notation, this dismissed my questions of the campaign having received contributions

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made payable solely to Hermening. She also said that many contributors wrote their checks payable to Hermening For Congress because the solicitation material requested them to send it to Hermening For Congress. This dispelled my doubts altogether.

In an effort to clarify account records, my third attempt was to write Hermening/Haig Event in the memo section of each check copy that was made payable to Hermening For Congress. My abovementioned attempts to clarify the validity of these contributions gave me reason to inscribe such a memo to clearly reflect it's [sic] origin. In this way, it could not later be mistaken as a contribution made to Hermening only.

Based on the evidence, several contributors earmarked their contributions made in connection with the joint fundraising activities for the Hermening Committee, as permitted under 11 C.F.R. § 9034.8(c)(3) and (7). A Committee representative admitted that he altered checks made payable to "Hermening for Congress" and submitted these checks for matching funds. Furthermore, the audit indicated that the fundraising representative for the joint fundraising event did not allocate these contributions to the Haig Committee. Thus, in order to obtain matching funds, a Committee representative submitted checks for contributions that were never received by the Committee. For the reasons stated above, this Office recommends that the Commission find probable cause to believe Haig for President and Dominic Saraceno, as treasurer, violated 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c) in connection with the joint fundraising events held with Kevin Hermening for Congress ('88) Committee.

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III. RECOMMENDATION

1. Find probable cause to believe Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c).

Date

9-9-94

L. M. Noble (7/2)
Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Committee for America and) MUR 3367
Sherwood D. Goldberg, as)
treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On February 1, 1994, the Federal Election Commission (the "Commission") found that there was reason to believe the Committee for America and Sherwood D. Goldberg, as treasurer, ("Respondents" or "CFA") violated 2 U.S.C. § 441a(a)(2)(A).¹ Respondents have failed to respond to the Commission's findings.

II. ANALYSIS

The Federal Election Campaign Act of 1971 as amended, (the "Act") provides that no person shall make contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election. 2 U.S.C. § 441a(a)(6). The term "person" includes an individual, partnership, committee, association,

1. The Commission made its original reason to believe findings on May 11, 1993. The Commission revoked its findings in light of FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, U.S. No. 93-1151, Jan. 18, 1994).

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corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

Further, the Act prohibits multicandidate political committees from making contributions to any candidate and his or her authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section 441a of the Act. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act. 2 U.S.C. § 441a(f).

The Act also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any contribution from a corporation or labor organization in connection with a federal election. 2 U.S.C. § 441b(a).

Pursuant to 2 U.S.C. § 431(8)(A)(i), the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The regulations further provide that unless specifically exempted

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under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Id.

CFA filed a statement of organization with the Commission on April 2, 1986. On October 2, 1986, CFA qualified as a multicandidate committee. The stated purpose of CFA was to raise money and support for Republican candidates across the country. Alexander Haig was the Chairman of CFA and it appears that CFA devoted a substantial amount of its efforts toward Mr. Haig's presidential campaign.

This matter involves impermissible in-kind contributions made by CFA to the Haig for President Committee (the "Committee"). As discussed below, these in-kind contributions included expenses paid in connection with a fundraising dinner held at the Waldorf-Astoria Hotel; polling expenses; the Committee's use of CFA's telephone and computer systems; salary expenses; testing the waters activities; subscription expenses; undocumented expenses; and general, administrative and overhead expenses.²

2. CFA shared in the payment of these expenses with the Committee for America-Virginia ("CFA-VA"). The figures discussed in this report, however, represent only CFA's share of the expenses. CFA-VA was a registered committee with the Virginia State Board of Elections. Its stated purpose was to support candidates seeking state office. CFA-VA terminated on May 29, 1987.

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1. Salute to America Dinner

On March 23, 1987, CFA sponsored the "Salute to America" dinner at the Waldorf-Astoria Hotel in New York. CFA made \$225,257.55 in expenditures associated with the dinner.

"Salute to America" was a presidential announcement dinner, the purpose of which was to launch Alexander Haig's presidential campaign. Alexander Haig was the featured speaker at the dinner and used the event to announce that he would declare formally his candidacy for the Republican nomination for President the next day.

Apparently, the Committee had originally intended to announce Haig's candidacy formally at this dinner. Solicitation materials were produced for the Alexander Haig Announcement Dinner, sponsored by the Committee for Alexander Haig-Exploratory, to be held March 23, 1987, at the Waldorf-Astoria Hotel. A \$5,000 deposit was made from the Exploratory Committee's bank account to the Waldorf-Astoria Hotel on December 22, 1986.³ Further, \$11,000 in contributions were made payable to Haig for President Exploratory that were accompanied by solicitation response cards requesting reservations for the event.

Press accounts of the "Salute to America" dinner described the event as an announcement gala and as a nominating convention. Alexander Haig was the featured speaker of the evening, and at the dinner, Mr. Haig declared that he would

3. On March 4, 1987, a \$5,000 refund from the Waldorf-Astoria was deposited to the exploratory Committee's bank account.

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announce his candidacy for the Republican nomination for President on the following day. The "Salute to America" dinner was for the purpose of influencing Alexander Haig's election to President. 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R.

§ 100.7(a)(1)(iii)(A). Therefore, the \$225,257.55 in expenses incurred by CFA in connection with this event constitute in-kind contributions to the Committee.

2. Polling and Travel Expenses

CFA made payments totaling \$541.00 to Marketing Research Institute (MRI) for polling expenses. These payments from CFA were for a New Hampshire Statewide Survey poll and a Super Tuesday Presidential Primary poll. The questions asked in these two polls were identical in content and format to those in a poll conducted for the Committee in Iowa. The contents of the polls were presidential in nature, and included questions specifically focusing on Alexander Haig's name recognition and qualifications for the office of President. The contents of the polls do not relate to the stated organizational objectives of CFA -- namely, to raise money and support for Republican candidates. Because these polls were clearly for the Committee's benefit, the payments to MRI represent an in-kind contribution from CFA.

3. Use of Telephone and Computer Systems

The Committee used CFA's telephone and computer systems without charge from the period of December 1986 through April 1988. The failure of CFA to charge the Committee for its use of telephone and computer systems at the usual and normal

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charge represents an in-kind contribution. 11 C.F.R.
§ 100.7(a)(1)(iii)(A).

Under the terms of an equipment lease agreement that had been signed by the treasurers of CFA and the Committee, CFA agreed to lease to the Committee the furniture and fixtures listed on Attachment A to the lease. Attachment A was a list of office furniture and computer equipment. The terms of the lease included a monthly payment of \$860 from April 30, 1987 through March 31, 1988, with a purchase option. No payments, however, were ever made on the lease. The lease did not extend to the use of the telephone system.

Consequently, CFA made in-kind contributions to the Committee by allowing the Committee to use CFA's telephone and computer systems without charge. Although CFA and the Committee may have executed a lease agreement regarding the computer system, the Committee made no payments under the lease. In addition, there is no indication that CFA demanded any payment from the Committee under the lease or took any action under the default provisions of the lease. Further, neither CFA nor the Committee disclosed the amounts owed under the terms of the lease as outstanding obligations on their disclosure reports.

Because the lease agreement did not reflect the market value for leasing computer systems and did not mention the telephone system, the Commission made an independent determination of the value of the Committee's use of CFA's telephone and computer systems. According to the Audit staff's

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calculations, the value of the Committee's use of CFA's telephone and computer systems was \$8,719.94 for the period of April 15, 1987 through May 30, 1988.⁴ For the reasons stated above, CFA made in-kind contributions to the Committee, totaling \$8,719.94, in connection with the Committee's use of CFA's telephone and computer systems.

