



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3571

DATE FILMED 7-11-97 CAMERA NO. 4

CAMERAMAN JML

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BEFORE THE FEDERAL ELECTION COMMISSION  
OF THE UNITED STATES OF AMERICA

Complaint: Violations of 2 U.S.C. § 441a(b), and 11 CFR §§ 9003.1, 9038.2(b)(4) and 9032.9(a)(2)

Respondent: Bush-Quayle '92 Primary Committee, Inc.

Complainant: Democratic National Committee

(MUR 3571)

92 JUL 30 PM 5:37

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

INTRODUCTION

The Democratic National Committee ("DNC") hereby brings this complaint against the Bush-Quayle '92 Primary Committee, Inc. ("Bush-Quayle Primary Committee") for actual and impending violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), including 26 U.S.C. § 9030 et seq. and the Federal Election Commission ("FEC") regulations, by reason of the Bush-Quayle Primary Committee's unlawful use of a reported \$7 million in surplus presidential primary funds for purposes clearly intended to influence the general presidential election.

More particularly, the Bush-Quayle Primary Committee has paid for a general election related full-page advertisement entitled "AN OPEN LETTER TO EVERY PEROT SUPPORTER IN AMERICA", which was signed personally by "George Bush" and was published in the July 29, 1992 edition of USA Today. That ad, according to a news article in the same edition of USA Today, also appeared in numerous other newspapers around the country. In addition, according to several press reports, on August 3, 1992, the Bush-Quayle Primary Committee will initiate a national television advertising campaign that is also general election related, but unlawfully will be paid for out of the \$7 million in surplus primary election funds.

The DNC asserts that such expenditures violate 11 CFR §§ 9038.2(b)(4) and 9032.9(a)(2). In addition, these expenditures violate 2 U.S.C. § 441a(b) and 11 CFR § 9003.1 because they are an impermissible attempt by the Bush-Quayle presidential campaign (i) to supplement the \$55.24 million taxpayer grant which it will receive, and (ii) to circumvent the related spending limitations and other restrictions attached to that grant.

For the reasons discussed more fully below, the DNC respectfully requests that the FEC initiate an expeditious investigation of these matters and that the FEC:

- (a) make a finding that the Bush-Quayle Primary Committee's expenditures of funds, both as described herein and in any other similar situations which may come to the FEC's attention, violate the FECA and the FEC's regulations, and

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(b) order that the Bush-Quayle presidential campaign, from its \$55.24 million federal taxpayer grant, repay to the Bush-Quayle Primary Committee all funds improperly expended by the Bush-Quayle Primary Committee for general election activities, and

(c) order that the Bush-Quayle Primary Committee fully repay to the federal treasury and donate to charity or use for other lawful purposes all surplus primary election funds, and

(d) if necessary, seek injunctive relief authorized by 26 U.S.C. § 9010(c) to prevent the Bush-Quayle Primary Committee and/or the Bush-Quayle presidential campaign from further violations of the FECA and the FEC's regulations, as described herein.

#### STATEMENT OF FACTS

1. At page 8B of the July 29, 1992 edition of USA Today, a full-page advertisement appears which is entitled "AN OPEN LETTER TO EVERY PEROT SUPPORTER IN AMERICA." Appearing at the end of the ad is the personal signature of "George Bush". Also appearing at the bottom of the page is the notation "Paid for by Bush-Quayle '92 Primary Committee, Inc." Exhibit 1 hereto.
2. The aforementioned ad clearly is directed at influencing voters in the general presidential election in that it reads, in part, ". . . in these days following [Perot's] withdrawal, I'm asking for your vote. Give me a chance to earn it. Over the next few months, study the two remaining candidates. Study our positions on issues like welfare reform. Fighting crime and drugs. Upholding family values. Creating jobs and balancing the budget. Then study what we say we will do. And what we've already done."
3. At page 1A of the July 29, 1992 edition of USA Today, an article appears which reports that the aforementioned ad and others published "-- in fewer than 10 newspapers, including USA TODAY -- are part of the campaign's aggressive pursuit of Perot backers and appear as Perot's state leaders meet today in Dallas. . . Bush's TV ads debut Monday on CNN and local stations in key states such as California, Texas and Ohio." Exhibit 2 hereto.
4. In the July 27, 1992 edition of Newsday, at page 15 of the News Section, an official of the Bush-Quayle campaign is reported as stating that the campaign "has up to \$5 million left from the primary season that could be used for television ads". Exhibit 3 hereto.

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5. According to the same Newsday article, the Bush-Quayle Primary Committee "has a tentative deal to air a series of 30- and 60-second political ads starting Aug. 3 on Cable News Network" ("CNN"), which has 46 million subscribers located throughout the United States. The article clearly indicates that these ads will be for general election purposes, stating "In a year when cable already has played a major role in the campaign, this deal raises the possibility of a first. In the past, national political advertising campaigns have begun on the major broadcast networks. Also, presidential ad campaigns usually begin after the conventions." (Emphasis added).
  6. An article in the July 29, 1992 edition of the Los Angeles Times, at page A9, also reports on the impending Bush-Quayle television advertising campaign. Exhibit 4 hereto. In relevant part, that article states:

The new Bush ads, the maiden effort of the Madison Avenue advertising group put together for his fall campaign, are to run mostly on local television stations and will be shown most frequently in such key swing states as Illinois, Ohio, Michigan, Pennsylvania, Missouri and Wisconsin.

\* \* \*

The Bush camp has roughly \$7 million in surplus primary campaign funds that cannot legally be spent after the GOP convention, and some advisors argued that the money should finance a blitz of negative ads attacking Clinton's gubernatorial record in Arkansas on economic and environmental issues. [Emphasis added].

#### DISCUSSION

The FEC regulations mandate that presidential primary funds only may be used "in connection with" the presidential candidate's "campaign for nomination." 11 CFR § 9032.9(a)(2). The regulations further provide that if a presidential primary committee does not expend all funds, it must return the portion that represents federal matching funds to the federal treasury. As to the remaining portion of a presidential primary committee's funds which represent private contributions, those funds can be donated to charity or used for other lawful purposes, which do not include general election activities. 11 CFR § 9038.2(b)(4).