4. Salary Expenses of C. Patrick Roberts

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CFA paid \$166.75 for expenses of a CFA staff member whose activities were primarily presidential campaigning. Correspondence in the Committee's files indicated that Alexander Haig asked C. Patrick Roberts to undertake the leadership of his presidential campaign on December 20, 1986. The correspondence also stated that "Mr. Roberts left an important and secure job . . . in order to lead [Alexander Haig's] campaign and did so in good faith and with the understanding that he would be the Campaign Manager." The parties agreed to a salary of \$8,500 per month. In January of 1987, C. Patrick Roberts joined CFA as vice chairman and chief operating officer. His salary at CFA was \$8,500 per month.⁵

4. The \$8,719.94 amount represents the value of the Committee's use of the telephone and computer systems for the period of April 15, 1987 through May 30, 1988. The date of this in-kind contribution is April 15, 1987, which is the date the Committee began using the equipment exclusively. The cost of the Committee's use of CFA's telephone and computer systems from December 1, 1986 to April 15, 1987 is included in "General, Administrative and Overhead Expenses." See, pp. 12-14, infra.

5. CFA-VA paid the vast majority of Mr. Roberts' salary, with the Committee contributing towards the end of his term.

Based on the foregoing, CFA paid for expenses incurred by Mr. Roberts while performing duties in support of Alexander Haig's presidential campaign. Therefore, CFA made an in-kind contribution to the Committee in connection with the payment of Mr. Roberts' expenses totaling \$166.75.

5. Testing the Waters Activities

CFA incurred expenses totaling \$2,448.44 for testing the waters activities which were presidential in nature. These costs included travel expenses to Arizona and Nevada to meet with the Western States Caucus (\$1,674.50), travel expenses to Palm Beach, Florida (\$20.00) and travel expenses to New Hampshire (\$753.94). These expenses are discussed in turn below.

The Western States Caucus, a group made up of members from 13 western states, invited possible 1988 Presidential candidates to attend a meeting on November 14-16, 1986, in Scottsdale, Arizona. The meeting was attended by Dan and Jeannette Clement on behalf of Alexander Haig. The Western States Caucus met again on March 6-7, 1987 in Las Vegas, Nevada. Alexander Haig was scheduled to be the featured speaker at this meeting, but he did not attend the meeting. Thomas Christo attended the meeting on behalf of Alexander Haig. In an "After Action Report," Thomas Christo recommended that Alexander Haig write each member, stating: "I think you are a very important group and I look forward to meeting you personally and soliciting your support now that I am an announced candidate." Based upon the evidence, the travel

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expenses incurred in connection with meetings of the Western States Caucus were directly related to Alexander Haig's presidential campaign. Therefore, these travel expenses, totaling \$1,674.50, incurred by CFA constitute in-kind contributions to the Committee.

CFA also incurred \$20.00 in travel expenses for its employees C. Patrick Roberts and Tim Jansen to travel to West Palm Beach, Florida, from February 28 through March 3, 1987. The only identifiable activities which occurred in the Palm Beach vicinity were related to the presidential campaign. These activities included collecting \$20,000 in ticket sales to the "Salute to America" dinner and the collection of matching fund contributions. Therefore, the costs associated with travel by CFA employees to Palm Beach, Florida constitute in-kind contributions from CFA to the Committee.

CFA also incurred \$753.94 in travel expenses in connection with a meeting on March 8-9, 1987, in Manchester, New Hampshire and the Olde Tyme Picnic event subsequently held there on March 13-14th. The Olde Tyme Picnic was held by the Committee in connection with Alexander Haig's campaign. The meeting in Manchester, New Hampshire, on March 8-9, 1987, was attended by Dan Mariaschin, Tim Jansen and Thomas Christo. The apparent purpose of the meeting was to prepare for the presidential campaign activities which took place at the Old Tyme Picnic on March 13-14, 1987. Therefore, the expenses incurred by CFA in connection with the March 8-9, 1987 meeting and the Olde Tyme

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Picnic, totaling \$753.94, constitute in-kind contributions from CFA to the Committee.

In addition to the foregoing expenses, CFA incurred \$4,263.02 for expenses which appear to be associated with testing the waters activities. These expenses are itemized as follows:

<u>Date</u>	<u>Purpose</u>	<u>Amount</u>
Jan. 14-15, 1987	Manchester, NH travel	\$ 173.41
Feb. 12-13, 1987	Nashville, TN travel	\$2,297.79
Feb. 16-17, 1987	Manchester, NH travel	\$1,263.57
March 15, 1987	Iowa	\$ 528.25

The location, timing and nature of the activity indicate that the expenses itemized above were incurred by CFA in connection with Alexander Haig's presidential campaign. Therefore, CFA made in-kind contributions to the Committee, totaling \$6,711.46, for expenses associated with testing the waters activities.

6. Newspaper Subscriptions

CFA made payments for newspaper subscriptions totaling \$183.75 during January through March of 1987. In February of 1987, CFA paid for several subscriptions to newspapers, some of which extended into 1988. These subscriptions were in addition to the publications to which the Committee subscribed. Because of the primary election locale of the newspapers, it appears that the subscriptions were for the benefit of the Committee.

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In addition, a February 4, 1987, internal memo written by Russ McReynolds, CFA's assistant treasurer, recommended that "CFA be deactivated as soon as possible." Because CFA and the Committee shared office space, the Committee continued to receive the publications through the end of the subscription periods. Because CFA paid for subscriptions that primarily benefited the Committee, CFA made in-kind contributions to the Committee totaling \$183.75.

7. Miscellaneous In-Kind Contributions

CFA made payments to certain vendors for goods and services relating to the presidential campaign. The total amount paid by CFA for these goods and services was \$4,720.22. With one exception, these payments were associated with activities that occurred subsequent to Alexander Haig's formal announcement of candidacy.

These miscellaneous in-kind contributions include payments by CFA: (1) to the coordinator of the "Salute to America" dinner; (2) to the publicity firm for the "Salute to America" dinner for services rendered in March and April of 1987; (3) for limousine and security services rendered to Alexander Haig; and (4) for Federal Express charges. Also included in these expenses is a \$750 invoice dated March 9, 1987, prior to Mr. Haig's formal announcement, for "21 different logo directions." These expenses were incurred in connection with Alexander Haig's presidential campaign. Consequently, CFA made in-kind contributions to the Committee totaling \$4,720.22.

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8. Undocumented Expenses

CFA also inadequately documented expenditures it made for travel expenses totaling \$13,083.80.⁶ Additionally, CFA made an expenditure in the amount of \$8,083.00 to Computer Rx for computer equipment. The Commission's Audit staff was unable to obtain documentation through the Audit process to determine the purpose of these undocumented expenses. Nor have Respondents provided any documentation. Because of the nature of these expenses and the absence of adequate documentation, it appears that these expenses constitute in-kind contributions from CFA. Therefore, CFA made in-kind contributions to the Committee in connection with these undocumented expenses totaling \$21,166.80.

9. General, Administrative and Overhead Expenses

In addition to the in-kind contributions made to the Committee discussed above, CFA also provided in-kind contributions relating to general, administrative and overhead expenses totaling \$142,757.88. These in-kind contributions resulted from the Committee's use of CFA's staff, office equipment, supplies and office space from the period of December 1, 1986 through April 15, 1987.

The Committee shared office space and equipment with CFA from December 1, 1986 through April 15, 1987. The staff members employed during this period were paid by CFA. These staff members were key participants in Mr. Haig's exploratory

6. These expenditures include payments to Mrs. Patricia Haig from CFA for travel expenses totaling \$12,780.

activities and the "Salute to America" dinner. CFA's staff members worked on several projects during this period which benefited the Committee. These projects included, among other things, the processing of \$11,000 in exploratory contributions for the "Salute to America" dinner and a draft of "Accounting Procedures and Internal Controls" for the Haig Committee. Thus, the Committee received the value of work performed by CFA's staff; the value of the use of office equipment and supplies rented and purchased by CFA; and the value of occupying CFA's office space without charge during this period.⁷

The Commission's Audit staff determined that the Committee's share of the general, administrative and overhead expenses for December 1, 1986 through April 15, 1987 is 64.6% of the amount incurred by CFA and CFA-VA for such expenses. This amount totals \$200,949.48. The amount attributable to CFA is \$140,874.26. In addition, the value of the Committee's use of CFA's telephone and computer systems from the period of December 1, 1986 through April 15, 1987 was \$1,883.62.

In conclusion, any value received by the Committee for general, administrative and overhead expenses incurred by CFA represents an in-kind contribution. In addition, the Committee's use of CFA's telephone and computer systems without charge also represents an in-kind contribution. Therefore, the Committee received in-kind contributions totaling \$142,757.88

7. The Committee did pay rent for the use of office space one month, April 1987, which is not included in the total.

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in the form of: (1) general, administrative and overhead expenses incurred by CFA; and (2) the use of CFA's telephone and computer equipment, during the period of December 1, 1986 through April 15, 1987.⁸

10. Conclusion

CFA's payment of expenses incurred in connection with Alexander Haig's presidential campaign constitutes in-kind contributions to the Committee. 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R. § 100.7(a)(1)(iii)(A). CFA made in-kind contributions to the Committee totaling \$410,225.35 (\$267,467.47 direct and \$142,757.88 indirect). Because CFA was a multicandidate committee, it was prohibited from making any contributions to the Committee in excess of \$5,000. Therefore, CFA made excessive contributions to the Committee totaling \$405,225.35.

Based on the foregoing, this Office recommends that the Commission find there is probable cause to believe the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

8. The expense for the use of the telephone and computer systems from April 15, 1987 through May 30, 1988, are not included in this total. These costs were discussed separately on pages 5-7, supra.

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III. RECOMMENDATION

1. Find probable cause to believe the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

Date

9/9/94

LM Noble (AD)
Lawrence M. Noble
General Counsel

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**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

September 20, 1994

Maryann Bumgarner, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3367

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 21 11 35 AM '94

Dear Ms. Bumgarner:

I am writing in response to the letter dated September 12, 1994 regarding the General Counsel's office plan to recommend to the Commission that it find probable cause to believe that violations have occurred.

As I indicated to you in our telephone conversation, I am just contacting my client regarding your communication. It is our desire to file a responsive brief discussing these issues in detail. I would request that the Office of General Counsel grant a 20 day extension for the filing of the brief so that our brief may adequately address the issues addressed in the General Counsel's report.

Thank you for your consideration in this matter. If you should have any questions, please do not hesitate to contact me.

Sincerely,



E. Mark Braden

EMB/bss

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 22, 1994

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

RE: MUR 3367
Haig for President and
Dominic Saraceno, as
treasurer
Committee for America and
Sherwood D. Goldberg, as
treasurer

Dear Mr. Braden:

This is in response to your letter dated September 20, 1994, which we received on September 21, 1994, requesting an extension of 20 days to respond to the General Counsel's Briefs in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 20, 1994.

If you have any questions, please contact me at
(202) 219-3690.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Bumgarner".

Mary Ann Bumgarner
Attorney

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**BAKER
&
HOSTETLER**
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036-5304 • (202) 861-1500
FAX (202) 861-1783 • TELEX 2357276
WRITER'S DIRECT DIAL NUMBER (202) 861-1504

October 20 1994

The Honorable Trevor Potter
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Mary Ann Bumgarner, Esquire
Office of General Counsel

Re: MUR 3367, Haig for President and
Committee for America

Dear Chairman Potter:

In the Federal Election Commission General Counsel's briefs dated September 9, 1994, the General Counsel's office recommends that the Commissioners find probable cause to believe that the Haig for President Committee ("HFP") and the Committee for America ("CFA") have violated provisions of the Federal Election Campaign Act (the "Act").

The General Counsel's briefs illustrate more vividly than any articulable argument the inherent unfairness of an enforcement process which uses the same organization to administer, prosecute, judge and assign punishment. This is the clerk, sheriff, prosecutor, jury and judge all residing in a single location -- the Commission. Obviously this is not an unfamiliar argument to the Commissioners nor is a response at this stage of the Commission's enforcement process the appropriate forum for a discussion of the functional difficulties of independent agencies. Yet, the General Counsel's brief in this particular case so clearly illustrates these inherent enforcement conflicts that these Respondents urge the Commissioners to carefully again consider these conflicts when reviewing this matter. This observation is not made to denigrate the personnel of the Commission, but rather to recognize the problems presented by a structure which inevitably results in an analysis from the General Counsel's office with more justification for investigations and punishment than impartial or dispassionate analysis.

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COUNSEL

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The Honorable Trevor Potter
October 20, 1994
Page 2

On August 2, 1993, HFP and CFA filed with the Commission a letter as well as accompanying materials which included affidavits in response to the General Counsel's factual and legal analysis. This letter will not repeat the detailed arguments made in that response. The Respondents recognize the Commissioners will carefully review and weigh HFP and CFA's arguments and evidence presented. Now, however, Respondents request the Commissioners consider where the General Counsel's analysis in the matter would lead the Commission.

Effectively, the General Counsel's analysis in this matter would require the Commissioners to determine whether expenditures by a political committee were 'testing the water' 'campaign expenditures' based on a totally subjective process. A process of determining benefit not linked to any specific receipt of contributions or direct advocacy of election but an auditor's opinion of political benefit. The General Counsel's brief transfers the evidential burden to the Respondents to prove that specific expenditures were not campaign related. Fundamental First Amendment protected speech rights cannot be subject to this type of ad hoc regulation. Only clear, bright line tests can possibly permit this Commission to constitutionally administer its statutory responsibility.

Salute to America Dinner

The largest area of specific disagreement between the Respondent and the General Counsel's brief involves the Salute to America dinner.

The General Counsel's view of this fundraiser would put the Commission in the position of determining that a fundraising event was not for the Committee which received the proceeds, the contributions -- the money from the event, but for the individual who was the featured speaker. The individual who the General Counsel in its subjective opinion determines benefitted politically from the event. Even though there was no direct candidate advocacy even alleged at the event. The General Counsel's approach is fundamentally unsound and impossible for this or any other Commission to fairly administer.

If the Commission reverses the circumstances of the dinner, the faulty nature of the General Counsel's approach becomes apparent. Assume there was a Salute to America dinner at which General Haig did not appear. At the dinner it is announced that on the following day there will be a press conference announcing the formation of the Committee for America. However, all the contributions -- the monies from the dinner -- are received as contributions by the Haig for President Committee. Would the

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General Counsel's office conclude the costs of the event were expenditures for the Committee for America? Of course not. The General Counsel would correctly conclude the event was in reality a fundraiser for the Committee that received the funds -- the Haig for President Committee -- and that the costs of this event would be expenditures for HFP.