There can be no question but that the Bush-Quayle Primary Committee has violated these mandates by paying for the full-page advertisement which appeared in the July 29, 1992 edition of USA Today and in other newspapers throughout the United States. The message of that ad clearly relates to the general presidential election in that George Bush is asking for the "vote" of Perot supporters. Because all of the Republican primaries have been held, the only time Perot supporters could "vote" for George Bush is in the general presidential election in November.

That ad also asks, "Over the next few months, study the remaining two candidates." Both clauses clearly refer to the general election, which will be held in just a "few months" from now. In addition, the reference to "the remaining two candidates" must mean Bill Clinton and George Bush, because Bush's only Republican primary opponent, Patrick Buchanan, has suspended his campaign.

Likewise, the July 27, 1992 Newsday report on the national television advertising campaign that the Bush-Quayle team will commence on August 3, 1992, indicates that surplus primary funds will pay for that advertising campaign. Although those ads have not yet begun to run, the July 29, 1992 Los Angeles Times article indicates that they are directed at influencing voters in the general presidential election as "the maiden effort . . . put together for [Bush's] fall campaign". In addition, that article reports that the "Bush campaign has roughly \$7 million in surplus primary campaign funds that cannot legally be spent after the GOP convention."

The FEC regulations also provide that the presidential nominee of a major party may voluntarily agree to accept a taxpayer grant of \$55.24 million in federal funds for use in the general election, provided the nominee adheres to the spending limits and other restrictions set forth in the candidate agreement. See 11 C.F.R. §§ 9003.1 and 9004.1. Assuming that Bush and Quayle each will execute a candidate agreement and will receive their taxpayer grant, the expenditure of Bush-Quayle Primary Committee funds on the USA Today (and other newspaper) ads and on the impending television commercials will permit the Bush-Quayle campaign to supplement the federal grant and to circumvent the related spending limitations.

#### CONCLUSION

Based upon the facts as known, the DNC has reason to believe that the Bush-Quayle Primary Committee has engaged in a massive violation of the FECA and FEC regulations by using \$7 million in surplus primary contributions to pay for general election expenditures. Moreover, based upon published reports, the DNC has reason to believe that the Bush-Quayle Primary Committee will

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USA TODAY, WEDNESDAY, JULY 29, 1992

(FRONT PAGE)

## Bush ads court Perot votes

By Judy Keen  
and Debbie Howlett  
USA TODAY

President Bush appeals for "a chance to earn" the votes of Ross Perot supporters in an open letter appearing in newspaper ads today.

The ads -- in fewer than 10 newspapers, including USA TODAY -- are part of the campaign's aggressive pursuit of Perot backers and appear as Perot's state leaders meet today in Dallas.

The letter, signed by Bush, praises Perot backers as "one of the most dramatic grass-roots movements" ever and says, "I'm asking for your vote. Give me the chance to earn it."

The president thought it

was a good idea ... to have some kind of direct communication," says senior adviser Charles Black.

The ad's publication the day of the Dallas meeting, he says, "is a coincidence."

Two Perot state leaders have endorsed Bush and one is backing Bill Clinton. Most have met with both camps.

Bush's TV ads debut Monday on CNN and local stations in key states such as California, Texas and Ohio.

There'll be no national ads before next month's GOP convention, but some local ads will air during prime-time Olympics broadcasts.

The ads, still being polished, won't attack Clinton.

► Life without Perot, 3A

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# Bush Set To Run Ads on Cable TV

By Harry Berkowitz  
Small words

President George Bush's re-election team appears ready to launch by Aug. 3 a TV ad campaign likely to be a crucial element in attempts to reverse his plunge in the polls.

The team has a tentative deal to air a series of 30- and 60-second political ads starting Aug. 3 on Cable News Network, said CNN spokeswoman Eileen Murphy.

Sources in the campaign said top officials on the Bush/Quayle '92 team would decide this week on an ad schedule.

CNN's Murphy said that although the final paperwork was not complete on the deal, it was unlikely that the Aug. 3 start date would change.

In a year when cable already has played a major role in the campaign, this deal raises the possibility of another first. In the past, national political advertising campaigns have begun on the major broadcast networks. Also, presidential ad campaigns usually begin after the conventions.

As of this weekend, the president's campaign had not bought any advertising time on ABC, CBS or NBC, according to network representatives.

The Bush campaign has up to \$5 million left from the primary season that could be used for television ads, a campaign official said. Under campaign law the money must be used before Bush is officially nominated at the Republican National Convention, which begins Aug. 17 in Houston.

"It's a question of timing," one campaign source said. "You want to spend your money wisely."

Although the Bush campaign might still buy time on the broadcast networks, CNN, which has 46 million subscribers, offers less expensive air time.

While networks such as CNN have a smaller audience, an advertiser has the opportunity to air those ads more frequently.

NBC, which is airing the highly viewed Summer Olympics, has sold all but 2 percent of its allotted advertising time during the games. The time remaining is being offered at discount, although those rates are still substantially higher than at other stations.

If the Bush ads run first on CNN, it would be another coup for the network, where Texas businessman Ross Perot first declared — on "Larry King Live" — that he might run for president.

Clinton campaign officials have indicated they don't plan to start his national advertising until after the Bush campaign begins running, and possibly not until after the Republican convention.

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# AN OPEN LETTER TO EVERY PEROT SUPPORTER IN AMERICA.

If you're a Perot supporter, you've been part of one of the most dramatic grassroots movements America has ever seen - volunteers energized as never before.

During the past several months, Ross Perot has clearly touched a chord with millions of American people.

His message has reached many receptive ears.

And his recent decision not to run has left a void.

That's why in these days following his withdrawal, I'm asking for your vote. Give me the chance to earn it.

Over the next few months, study the two remaining

candidates. Study our positions on issues like welfare reform. Fighting crime and drugs.

Upholding family values. Creating jobs and balancing the budget.

Then, study what we say we will do. And what we've really done.

After all, as a Perot supporter, you've become an important voice in determining the future of our country. You've articulated the frustration of working Americans with government.

Stay involved. Let your voice continue to be heard. Our country needs you.



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EXHIBIT 4

NATION

# President's Television Ads to Spotlight the Positive

■ **Republicans:** The commercials will show the President discussing foreign policy and leadership, instead of attacking Clinton.