Possibly, another more likely hypothetical can illustrate the fallacy of the General Counsel's analysis. President Clinton is the featured speaker next fall at a fundraising dinner for a Democratic Senate candidate. At that fundraiser, the President states that he will be making an announcement the following day regarding his re-election plans. The newspaper covering the dinner "describe the event as an announcement gala and as a nominating convention" (sic). Are the expenses of this fundraising dinner for a Senate candidate an in-kind contribution to the President's re-election campaign? Is it not more consistent with the Commission's regulations and past practice to conclude that that event was a fundraiser for the Senate campaign and the expenditures for the dinner were expenditures for the Senate campaign, and not contributions to or expenditures for President Clinton's re-election campaign.

The General Counsel will of course argue there were other factors present at the CFA dinner. However, the only other relevant fact is that HFP originally considered having an announcement fundraising dinner. This additional factor is wholly insufficient to declare that an event whose stated public purpose was to raise funds for CFA and which in fact raised funds for CFA was in reality an event for HFP.

The HFP and CFA do not dispute that each organization undertook certain actions which may have been inadvertent violations of the Act. The committees' candid recognition of those potential problems does not in any way indicate that Respondents agree with the General Counsel's analysis regarding the scope of the alleged violations. The two committees were small, ill-funded players in the national political arena. The fines proposed by the General Counsel's office are grossly inappropriate to the scope of HFP and CFA activities. Surely the Commissioners realize the activities of these two political committees were similar to activities of literally dozens of other political committees associated in some way with a future, present or past Presidential aspirant. In reality, HFP and CFA differ from these committees only in that they operated at a much lower financial level with less professional and experienced staff.

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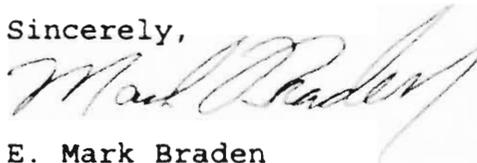
The Honorable Trevor Potter
October 20, 1994
Page 4

CONCLUSION

In light of FEC v. NRA Political Victory Fund, 6 F. 3rd 821 (D.C. Cir. 1993), cert. granted 114 S.Ct. 2703 (1994) and FEC v. LEGI-TECH, Inc., (Civil Action No. 91-0213 October 12, 1994), the Commissioners should reject the General Counsel's recommendation to find probable cause to believe the Respondents violated the Act. It would be appropriate for MUR 3367 to be dismissed by the Commission pursuant to the above mentioned court decisions or in the alternative, this matter should be held in abeyance pending a final resolution of the NRA case in the United States Supreme Court. Either course of action would be a more prudent use of the Commission's limited resources than the Commissioners finding probable cause, whatever the perceived merits of such action. The Respondents should not be required to expend significant resources responding to this enforcement action when the continuing efficacy of the action is subject, at minimum, to serious question.

Thank you for your consideration of our position.

Sincerely,



E. Mark Braden

EMB/bss

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arises out of the Audit of Haig for President and Dominic Saraceno, as treasurer (the "Haig Committee"). On May 11, 1993, the Commission found reason to believe that the Haig Committee violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c). The Commission also found reason to believe that the Committee for America and Sherwood D. Goldberg, as treasurer ("CFA"), violated 2 U.S.C. § 441a(a)(2)(A). The Commission entered into pre-probable cause conciliation negotiations with Respondents.¹

In light of the decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 114 S. Ct. 2703 (1994), cert. dismissed on jurisdictional grounds, No. 93-1151, 1994 WL 675237 (U.S. Dec. 6, 1994) ("NRA"), and based upon the original audit, the Commission revoked all of the previous findings of reason to believe in this matter. The Commission also revoked to enter into conciliation negotiations

1. The Haig Committee and CFA are represented by the same counsel in this matter and are referred to collectively as "Respondents" in this report.

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with Respondents prior to a finding of probable cause to believe.

By letter dated February 8, 1994, this Office notified Respondents of the Commission's actions and the opportunity for further negotiations. Respondents never responded to this offer to conciliate the matter. Subsequently, this Office forwarded probable cause briefs to the Haig Committee and CFA. Respondents were given an extension of time in which to respond to our briefs, and they have now submitted a joint response. This Report contains probable cause recommendations against the Haig Committee and CFA.

II. ANALYSIS

A. Factual Background

Full discussion of the violations by the Haig Committee and CFA are contained in the General Counsel's probable cause briefs. The factual and legal analyses set forth in the General Counsel's briefs are incorporated as if fully set forth herein.

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This matter concerns impermissible in-kind contributions made to the Haig Committee by CFA and Committee for America-Virginia ("CFA-VA"). CFA filed a statement of organization with the Commission on April 2, 1986, and qualified as a multicandidate committee on October 2, 1986. The stated purpose of CFA was to raise money and support for Republican candidates across the country. CFA-VA filed a statement of organization with the Virginia Board of Elections on October 15, 1986. CFA-VA's stated purpose was to operate on a statewide basis supporting candidates seeking state office. Pursuant to 2 U.S.C. § 431(11), CFA-VA fell within the definition of "person" under the Act. Mr. Haig was the Chairman of both CFA and CFA-VA. The audit process revealed that CFA, CFA-VA and the Haig Committee shared vendors, office space, equipment and personnel and that CFA and CFA-VA devoted a substantial amount of their efforts in support of Alexander Haig's presidential campaign.

According to the Audit Referral, the in-kind contributions made by CFA and CFA-VA³ on behalf of the Haig Committee totaled \$405,225.35 and \$184,497.42, respectively. These in-kind contributions included expenses paid in connection with a fundraising dinner held at the Waldorf-Astoria Hotel; polling and travel expenses; the Haig Committee's use of CFA's and CFA-VA's telephone and computer systems; salary expenses;

3. Because this committee terminated on May 29, 1987, this Office made no recommendations as to violations of the Act by CFA-VA.

testing the waters activities; subscription expenses; undocumented expenses; and general, administrative and overhead expenses.

In addition, the Haig Committee submitted nine contributor checks to the Commission for matching funds under the Presidential Primary Matching Payment Account Act that had been altered. These nine checks, totaling \$437.50, had been received in connection with three joint fundraising events and altered -- not by the contributor -- to include the Haig Committee as an intended recipient of the contribution.

B. Analysis

In their response, counsel for the Haig Committee and CFA makes three general arguments. Counsel's first argument criticizes the "inherent unfairness of an enforcement process which uses the same organization to administer, prosecute, judge and assign punishment." Attachment 2 at 1. Counsel, however, acknowledges that "a response at this stage of the Commission's enforcement process" is not "the appropriate forum for a discussion of the functional difficulties of independent agencies." Id.

We agree with Respondents that this is not an appropriate forum to challenge the structure or authority of this independent agency. Moreover, counsel mischaracterizes the enforcement process by analogizing it to a court proceeding. For example, one of the most apparent differences is that, unlike a court, the Commission cannot adjudicate whether there was a violation and must attempt to correct a violation "through

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informal methods of conference, conciliation and persuasion." 2 U.S.C. §§ 437g(a)(4) and (6). Further, if the parties do not conciliate, the Commission's only recourse is to file a civil action, where Respondents are entitled to de novo review.

Counsel's second argument addresses "the largest area of specific disagreement" between Respondents and the General Counsel: the "Salute to America" dinner. Respondents argue that although Mr. Haig was the featured speaker and announced that he would officially declare his candidacy the next day, the dinner was not for the purpose of influencing his campaign because CFA received the contributions from the dinner. To illustrate their point, Respondents put forth this purportedly analogous situation:

President Clinton is the featured speaker next fall at a fundraising dinner for a Democratic Senate candidate. At that fundraiser, the President states that he will be making an announcement the following day regarding his re-election plans. The newspaper[s] covering the dinner "describe the event as an announcement gala and as a nominating convention"

Attachment 2 at 3. Based on this hypothetical, counsel contends that the expenditures made in connection with the fundraising dinner were expenditures for the Senate campaign, and "not contributions to or expenditures for President Clinton's re-election campaign." Id. Counsel tacitly acknowledges, however, that the analogy is imperfect because "[t]he General Counsel will of course argue that there were other factors present at the CFA dinner." Id.