By THOMAS B. ROSENTHAL and DOUGLAS J. ELLI

WASHINGTON—After debating whether to go on the offensive or the defensive, the Bush reelection campaign plans to begin airing a series of positive television commercials next week that offer a personal look at the President and his accomplishments on the eve of the GOP convention.

A campaign spokeswoman said the plan is to launch the two-week-long, \$5-million ad campaign reflected concern about the difficulty Bush has encountered in striking a chord with voters.

"It's a rough year," campaign press secretary Tom Clarke said. "Everybody, including us, is having a tough time getting our message across. We want to make sure that the American people know about our accomplishments so far and what is a very

good agenda for the future."

The White House on Tuesday also announced that Bush would travel the week to Southern California, where campaign aides have become increasingly worried that he is falling critically behind Democrat Bill Clinton.

Bush is to visit an Anaheim robotics factory, Odette Inc., on Thursday to make a pitch for his efforts to convert defense spending to peaceful pursuits. That night, he is to attend a private Republican fund-raising dinner in Los Angeles. On Friday, he is to campaign in Riverside, addressing community service groups over breakfast and stopping at a local job-training facility to spotlight his welfare-reform agenda.

The trip to Orange County and the Inland Empire will be closely watched by the Bush campaign as important gauges of the President's popularity in regions where he needs to run strong if he is to win

California's 54 electoral votes.

Bush's political problems in California were vividly illustrated Tuesday by a new poll showing him trailing Clinton among state voters by 34 percentage points. Clinton had 62%, Bush 28% in the survey, conducted by San Francisco pollster Marvin Field.

The new Bush ads, the maiden effort of the Madison Avenue advertising group put together for his fall campaign, are to run mostly on local television stations and will be shown most frequently in such key swing states as Illinois, Ohio, Michigan, Pennsylvania, Missouri and Wisconsin.

The ads by the November Company are expected to show Bush, in tight close-up shots, discussing his accomplishments in foreign policy and his leadership skills and blaming Congress for not enacting his domestic policy proposals.

The ads were filmed as an interviewer asked the President to talk openly about his strengths and his hopes for a second term. The ads aim to capitalize on one of Bush's perceived strengths—that people like and trust him.

"The rough idea is the main is the

message," one Bush adviser said.

The Bush camp has struggled over the theme and tone of a pre-convention ad effort as it has watched Clinton surge far ahead in several national polls since the Democratic convention.

The Bush camp has roughly \$7 million in surplus primary campaign funds that cannot legally be spent after the GOP convention, and some advisers argued that the money should finance a blitz of negative ads attacking Clinton's gubernatorial record in Arkansas on economic and environmental issues.

This might have forced Clinton to sue some of the \$5 million in general election funds that both he and Bush receive to respond, perhaps leaving him short of funds.

But the negative ad plan was rejected—at least for now—in part because of fear that the President needed to more firmly re-establish a positive reason for voters to support him before he could go on the attack. Current polls suggest that roughly 60% of the public disapproves of Bush's job performance.

Another idea had such popular personalities as former President Ronald Reagan and actor Kevin Costner offering testimonials for Bush. Scripts were written, but those ads were never shot.

Early versions of the positive ads aired next week were tested on focus groups, although the test audiences responded to Bush, campaign aides said the polls what he was saying struck many of the viewers as vague and lacking credibility. The ads were changed and reshot, the aides said.

Officials from Blair Television, an ad placement firm representing 140 stations nationwide, said the Bush campaign had inquired about buying time on local stations in St. Louis, Detroit, Columbus, Ohio, Grand Rapids, Mich., and Wausau, Wis. Blair sales assistant Kate Larner said the campaign was looking for time during prime time and news.

Executives with Turner Broadcasting, which owns CNN, said the Bush campaign had also purchased a small amount of time, \$125,000 worth, on the 24-hour network. That could buy only one or three commercial spots a day over a two-week period.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 4, 1992

Carol C. Darr, Esquire  
Democratic National Committee  
430 S. Capitol Street, SE  
Washington, DC 20003

RE: MUR 3571

Dear Ms. Darr:

This letter acknowledges receipt on July 30, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Bush-Quayle '92 Primary Committee, Inc. and J. Stanley Huckaby, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3571. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

George F. Rishel  
Assistant General Counsel

Enclosure  
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 4, 1992

J. Stanley Huckaby, Treasurer  
Bush-Quayle '92 Primary Committee, Inc.  
228 S. Washington Street  
Suite 200  
Alexandria, Virginia 22314

RE: MUR 3571

Dear Mr. Huckaby:

The Federal Election Commission received a complaint which indicates that the Bush-Quayle '92 Primary Committee, Inc. ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3571. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

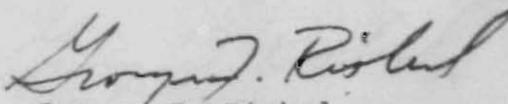
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

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J. Stanley Huckaby, Treasurer  
Bush-Quayle '92 Primary Committee, Inc.  
Page 2

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

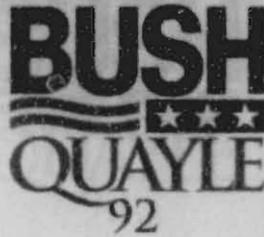


George F. Rishel  
Assistant General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

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OGC 6087

JOHN J. SULLIVAN  
DEPUTY GENERAL COUNSEL  
(202) 336-7195

August 12, 1992

HAND DELIVERED

Jeffrey Long, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3571 -- Bush - Quayle '92 Primary Committee, Inc.  
and J. Stanley Huckaby, Treasurer

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
92 AUG 12 PM 4:16

Dear Mr. Long:

This letter will confirm our agreement on a twenty-day extension of time for Respondents to file a response to the Complaint in the above-captioned matter.

Respondents received a copy of the Complaint by regular mail on August 10, 1992. Under 11 C.F.R. § 111.6(a), Respondents have until August 25, 1992 to file a response. Because the individuals who will be involved in drafting a response to the Complaint will be out of town at the Republican National Convention, which is in Houston, Texas during the week of August 17th, Respondents find it necessary to secure an extra twenty days within which to respond.

A twenty-day extension makes the response due on September 14, 1992. Respondents will file their response on or before that date.

Thank you for your cooperation in this matter.

Sincerely,  
  
John J. Sullivan

cc: Philip Wise, Esq.