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In addition, the Haig Committee and CFA "do not dispute that each organization undertook certain actions which may have been inadvertent violations of the Act." Id. They argue, however, that "the two committees were small, ill-funded players in the national political arena" and the fines proposed in this matter are "grossly inappropriate to the scope of HFP⁴ and CFA activities." Id.

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Respondents fail to provide any new evidence to refute the facts set forth in the General Counsel's briefs. Instead, Respondents argue by an analogy that fails because, as counsel correctly points out, "there were other factors present at the CFA dinner." It is undisputed that Alexander Haig was the featured speaker of the evening and that, at the dinner, Mr. Haig declared that he would announce his candidacy for the Republican nomination for President on the following day. In addition to the fact that, coincidentally, the Haig Committee "originally considered having an announcement fundraising dinner [on this date]," press accounts of the "Salute to America" dinner described the event as an announcement gala and as a nominating convention.

Most importantly, the hypothetical is not analogous to the facts of this matter because the recipient committee of the "Salute to America" contributions was a committee chaired by Mr. Haig which devoted a substantial amount of its time promoting his presidential campaign. In Respondents'

4. Counsel uses "HFP" when referring to the Haig for President committee.

hypothetical, the recipient committee was unrelated to the President's campaign.

Finally, counsel argues that "in light of FEC v. NRA Political Victory Fund [cite omitted] and FEC v. LEGI-TECH, Inc., (Civil Action No. 91-0213 October 12, 1994), the Commissioners should reject the General Counsel's recommendations to find probable cause to believe Respondents violated the Act." Attachment 2 at 4. In the alternative, counsel argues that this matter should at least be held in abeyance pending final resolution of the NRA case. With no further explication, counsel contends that the "continuing efficacy" of the action" is in "serious question." Id.

Contrary to counsel's conclusory assertion, the Court of Appeals acknowledged in its decision in NRA that the Commission is empowered to reconstitute itself without Congressional intervention. 6 F.3d at 827-28. In accordance with NRA, the Commission reconstituted itself as a constitutional six-member body. The reason to believe findings upon which this matter is proceeding were made by the reconstituted six-member Commission. Moreover, counsel's "abeyance" argument is now moot in light of the Supreme Court's recent decision in NRA, which did not alter in any way the holding of the Court of Appeals because the petition for certiorari was dismissed on jurisdictional grounds.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTIES

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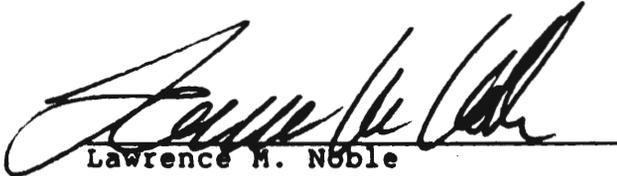
IV. RECOMMENDATIONS

1. Find probable cause to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c).

2. Find probable cause to believe the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

3. Approve the attached conciliation agreements and the appropriate letters.

1/4/95
Date


Lawrence M. Noble
General Counsel

Attachments

1. Letter dated September 20, 1994.
2. Response dated October 20, 1994.
3. Conciliation agreements (2)

Attorney Assigned: Mary Ann Bungarner

25043643315

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3367
Haig for President and)
Dominic Saraceno, as treasurer;)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 24, 1995, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3367:

1. Find probable cause to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 11 C.F.R. § 9034.8(c) and 26 U.S.C. § 9042(c).
2. Find probable cause to believe the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

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

Attest:

1-24-95
Date

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

25043643316



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20461

February 16, 1995

E. Mark Braden, Esquire
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

RE: MUR 3367
Haig for President and
Dominic Saraceno, as
treasurer
Committee for America and
Sherwood D. Goldberg, as
treasurer

Dear Mr. Braden:

On January 24, 1995, the Federal Election Commission found that there is probable cause to believe that Haig for President and Dominic Saraceno, as treasurer, (the "Haig Committee") violated 2 U.S.C. §§ 441a(f) and 441b(a), 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c). On that same date, the Commission also found probable cause to believe that the Committee for America and Sherwood D. Goldberg, as treasurer, ("CFA") violated 2 U.S.C. § 441a(a)(2)(A). These violations were in connection with impermissible in-kind contributions made to the Haig Committee by CFA and the alteration of contributor checks by the Haig Committee.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

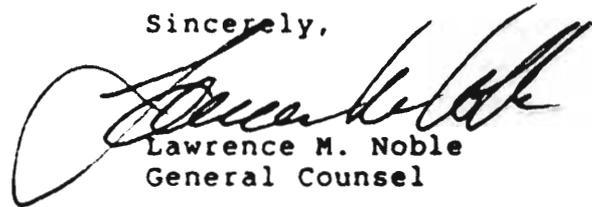
Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

25043643311

Page 2
E. Mark Braden

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

75043643316

MAHONEY, HAWKES & GOLDINGS

ATTORNEYS AND COUNSELLORS AT LAW

CHARLES FRANCIS MAHONEY
MORRIS M. GOLDINGS
WILLIAM S. HAWKES
MARE FETTERS
FRANCIS ALLOU GREENWICH
BRUCE WITHERSOP EDMANDE
JOHN E. BRADLEY
JAMES B. COE
ELLEN S. SHAPIRO
JOHN W. FEE, III
C. FORBES SARGENT III
DANIEL W. DOBRYTT
ALICE E. MOORE

**THE HERITAGE ON THE GARDEN
75 PARK PLAZA
BOSTON, MASSACHUSETTS 02116**

TELEPHONE (617) 467-0100
TELECOPIER (617) 467-0125

NORTH SHORE OFFICE
EIGHTEEN DALE AVENUE
GLOUCESTER, MASSACHUSETTS 01930

RICHARD S. JACOBS
DAVID R. KERRIGAN
AMY J. AKERLICH
JERRY A. O'NEILL
JOHN F. AYLMER, JR.
R. DAVID BRICK
AMY BRIDGES NEW
SALLY A. MOORE

January 24, 1995

**VIA FACSIMILE TRANSFER
FAX TRANSFER NO. (202) 219-3923 AND REGULAR MAIL**

Lois Lerner, Esquire
General Counsel's Office
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: United States v. Dominic J. Saraceno, et al.
Criminal No. 93-10334-EFH
MURS 2717, 2903 and 3367

Dear Ms. Lerner:

Attached please find Respondent, Dominic J. Saraceno's Designation of Counsel in MURS 2717, 2903 and 3367 for your review and filing.

Please contact me upon receipt of this Designation to discuss a disposition of the matters referenced above.

Very truly yours,

John F. Aylmer, Jr.
John F. Aylmer, Jr.

JFA/mff
Attachment
JFA:2236

JAN 27 12 09 PM '95

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

25043643319

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2903, 2717, 3367

NAME OF COUNSEL: Morris M. Goldings, Esquire and
John F. Aylmer, Jr., Esquire

ADDRESS: Mahoney, Hawkes & Goldings
75 Park Plaza
Boston, MA 02116

TELEPHONE: (617) 457-3100

The above-named individuals are hereby designated as my
counsel and are authorized to receive any notification and
other communications from the Commission and to act on my
behalf before the Commission.