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SECRETARIAT

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**SENSITIVE**

August 12, 1992

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner *LL*  
Associate General Counsel

SUBJECT: MUR 3571  
Bush/Quayle '92 Primary Committee, Inc.

BACKGROUND

On July 30, 1992, the Democratic National Committee ("DNC") filed a complaint against Bush/Quayle '92 Primary Committee, Inc. ("Bush/Quayle" or "Primary Committee") in which it alleged that Bush/Quayle had violated several provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Presidential Election Campaign Fund Act ("Fund Act") and the Presidential Primary Matching Payment Account Act ("Matching Payment Act"). Specifically, the complaint alleges that Bush/Quayle is using surplus primary campaign funds to influence the general election. They refer to a full-page ad that appeared in the July 29, 1992, issue of USA Today addressed to Ross Perot supporters and press reports for a planned national television advertising program.

The DNC asks for an expeditious investigation and a finding of the alleged violations with an order to have the General Election Committee repay the Primary Committee for the expended funds and to make a repayment to the treasury or charity of its surplus primary funds and, if necessary, to seek injunctive relief under 26 U.S.C. § 9010(c) to prevent further violations.

LEGAL AND FACTUAL ANALYSIS

The Commission is empowered to initiate a civil suit for injunctive relief if it is unable to correct or prevent a violation of the Act. 2 U.S.C. §§ 437d(a)(6) and 437g(a)(6). In addition, the Fund Act provides that the Commission is authorized to seek any declaratory or injunctive relief "concerning any civil

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matter covered by the provisions of this subtitle or section 6096." The procedure for pursuing that immediate remedy is problematic since the Commission must normally wait 15 days before it takes action on a complaint. 2 U.S.C. § 437g(a)(1).

In considering whether injunctive relief should be sought, the Commission has used the criteria for obtaining a preliminary injunction as the appropriate standard. This standard examines the requested relief in these terms:

- (1) whether there is a substantial likelihood that a violation of the Act has or is about to occur;
- (2) whether the failure by the Commission to obtain an injunction will result in irreparable harm to the complainant or some other party;
- (3) whether the injunctive relief will not result in undue harm or prejudice to the interests of other persons; and
- (4) whether the public interest would be served by such injunctive relief.

#### DISCUSSION

The DNC first refers to the full-page ad in the July 29 issue of USA Today entitled "AN OPEN LETTER TO EVERY PEROT SUPPORTER IN AMERICA" and signed by President Bush with a disclaimer stating it was paid for by the Primary Committee. The DNC alleges that the content of the ad is directed to the general election campaign and quotes language such as this:

Over the next few months, study the two remaining candidates. Study our positions on issues like welfare reform. Fighting crime and drugs. Upholding family values. Creating jobs and balancing the budget. Then study what we say we will do. Any what we've already done.

The DNC also refers to an article that appeared in the same issue of USA Today that reports that similar ads were published in fewer than 10 newspapers as part of the Bush/Quayle campaign's pursuit of Perot supporters.

The DNC also refers to a news report in Newsday on July 27, 1992, that reported a Bush/Quayle official as saying the committee had \$5 million left over from the primary season to be used for television ads. The DNC further says that the article reported the Bush/Quayle campaign had tentative plans to aid commercials starting August 3 on the Cable News Network ("CNN"). The DNC then alleges that use launching of national advertising on CNN is a first, where presidential campaign usually started with the major networks and alleging that national advertising usually does not

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begin until after the conventions. The DNC also refers to a July 29, 1992, Los Angeles Times article that reports the television advertising campaign will run mostly on local television stations in key swing states and will be the "maiden" effort of the advertising team put together for the fall campaign. The article also reports that some unnamed advisors have urged the campaign to use the leftover primary funds to finance a negative blitz attacking Clinton's record in Arkansas.

The DNC argues that this alleged use of primary campaign funds will violate the Commission's regulations that provide that presidential primary funds can only be used in connection with the campaign for nomination and that surplus funds must be returned to the treasury, donated to a charity, or used for other lawful purposes pursuant to Commission regulations. The DNC posits that no other reasonable interpretation of the subject ads can be made. The DNC also contends that further violations will occur if the General Election Committee accepts public funds in that the use of primary funds will cause the General Election Committee to circumvent the limitations.

A preliminary review indicates that whether a substantial violation of the Act has occurred will require a more complete response from all of the respondents and further analysis. An investigation to ascertain the key facts may also be necessary. Thus, based on the information as it presently appears to be, it is difficult to say that the first requirement for injunctive relief is met. We also do not believe the other three criteria for seeking injunctive relief are met here. We do not believe the failure to seek such relief will result in irreparable harm to the complainant or other parties. Conversely, we do conclude that to seek injunctive relief would seriously harm or prejudice the interests of the Respondents and would not serve the public interest in that it would cause turmoil and disruption in the 1992 presidential election and would inject the Commission into the process.

Finally, with regard to the request for an expeditious investigation, we recommend that the Commission proceed as it would with any other enforcement matter. After the respondents have been given the statutory 15 days to respond to the complaint or have actually responded to it, this Office will prepare a report to the Commission making appropriate recommendations. This Office is, however, prepared to move forward with its report without undue delay as it is attempting to do with all complaint generated matters.

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RECOMMENDATIONS

1. Decline at this time to seek injunctive relief.
2. Approve the appropriate letters.

Attachment  
Complaint

Staff assigned: George F. Rishel

97043823602

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Bush/Quayle '92 Primary ) MUR 3571  
Committee, Inc. )

CERTIFICATION.

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 17, 1992, the Commission decided by a vote of 6-0 to take the following actions in MUR 3571:

1. Decline at this time to seek injunctive relief.
2. Approve the appropriate letters, as recommended in the General Counsel's Memorandum dated August 12, 1992.

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

Attest:

8-17-92  
Date

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

Received in the Secretariat: Wed., August 12, 1992 10:14 a.m.  
Circulated to the Commission: Wed., August 12, 1992 11:00 a.m.  
Deadline for vote: Mon., August 17, 1992 4:00 p.m.

dr

97043823603



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 19, 1992

Carol C. Darr, General Counsel  
Democratic National Committee  
430 S. Capitol Street, S.E.  
Washington, D.C. 20003

RE: MUR 3571

Dear Ms. Darr:

On July 30, 1992, the Federal Election Commission received your letter alleging that Bush/Quayle '92 Primary Committee, Inc. ("Bush/Quayle") violated the Federal Election Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act.