1-23-95
Date


Signature

RESPONDENT'S NAME: Dominic J. Saraceno

ADDRESS: 15 Surrey Road
Newton, MA

BUSINESS PHONE: (617) 965-8030

JAN 27 12 44 PM '95
FEDERAL BUREAU OF INVESTIGATION
OFFICE OF THE ATTORNEY GENERAL

25043643320

MAHONEY, HAWKES & GOLDINGS

ATTORNEYS AND COUNSELLORS AT LAW

**THE HERITAGE ON THE GARDEN
75 PARK PLAZA
BOSTON, MASSACHUSETTS 02116**

TELEPHONE (617) 457-3100
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NORTH SHORE OFFICE
EIGHTEEN DALE AVENUE
GLOUCESTER, MASSACHUSETTS 01930

CHARLES FRANCIS MAHONEY
MORRIS M. GOLDINGS
WILLIAM S. HAWKES
MARK PETERS
FRANCIS ALLOU GENESWIN
BRUCE WENTHROP EDMANDE
JOHN E. BRADLEY
JAMES B. COX
ELLEN S. SHAPIRO
JOHN W. FER, III
C. FORBES SARGENT III
DANIEL W. DONOHY
ALEX E. MOORE

RICHARD S. JACOBS
DAVID E. KERRIGAN
AMY J. AXELROD
JERRY A. GELLUCCI
JOHN F. ATLMER, JR.
E. DAVID BECK
AMY BRIDGEMAN NEB
SALLY A. MORRIS

January 30, 1995

VIA FEDERAL EXPRESS

Lawrence W. Noble, Esquire
General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

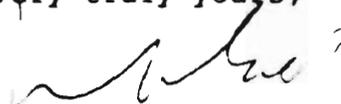
Re: **Dominic J. Saraceno**
MURS 2717, 2903 and 3367

Dear Mr. Noble:

The enclosed executed Agreement of our client Dominic Saraceno is forwarded based upon the understanding that the three (3) specified matters under review referenced above, are the only such matters presently pending before the Commission.

Thank you for your attention in this matter.

Very truly yours,


Morris M. Goldings

MMG:lmj
Enclosures

cc: Lois Lerner, Esquire

JAN 31 12 30 PM '95
FEDERAL ELECT
COMMISSION
OFFICE OF THE
GENERAL COUNSEL

2 5 0 4 3 6 4 3 3 2 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MURs 2717, 2903 and 3367
)

The Federal Election Commission has been asked whether it would be willing to waive all civil remedies and actions it presently has against Dominic J. Saraceno if Mr. Saraceno enters a guilty plea in the matter of United States v. Dominic J. Saraceno, (Crime. No. 93-10334-EFH).

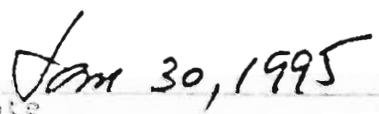
According to the terms of a proposed plea agreement between Mr. Saraceno and the United States Attorney's Office, Mr. Saraceno will enter a plea to one felony count while reserving the right to argue for a lesser sentence, fine and other terms of disposition than that recommended by the United States Attorney's Office. The United States Attorney's Office will recommend the following to the sentencing court:

1. a fine of \$100,000;
2. a jail sentence of one year and one day;
3. a \$50.00 special assessment; and
4. two years supervised release.

With the understanding that Mr. Saraceno enters a plea to one felony count and the plea is accepted by the court, the Commission will agree to waive further civil prosecution against Mr. Saraceno in MURs 2717, 2903 and 3367. This Agreement shall apply regardless of the sentence; if any; fine, if any; or other terms of disposition imposed by the Court.



Dominic J. Saraceno



Date



Lawrence H. Noble
General Counsel
Federal Election Commission



Date

25043643322



U.S. Department of Justice

MULS
2717
2903
9367

United States Attorney
District of Massachusetts

FEB 22 9 50 AM '95

1005 I.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

February 16, 1995

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: United States v. Dominic Saraceno, et al.
Cr. No. 93-10334-EFH

Dear Ms. Lerner:

On Monday, January 30, 1995, Dominic Saraceno and Donald Cooke, Jr., each pleaded guilty in federal court to making false statements to the Federal Election Commission, in violation of Title 18, United States Code, Section 1001. At sentencing, the government will be requesting that the court sentence Saraceno to one year imprisonment and a \$100,000 fine, and order Cooke to pay a fine in the amount of \$8500. The sentencing for both defendants is set for April 24, 1995.

I would like to extend our deepest appreciation to you and your office for the cooperation provided in this case. The efforts extended by Mary Ann Bungarner were absolutely essential to our investigation and trial preparation. Likewise, Ken Kellner's eagerness to provide testimony at trial, and his work in anticipation of that testimony, were necessary for a successful resolution of the matter.

We hope that the result reached will have a favorable impact on your office's investigations. Thank you again for all of your help and assistance.

Sincerely,

DONALD K. STERN
United States Attorney

25043643323

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

APR 25 4 32 PM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 24, 1995, the Commission found probable cause to believe that: (1) Haig for President ("Haig Committee") and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 26 U.S.C. § 9042(c) and 11 C.F.R. § 9034.8(c); and (2) the Committee for America and Sherwood D. Goldberg, as treasurer ("CFA") violated 2 U.S.C. § 441a(a)(2)(A). These violations were in connection with impermissible in-kind contributions made to the Haig Committee by CFA and the alteration of contributor checks by the Haig Committee.

The Commission also agreed to waive further civil prosecution against Haig for President in MURs 2717, 2903 and the remaining portion of MUR 3367 that is not the subject of the attached conciliation agreement.¹

1. On January 31, 1995, the General Counsel, on behalf of the Commission, signed an agreement with the treasurer of the Haig Committee, Dominic Saraceno, agreeing to waive all civil remedies and actions the Commission had against Mr. Saraceno if he entered a guilty plea in the matter of United States v. Dominic J. Saraceno, (Crime. No. 93-10334-EFH). Mr. Saraceno entered a plea to one felony

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II. ANALYSIS

(Footnote 1 continued from previous page)
count, which was accepted by the court. According to the terms
of the agreement, the Commission waived further civil
prosecution against Mr. Saraceno in MURs 2717, 2903 and 3367.

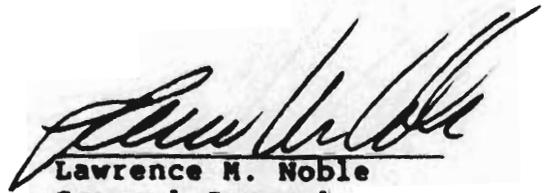
Based on the foregoing, this Office recommends that the Commission approve the attached conciliation agreement and close the file in this matter and MURs 2717 and 2903.

III. RECOMMENDATIONS

1. Approve the attached conciliation agreement with Haig for President and Dominic Saraceno, as treasurer, and the Committee for America and Sherwood D. Goldberg, as treasurer.
2. Close the files in MURs 2717, 2903 and 3367.
3. Approve the appropriate letter.

5043643326
Date

4/26/95



Lawrence M. Noble
General Counsel

Attachment
Conciliation agreement

Staff Assigned: Mary Ann Bumgarner

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Haig for President and) MUR 3367
 Dominic Saraceno, as treasurer;)
 Committee for America and)
 Sherwood D. Goldberg, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 2, 1995, the Commission decided by a vote of 4-0 to take the following actions in MUR 3367:

1. Approve the conciliation agreement with Haig for President and Dominic Saraceno, as treasurer, and the Committee for America and Sherwood D. Goldberg, as treasurer, as recommended in the General Counsel's Report dated April 26, 1995.
2. Close the files in MURs 2717, 2903, and 3367.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated April 26, 1995.

Commissioners Aikens, Elliott, McGarry, and Thomas voted affirmatively for the decision; Commissioners McDonald and Potter did not cast votes.

Attest:

5/2/95
Date

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

Received in the Secretariat: Wed., April 26, 1995 4:31 p.m.
 Circulated to the Commission: Thurs., April 27, 1995 11:00 a.m.
 Deadline for Vote: Tues., May 02, 1995 4:00 p.m.

mwd

25043643327



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 9, 1995

Mr. E. Mark Braden, Esq.
Baker & Hostetler
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304

RE: MURs 2717/2903/3367
Haig For President
and Dominic Saraceno, as
treasurer; and Committee for
America and Sherwood D.
Goldberg, as treasurer

Dear Mr. Braden:

On May 2, 1995, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 441a(a)(2)(A), 441a(f), and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"); 11 C.F.R. § 9034.8(c) of the Commission's regulations; and 26 U.S.C. § 9042(c) of the Presidential Election Campaign Fund Act. Accordingly, the file has been closed in this matter. Please be advised that the civil penalty in this agreement reflects unusual factors brought forth during the investigation.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Celebrating the Commission's 20th Anniversary

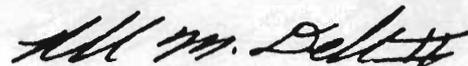
YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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Mr. E. Mark Braden, Esq.
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Richard M. Denholm II
Attorney

Enclosure
Conciliation Agreement

75043643329



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 9, 1995

Morris M. Goldings, Esq.
John F. Aylmer, Jr.
Mahoney, Hawkes & Goldings
75 Park Plaza
Boston, MA 02116

RE: MURs 2717/2903/3367
Dominic J. Saraceno

Dear Messrs. Goldings and Aylmer:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard M. Denholm II".

Richard M. Denholm II
Attorney

25043643330

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Haig for President and) MUR 3367
Dominic Saraceno, as treasurer)
Committee for America and)
Sherwood D. Goldberg, as treasurer)

CONCILIATION AGREEMENT

2504364333 -
This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Haig for President and Dominic Saraceno, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), 26 U.S.C. §9042(c) and 11 C.F.R. §9034.8(c) and the Committee for America and Sherwood D. Goldberg, as treasurer, violated 2 U.S.C. §441a(a)(2)(A) (collectively, "Respondents").

NOW, THEREFORE, the Commission and Respondents having duly entered into conciliation pursuant to 2 U.S.C. §437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Haig for President is a political committee within the meaning of 2 U.S.C. § 431(4) and was the principal campaign committee of Alexander Haig during his 1988 presidential campaign.

2. Dominic Saraceno is the treasurer of the Haig Committee.

3. Committee for America ("CFA") is a political committee within the meaning of 2 U.S. C. § 431(4) and qualifies as a multicandidate political committee under 2 U.S.C. § 441a(a)(4).

4. Sherwood D. Goldberg is the treasurer of CFA.

5. Committee for America-Virginia ("CFA-VA") was a person within the meaning of 2 U.S.C. § 431(11). CFA-VA was a political committee registered with the Virginia State Board of Elections. CFA-VA terminated as a political committee on May 28, 1987.

6. The term "person" includes an individual, partnership, committee association, corporation, labor organization or any other organization or group of persons. 2 U.S.C. § 431(11).

7. Under 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1,000. Under 2 U.S.C. § 441a(a)(2)(A), no multicandidate political committee shall make

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contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$5,000. These limitations apply separately to each election except that all elections held in any calendar year for the office of President (other than a general election for such office) are considered to be one election.

2 U.S.C. § 441a(a)(6).

8. Under 2 U.S.C. §441a(f), no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the limitations set forth in section 441a of the Act. Furthermore, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under section 441a of the Act.

9. Under 2 U.S.C. §441b(a), it is unlawful for any candidate, political committee, or other person knowingly to accept or receive any contribution from a corporation or labor organization in connection with a federal election.

10. 2 U.S.C. § 431(8)(A)(i) provides that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value

2504364333

made by any person for the purpose of influencing any election for federal office. The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The regulations further provide that unless specifically exempted under 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. 11 C.F.R. § 100.7(a)(1)(iii)(A).

11. CFA made direct in-kind contributions to Haig for President totaling \$267,467.47 in connection with Alexander Haig's 1988 presidential campaign. Haig for President knowingly accepted these in-kind contributions from CFA. The direct in-kind contributions are as follows:

<u>Report Category</u>	<u>Amount</u>
Salute to America	\$225,257.55
Market Research Institute	\$ 541.00
Computer Equipment	\$ 3,387.36
Telephone System	\$ 5,332.58
C. Patrick Roberts	\$ 166.75
Testing the Waters Activities	
Western States Caucus	\$ 1,674.50
Palm Beach	\$ 20.00
Manchester 3/8 - 3/9	\$ 710.69
Olde Tyme Picnic	\$ 43.25
Subtotal - Direct Testing Waters	\$ 2,448.44
Manchester 1/14 - 1/15	\$ 173.41
Manchester 2/17	\$ 1,263.57
Nashville 2/12 - 2/13	\$ 2,297.79
Iowa 3/15	\$ 528.25
Subtotal - Other Testing Waters	\$ 4,263.02

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Newspapers	\$ 183.75
Miscellaneous	
Solters Roskin	\$ 3,238.62
O'Sullivan	\$ 750.00
Miscellaneous	\$ 731.60
Subtotal - Miscellaneous	\$ 4,720.22
Undocumented Expenses	
Travel Expenses	\$ 13,083.80
Computer Rx	\$ 8,083.00
Subtotal - Undocumented Expenses	\$ 21,166.80
Total Direct Contributions	\$267,467.47

12. CFA made indirect in-kind contributions to Haig for President totaling \$142,757.88 in connection with Alexander Haig's 1988 presidential campaign. Haig for President knowingly accepted these indirect in-kind contributions from CFA. The indirect in-kind contributions are as follows:

<u>Report Category</u>	<u>Amount</u>
General, Administrative and Overhead	\$140,874.26
Computer 12/1/86 - 4/15/87	\$ 787.73
Telephone 12/1/86 - 4/15/87	\$ 1,095.89
Total Indirect Contributions	\$142,757.88

13. Haig for President knowingly accepted the following direct in-kind contributions from CFA-VA totaling \$125,317.52 in connection with Alexander Haig's 1988 presidential campaign:

<u>Report Category</u>	<u>Amount</u>
Salute to America	\$ 20,714.42
Market Research Institute	\$ 23,969.50
Telephone System	\$ 875.10
Premiere Travel	\$ 4,386.00
C. Patrick Roberts	\$ 30,975.89

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Testing the Waters Activities	
Palm Beach	\$ 1,945.47
Manchester 3/8 - 3/9	\$ 1,601.17
Olde Tyme Picnic	\$ 14.00
Subtotal - Direct Testing Waters	\$ 3,560.64
Manchester 1/14 - 1/15	\$ 1,085.22
Manchester 2/17	\$ 502.06
Nashville 2/12 - 2/13	\$ 145.50
Business Intell, Report	\$ 5,000.00
Iowa 3/15	\$ 2,262.90
Press Releases	\$ 562.80
Subtotal - Other Testing Waters	\$ 9,558.48
Newspapers	\$ 2,327.24
Miscellaneous	
Eleanor Williams	\$ 3,800.00
Miscellaneous	\$ 1,106.61
Subtotal - Miscellaneous	\$ 4,906.61
Undocumented Expenses	
Travel Expenses	\$ 24,043.64
Subtotal - Undocumented Expenses	\$ 24,043.64
Total Direct Contributions	\$ 125,317.52

14. Haig for President knowingly accepted the following indirect in-kind contributions from CFA-VA totalling \$60,179.90 in connection with Alexander Haig's 1988 presidential campaign:

<u>Report Category</u>	<u>Amount</u>
General, Administrative and Overhead	\$ 60,075.22
Telephone 12/1/86 - 4/15/87	\$ 104.68
Total Indirect Contributions	\$ 60,179.90

15. Of the \$185,497.42 of direct and indirect in-kind contributions made by CFA-VA to Haig for President, \$149,150 represented corporate contributions.