Your letter seeks injunctive relief to prevent Bush/Quayle from continuing to engage in the allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny your request at this juncture. The Commission will notify you at such time when the entire file is closed in this matter.

If you have any questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

97043823604



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 19, 1992

John J. Sullivan, Esquire  
Bush/Quayle '92  
1030 15th Street, N.W.  
Washington, D.C. 20005

RE: MUR 3571  
Bush/Quayle '92 Primary  
Committee, Inc. and J. Stanley  
Huckaby, as treasurer

Dear Mr. Sullivan:

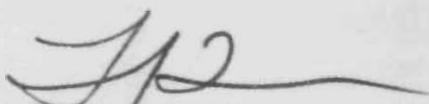
On August 4, 1992, the Federal Election Commission notified Bush/Quayle '92 Primary Committee, Inc. ("Committee") of a complaint alleging that the Committee violated certain sections of the Federal Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. A copy of the complaint was forwarded to the Committee at that time.

The complainant seeks injunctive relief to prevent the Committee from continuing to engage in allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny the complainant's request for injunctive relief at this juncture. The Commission will nonetheless proceed with the processing of the complaint pursuant to 2 U.S.C. § 437g(a).

If you have any further questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: Lois G. Lerner  
Associate General Counsel

97043823605

GCC# 6412



September 14, 1992

VIA HAND DELIVERY

Lawrence M. Noble, Esquire  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3571 -- Bush - Quayle '92  
Primary Committee, Inc. and  
J. Stanley Huckaby, Treasurer

Dear Mr. Noble:

This letter constitutes my Response and the Response Bush - Quayle '92 Primary Committee, Inc. ("Bush-Quayle 92") (collectively "Respondents") to the Complaint filed with the Federal Election Commission ("FEC" or the "Commission") by the Democratic National Committee ("Complainant" or the "DNC") on July 30, 1992. Respondents received the Complaint on August 10, 1992. By agreement with the staff of your office, Respondents' deadline for filing a Response to the Complaint was extended to September 14, 1992. See Letter from John J. Sullivan, Deputy General Counsel of Bush-Quayle 92, to Jeffrey Long, Federal Election Commission, dated August 12, 1992 (copy attached as Exhibit A).

Relying primarily on newspaper articles while ignoring both clear Commission precedent and logic, the Complaint alleges that advertising by Bush-Quayle 92 in the weeks prior to the Republican National Convention violated the federal election laws. The Complainant contends that these expenditures must be considered general election expenditures -- and thus an improper use of primary funds that counts against the general election expenditure limit -- simply because President Bush appeared at the time of the expenditures to have a sufficient number of committed delegates to "clinch" the Republican Party's nomination for President.

Although a more expansive argument follows (pages 4-9), only a moment's reflection is required to dismiss these claims. As the Commission (but apparently not Complainant) well knows,

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FEC regulations make clear that the "matching payment period" ends and the general election period begins on "the date on which the party nominates its candidate." 11 C.F.R. § 9032.6(a). That date for President Bush (August 20, 1992) occurred after all the advertisements in question had run. Further, the Commission has previously ruled that an advertisement run in both the primary and general election periods -- with no change in content -- can be aired as a primary expenditure before the convention, and as a general expenditure after the convention, with production costs allocated between the two campaign committees based on usage. See Federal Election Commission, *Report of the Audit Division on Reagan-Bush '84*, July 1986, at 12-17 (copy attached as Exhibit B). Finally, if all expenditures incurred after a candidate obtains enough delegate commitments to clinch his party's nomination are deemed "general election expenses," the regulations would have the draconian effect of halting all campaign activity from the date the nomination is "clinched" to the date of nomination. This is true because the candidate would be unable to spend primary funds, and would not qualify for general election funds until after the nomination. Even if (contrary to fact) it were always easy to determine the date when the nomination is clinched, this result would be both unprecedented and absurd. These reasons alone require rejection of the Complaint.

#### STATEMENT OF FACTS

President George Bush ran a vigorous campaign against Patrick Buchanan for the Republican Party's nomination for election to the office of President of the United States. During the course of this campaign for the Republican nomination, H. Ross Perot announced that he might become an independent candidate for President. Mr. Perot's candidacy attracted a great deal of public attention, and many voters who had traditionally voted for the Republican presidential ticket expressed support for Mr. Perot.

On July 16, 1992, during the final stage of the campaign for the Republican presidential nomination, Mr. Perot announced that he would not be a candidate for President. In view of the considerable support Mr. Perot appeared to have achieved among voters who traditionally support Republican candidates, Bush-Quayle 92 ran an advertisement on July 29, 1992, in selected newspapers, including *USA Today*, in which President Bush asked for the support of those persons who had supported Mr. Perot. (A copy of this advertisement, as it appeared in *USA Today*, is Exhibit 1 to the Complaint.) Among the reasons for the advertisement was the desire by Bush-Quayle 92 to strengthen the

Lawrence M. Noble, Esq.  
September 14, 1992  
Page 3

support for the President among Republicans who had earlier expressed support for Mr. Perot, including those who might be attending or watching the Republican National Convention.

In the subsequent weeks leading up to the Republican National Convention, which was held from August 17-20, 1992, in Houston, Texas, Bush-Quayle 92 ran four advertisements with selected television broadcasters, including the Cable News Network. Each advertisement consisted simply of footage of the President talking about issues that he considers important to the future of this country. In the first, he discussed the need for change in government. (A copy of the script for this advertisement is attached as Exhibit C; copies of the video tapes of each of the four television advertisements are provided under separate cover.) In the second, the President discussed the federal deficit (Exhibit D). In the third, he discussed national security (Exhibit E); and in the fourth, welfare reform (Exhibit F).

In large measure, these television advertisements were intended to convey the President's views on these important issues to solidify his base of support, and to insure an uncontroversial nomination process at the Convention. The advertisements did not mention any other candidates by name and did not compare the President's record with that of any other candidate.

The Complaint in this matter was filed on July 30, 1992, after the single newspaper advertisement by Bush-Quayle 92 ran on July 29, and before the four television advertisements began running. Relying on three newspaper stories speculating on the content of the Bush-Quayle 92 television advertisements, Complainant made the unsubstantiated but eye-catching claim that Bush-Quayle 92 was about to commit "what will be the largest spending violations [sic] in the history of our nation's election laws." (Compl. at 5.) This same assertion appeared in the press release that accompanied the Complaint when it was distributed to the news media. (A copy of the DNC's press release is attached as Exhibit G.) Baseless histrionics aside, the Complaint alleges that Respondents violated 11 C.F.R. § 9032.9(a) by incurring non-qualified campaign expenses for pre-Convention advertising; and that Respondents violated 11 C.F.R. §§ 9003.1-9004.1 by exceeding the general election spending limitation in paying for these advertisements.

Complainant requested, *inter alia*, that the President's general election campaign committee pay to Bush-Quayle 92 the amount expended on the pre-Convention advertisements and that, if necessary, the FEC pursue injunctive relief against any further purported violations of the Federal Election Campaign Act of 1971 or the regulations of the FEC.

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The Democratic National Committee's motivation for filing this Complaint, undoubtedly at the instigation of Governor Bill Clinton's presidential campaign, is quite transparent. On June 19, 1992, the Republican National Committee filed a complaint with the Commission against Governor Clinton, the Clinton for President Committee, and the DNC alleging, *inter alia*, that the DNC had expended *general* election funds to help the Clinton campaign raise *primary* election funds. Subsequently, the DNC *admitted* error, and publicly committed to return all funds raised. See *The Washington Post*, June 20, 1992, at A11 (Exhibit H). We trust the Commission will assure these public commitments are kept, as well as fashion other appropriate relief.

In view of the retaliatory motive for this Complaint,<sup>1/</sup> it should come as no surprise that it lacks merit. Indeed, on August 20, 1992, Respondents received notice from the Commission that it had denied Complainant's request for injunctive relief. See Letter from Lois G. Lerner, Associate General Counsel of the FEC, to John J. Sullivan, Deputy General Counsel of Bush-Quayle 92, dated August 19, 1992 (copy attached as Exhibit J). The Commission should likewise promptly dismiss the remaining charges.

#### DISCUSSION

1. *The Complaint fails to state a violation of any statute or regulation.* The Complaint identifies two purported violations of federal election law. First, the Complaint alleges that the expenditures by Bush-Quayle 92 for advertising before the Republican National Convention were not "qualified campaign expenses" payable out of primary funds because the expenditures were not made "in connection with" President Bush's "campaign for nomination." 11 C.F.R. § 9032.9(a)(2). Second, the Complaint charges that the pre-Convention advertising expenditures by Bush-

<sup>1/</sup> Just before the Complaint was filed, *U.S. News & World Report* reported:

"... Clinton never forgot a key lesson [from his unsuccessful 1980 gubernatorial re-election campaign]: Fight back -- and if you must, *fight a little dirty*. A year after his 1980 defeat, he told an audience: 'If your opponent picks up a hammer, you need to pick up a meat-ax and cut off his arm.'"

*U.S. News & World Report*, July 20, 1992, at 32 (emphasis added) (Exhibit I).

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Quayle 92 will cause it to exceed the expenditure limit of \$55.24 million imposed by 11 C.F.R. §§ 9003-9004. Neither allegation has any basis in federal election law.

a. *The pre-Convention advertising expenditures were qualified primary campaign expenses.* The Presidential Primary Matching Payment Account Act defines a "qualified campaign expense" as any payment "incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, and . . . neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid." 26 U.S.C. § 9032(9).

The Commission's regulations implementing this statute set forth a three-part test for qualified campaign expenses in the primary period. *First*, the expense must be "[i]ncurred by or on behalf of a candidate or his or her authorized committees from the date the individual becomes a candidate through the last day of the candidate's eligibility as determined under 11 C.F.R. § 9033.5." 11 C.F.R. § 9032.9(a)(1). *Second*, the expense must be made "in connection with [the candidate's] campaign for nomination." 11 C.F.R. § 9032.9(a)(2). *Third*, neither the incurrence nor payment of the expense may violate any state or federal law. 11 C.F.R. § 9032.9(a)(3).

The advertising expenses challenged by Complainant meet this test for qualified primary campaign expenses. *First*, President Bush's eligibility as a primary candidate ended on August 20, 1992, the date the Republican Party nominated him as its candidate for President. See 11 C.F.R. §§ 9033.5 and 9032.6(a). The advertisements at issue in this matter were produced and run before the nomination. Thus, the expenditures for these advertisements were made while the President was an eligible candidate for the Republican presidential nomination. *Second*, there is no suggestion in the Complaint that these expenditures violated any law. Finally, the expenditures were made "in connection with" the President's "campaign for nomination." Neither the statute nor the regulations of the FEC impose any obligation on a candidate other than the requirement that an expense must be made "in connection with" a campaign for nomination. There is no requirement that the expenditure's exclusive effect be to benefit the campaign for nomination. See also Adv. Op. 1978-99, Fed. Election Camp. Fin. Guide (CCH) ¶ 5387, at 10,396 (1979) (campaign materials ordered and received only one day before the primary election, which were used both in

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the primary election and the general election, may be treated as a primary campaign debt).<sup>2/</sup>

The results of the audit of the 1984 primary campaign of President Reagan confirm this point. The FEC considered whether certain advertising production expenses incurred by the Reagan-Bush '84 primary committee were properly allocated for advertisements that aired both during the primary and general election periods. The Commission did not challenge payments by the primary committee for broadcast time prior to the convention, even though the very same advertisements were aired again after the convention during time paid for by the general committee. The Commission looked only at how production costs for the advertisements were allocated between the primary and general committees.<sup>3/</sup> Federal Election Commission, *Report of the Audit Division on Reagan-Bush '84*, July 1986, at 12-17 (Exhibit B). The Commission did not look at the substance of the advertisements to determine which committee should pay for them. The FEC took this position in spite of the fact that President Reagan was unopposed during the primary season and the fact that any advertisements aired during the primary season, which were aired without change in the general election, could not help but provide a benefit to President Reagan's general election campaign.