16. Under 26 U.S.C. § 9042(c), it is unlawful for a political committee knowingly and willfully to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under the Presidential Primary Matching Payment Account Act.

17. Under 11 C.F.R. § 9034.2(c)(7), contributions received from a joint fundraising activity conducted in accordance with 11 C.F.R. § 9034.8 are matchable, provided that such contributions are accompanied by a copy of the joint fundraising agreement when they are submitted for matching.

18. 11 C.F.R. § 9034.8(c)(1) provides that the participants in a joint fundraising activity shall enter into a written agreement. The written agreement shall identify the fundraising representative and shall state a formula for the allocation of fundraising proceeds. 11 C.F.R. § 9034.8(c)(1).

19. Under 11 C.F.R. § 9034.9(c)(3), a joint fundraising notice shall be included with every solicitation for contributions. This notice shall include, inter alia, the allocation formula to be used for distributing joint fundraising proceeds and a

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statement informing the contributors that they may designate their contributions for a particular participant, notwithstanding the stated allocation formula. 11 C.F.R. § 9034.8(c)(3).

20. Under 11 C.F.R. §9034(c)(7)(i), the fundraising representative shall allocate proceeds according to the formula stated in the fundraising agreement. Each contribution received shall be allocated among the participants in accordance with the allocation formula, unless the circumstances described in section 9034.8(c)(7)(ii), (iii) or (iv) apply. Section 9034.8(c)(7) further provides that funds may not be distributed or reallocated so as to maximize the matchability of the contributions. Under 11 C.F.R. § 9034.8(c)(7)(iv), a written instrument made payable to one of the participants shall be considered an earmarked contribution unless a written statement by the contributor indicates that it is intended for inclusion in the general proceeds of the fundraising activity.

21. On April 15, 1987, Haig for President entered into a joint fundraising agreement with the Kevin Hermening for Congress ('88) Committee regarding a series of three joint fundraising events.

22. Haig for President submitted to the Commission for matching funds under the Presidential Primary Matching Payment Account Act nine contributor checks received in connection with the joint fundraising

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events, totaling \$437.50, that had been altered to give the appearance that the contributor had intended to make a contribution to both committees. In eight instances, the original checks were made payable to the Hermening Committee and the check memo line was blank. The checks submitted to the Commission for matching funds had been altered to add the phrase "hermening/Haig" or "Hermening/Haig event" on the check memo line. In one instance, the original check was made payable to "Hermening/Hague (sic) Event" and the check memo line read "Hermening." The check submitted to the Commission had been altered so that the check memo line read "Hermening/Haig."

V. CFA made excessive in-kind contributions to Haig for President totaling \$405,225.35, in violation of 2 U.S.C. § 441a(a)(2)(A).

VI. 1. Haig for President accepted excessive in-kind contributions from Committee for America totaling \$405,225.35, in violation of 2 U.S.C. § 441a(f).

2. Haig for President accepted excessive in-kind contributions from Committee for America-Virginia totaling \$184,497.42, in violation of 2 U.S.C. § 441a(f).

3. Haig for President accepted corporate in-kind contributions from Committee for America-Virginia totaling \$149,150, in violation of 2 U.S.C. § 441b(a).

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4. Haig for President furnished false, fictitious or fraudulent information to the Commission, and falsified information relevant to a certification by the Commission under the Presidential Primary Matching Payment Account Act with respect to nine contributor checks totaling \$437.50, in violation of 26 U.S.C. § 9042(c).

5. Haig for President violated 11 C.F.R. §9034.8(c) by failing to adhere to contributor designations (i.e., earmarked contributions) for a particular participant in a joint fundraising event.

VII. Haig for President and Committee for America will pay a combined civil penalty to the Federal Election Commission in the amount of sixty thousand dollars (\$60,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission waives further civil prosecution against Haig for President in MURs 2717, 2903 and the remaining portion of MUR 3367 that is not the subject of this conciliation agreement.

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

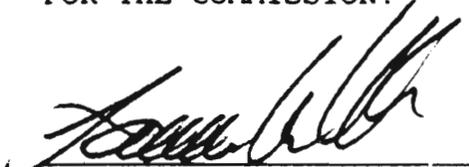
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X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

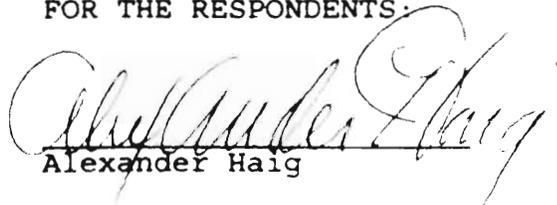
FOR THE COMMISSION:



Lawrence M. Noble
General Counsel

5/9/95
Date

FOR THE RESPONDENTS:



Alexander Haig

Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3367

DATE FILMED 6 CAMERA NO. 1

CAMERAMAN E.E.S.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 6/28/95

Microfilm
 Public Records
 Press

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THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED HUR 3367



WORLDWIDE ASSOCIATES, INC.

**ALEXANDER M. HAIG, JR.
CHAIRMAN**

**SHERWOOD D. GOLDBERG
MANAGING DIRECTOR**

June 8, 1995

**Mr. Richard M. Denholm II
Attorney
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463**

**RE: MURs 3367/2717/2903
Haig for President and Committee for
America**

Dear Mr. Denholm:

In compliance with your letter of May 9 and the Conciliation Agreement for the above-referenced MURs, you will find enclosed a check in the amount of \$60,000 covering the full amount of the civil penalties agreed to.

If you should have any questions regarding this matter, please contact me at (202) 429-9788.

Sincerely,

Alexander P. Haig
Alexander P. Haig

Enclosure

Check No. 1018

25043654762

WORLDWIDE ASSOCIATES, INC
1155 15TH STREET NW
SUITE 800
WASHINGTON DC 20006-2706

SPARTAN MUNICIPAL MONEY FUND

1018

80-568/1012

JUNE 7 19 95

PAY TO THE
ORDER OF

Federal Election Commission \$60,000.00

Sixty Thousand & 00/100

DOLLARS

Fidelity Investments
UNITED MISSOURI BANK
KANSAS CITY, MO

NOT VALID FOR LESS THAN \$1000
Patricia F. Healy

FOR MUR 9367

⑆ 10 20568 ⑆ 0 10 18 ⑆ 206557 ⑆ 2660 2⑆

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FEDERAL ELECTION COMMISSION
JUN 8 3 42 PM '95



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

6/8/95

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Haig for President, check number 1018, dated June 7, 1995, and in the amount of \$60,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Rosa E. Swinton
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of \$60,000.00 the MUR number is 3567 and in the name of Haig for President Cmte. for America. The account into which it should be deposited is indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: _____

Anita Alexander
Signature

6-8-95
Date

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