More generally, the FEC has held that campaign expenditures by a candidate who is running unopposed for his party's nomination are qualified primary campaign expenditures and "allocable to that primary election rather than to a subsequent general election." Adv. Op. 1975-9, Fed. Election Camp. Fin. Guide (CCH) ¶ 5110, at 10,035 (1975).

Applying all of these precedents to the advertisements produced and run by Bush-Quayle 92 before President Bush became the Republican Party's nominee, it is clear that the expenditures for these advertisements were qualified primary campaign expenses

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<sup>2/</sup> "Because the campaign material was ordered and received by [the candidate] before the primary election, and because the date of the invoice is before the primary, the Commission concludes that the full balance owing . . . for the expenditure may, if [the candidate] wishes, be treated as a primary election debt." Adv. Op. 1978-99, Fed. Election Camp. Fin. Guide (CCH) ¶ 5387, at 10,396 (1979).

<sup>3/</sup> The auditors concluded that production costs should be allocated based on the number of times the advertisements were aired before the convention versus the number of times they were aired after the convention.

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because they were incurred while the President was still a candidate for his party's nomination. This case is even more compelling than the 1984 precedent for approving these primary expenditures in light of the fact that President Bush, unlike President Reagan, was opposed during the primary season, and the fact that the short-lived candidacy of Mr. Perot made the campaign for the Republican nomination even more difficult.

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b. *The pre-Convention advertising expenditures are not allocable to the general election campaign and do not violate the general election expenditure limits.* The advertising expenditures in this matter were campaign expenses of the President's primary election committee because they were incurred "in connection with" his campaign for nomination. They were not general election expenses. Qualified general election expenses must be "[i]ncurred to further" a candidate's general election campaign. 11 C.F.R. § 9002.11(a)(1). FEC regulations allow general election expenditures before the candidate receives his party's nomination only "if such expenditures are for property, services or facilities which are to be used in connection with his or her general election campaign and which are *for use during the expenditure report period.*" 11 C.F.R. § 9003.4(a)(1) (emphasis added). The expenditures at issue in this matter were not "for use during the expenditure report period" for the general election, which did not begin until August 20, 1992, see 11 C.F.R. §§ 9002.12(a); nor were they "[i]ncurred to further" the President's general election campaign (which had not begun). These regulations make clear that the advertising expenditures at issue were not qualified general election campaign expenditures. Because they were not qualified general election expenses, these advertising expenditures do not count toward the general election spending limit of \$55.24 million imposed on the President's general election campaign. See 11 C.F.R. § 9003.2(a)(1) (candidate must certify that he and his campaign committee "have not incurred and will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled").

Moreover, the general election spending limit applies only to "candidates" for the office of President who certify that they have not and will not exceed the limit in order to receive federal funding for their campaigns. See 11 C.F.R. § 9003.2(a)-(1). President Bush did not become a "candidate" for these purposes until he was nominated at the Republican National Convention. See 11 C.F.R. § 9002.2. He was not eligible for federal financing of his general election campaign until he was a "candidate," see 11 C.F.R. § 9004.1, and thus could not certify that he would abide by any spending limitation until he was a candidate, see 11 C.F.R. § 9003.2(a). All of the advertisements at issue in this matter ran both before the President certified

that his general election campaign would spend only \$55.24 million in qualified general election expenses and before he became a candidate for President, i.e., while he was still a candidate for the Republican presidential nomination.

2. *Adoption of the position advocated by Complainant would lead to undue interference with the political process.* The position apparently advocated by Complainant would require extensive scrutiny of the primary period expenditures by a candidate to gauge their impact on the subsequent general election. This would inevitably require the FEC to second guess sensitive political judgments by candidates. Moreover, if this standard were applied to the current presidential campaign of Governor Clinton, it would require his general election committee to reimburse his primary committee for virtually all the expenses he incurred during the six week period between the date he clinched the nomination (after the primaries on June 2, 1992) and the Democratic National Convention (July 13-16, 1992).

This would include expenses incurred to give speeches or to make television appearances in which he criticized President Bush. As just a single example, on June 17, 1992, over two weeks after he was assured of the Democratic Party's nomination, Governor Clinton gave a speech to the American Federation of State, County, and Municipal Employees in Las Vegas, Nevada, in which he "launched a blistering new broadside against the Bush Administration." Associated Press, June 17, 1992 (copy attached as Exhibit K). Under Complainant's view of qualified primary campaign expenses, all of the expenses related to Governor Clinton's speech in Las Vegas, including the cost of his travel there, should have been paid for by his general election committee. Since Governor Clinton's speeches in Las Vegas and elsewhere after the last Democratic primary were uniformly critical of President Bush, whereas the advertisements at issue in this matter did not mention Governor Clinton, application of the rule Complainant advocates would require the FEC to examine almost all of Governor Clinton's June activities and many of his July activities.

Adoption of Complainant's view would thus lead to drastic interference with the political process. Not surprisingly, the Commission has correctly refused to adopt this position. The FEC has avoided any interference with the political judgments of a candidate about what expenditures are necessary for his primary campaign, so long as the expenditures are, like the advertising expenses in this case, "made in connection" with the candidate's campaign for nomination.

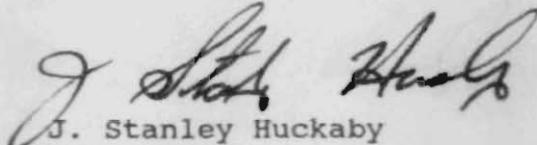
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Lawrence M. Noble, Esq.  
September 14, 1992  
Page 9

CONCLUSION

The Complaint does not state a violation of any statute or regulation under the jurisdiction of the FEC. Respondents respectfully request that the General Counsel recommend to the Commission that it find no reason to believe that a violation has occurred, and that this matter be promptly closed.

Respectfully submitted,

  
J. Stanley Huckaby  
Treasurer

cc: George F. Rishel, Esq.  
Assistant General Counsel  
Federal Election Commission

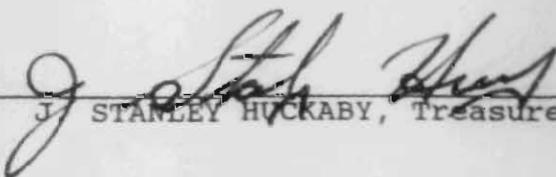
Phillip Wise, Esq.  
Federal Election Commission

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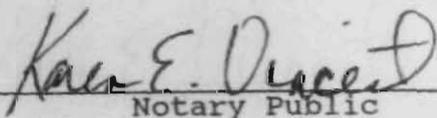
Lawrence M. Noble, Esq.  
September 14, 1992  
Page 10

VERIFICATION

The undersigned swears that the facts set forth in this Response are true to the best of his knowledge, information, and belief.

  
J. STANLEY HUCKABY, Treasurer

SWORN TO AND SUBSCRIBED TO before  
me this 14th day of September, 1992.

  
Notary Public

My Commission Expires  
September 30, 1996

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3571

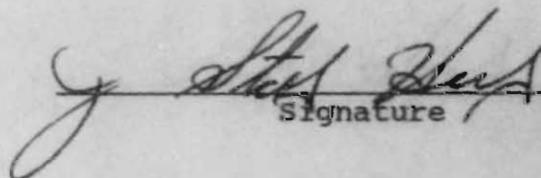
NAME OF COUNSEL: Bobby R. Burchfield, General Counsel  
John J. Sullivan, Deputy General Counsel

ADDRESS: Bush - Quayle '92 Primary Committee, Inc.  
1030 15th Street, N.W.  
Washington, D.C. 20005

TELEPHONE : (202) 336 - 7110

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

9-14-92  
Date

  
Signature

RESPONDENT'S NAME: J. Stanley Huckaby, Treasurer

ADDRESS: Bush - Quayle '92 Primary Committee, Inc.  
1030 15th Street, N.W.  
Washington, D.C. 20005

HOME PHONE: (703) 329 - 1615

BUSINESS PHONE: (202) 336 - 7300

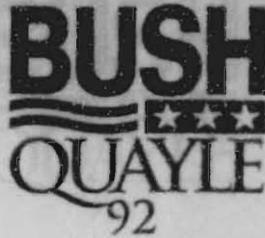
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MUR 3571

RESPONSE OF BUSH - QUAYLE '92 PRIMARY COMMITTEE, INC.  
AND J. STANLEY HUCKABY, TREASURER

EXHIBITS A - K

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JOHN J. SULLIVAN  
DEPUTY GENERAL COUNSEL  
(202) 336-7195

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OFFICE OF THE CLERK  
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August 12, 1992

HAND DELIVERED

Jeffrey Long, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3571 -- Bush - Quayle '92 Primary Committee, Inc.  
and J. Stanley Huckaby, Treasurer

Dear Mr. Long:

This letter will confirm our agreement on a twenty-day extension of time for Respondents to file a response to the Complaint in the above-captioned matter.

Respondents received a copy of the Complaint by regular mail on August 10, 1992. Under 11 C.F.R. § 111.6(a), Respondents have until August 25, 1992 to file a response. Because the individuals who will be involved in drafting a response to the Complaint will be out of town at the Republican National Convention, which is in Houston, Texas during the week of August 17th, Respondents find it necessary to secure an extra twenty days within which to respond.

A twenty-day extension makes the response due on September 14, 1992. Respondents will file their response on or before that date.

Thank you for your cooperation in this matter.

Sincerely,

John J. Sullivan

cc: Philip Wise, Esq.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 10, 1986

MEMORANDUM

TO: FRED BILAND  
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -  
KEAGAN-BUSH '86 (THE CANDIDATE'S  
PRIMARY COMMITTEE)

Attached please find a copy of the above mentioned Final Audit Report which was approved by the Commission on July 7, 1986.

It should be noted that Agenda Document #86-57, considered by the Commission in the Open Session of June 26, 1986, contains the analysis prepared by the Commission's Office of General Counsel, as well as the Primary Committee's response to the interim report. These documents and possibly the report considered by the Commission on June 26, 1986 may be of interest to anyone reviewing the attached report. Therefore, it is suggested that persons requesting the final report be made aware of the contents of Agenda Document #86-57.

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

Attachment as stated

cc: FEC Library  
RAD  
Office of General Counsel  
Public Record

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION  
ON  
REAGAN-RUSH '84

I. Background

A. Overview

This report is based on an audit of Reagan-Rush '84 ("the Committee" or "the Primary Committee") to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Presidential Primary Matching Payment Account Act. The audit was conducted pursuant to 26 U.S.C. § 9031(a) which states that "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037."

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

The Committee registered with the Federal Election Commission on October 17, 1983. The Committee maintains its headquarters in Washington, D.C.

The audit covered the period from the Committee's inception, October 17, 1983, through August 31, 1984, the last day covered by the most recent report filed with the Commission at the time of the audit. In addition, certain financial activity was reviewed through January 15, 1985. The Committee reported an opening cash balance of \$-0-, total receipts of \$27,603,289.68, total disbursements of \$25,817,114.96 and a closing cash balance of \$1,865,174.72 on August 31, 1984. Under 11 C.F.R. § 9038.1(c)(4) additional audit work may be conducted and addenda to this report issued as necessary.

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

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B. Key Personnel

The Treasurer of the Committee is Angela M. Buchanan Jackson.

C. Scope

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

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

A. Matter Referred to the Office of General Counsel

A certain matter noted during the audit was referred to the Commission's Office of General Counsel.

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

A. Apparent Non-Qualified Campaign Expenses

Section 9030(b)(2)(A) of Title 26, United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made, it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

The Commission, in a Notice of Proposed Rulemaking published in the Federal Register on June 28, 1984, set forth a pro-rata formula which would base repayments for non-qualified campaign expenses on the proportion of federal funds to total funds received by the candidate. The text of the regulation along with the Explanation and Justification were published in the Federal Register on August 22, 1984 and transmitted to Congress. On March 5, 1985 the revised regulations were resubmitted for publication. The proposed regulations were before the Congress for 30 legislative days as of May 20, 1985, and approved by the Commission for publication in final form on June 11, 1985.

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

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A portion of this amount (\$182,963.16) represents the non-fundraising portion of expenses made in connection with a nationwide voter registration drive on Saturday, June 23, 1984. The drive was held in several hundred locations around the country. Volunteers were assembled in each location and shown a videotape of the candidate urging the volunteers to go out and register voters for the general election. The volunteers then canvassed neighborhoods to identify unregistered supporters of the candidate. The focus of the effort (as reflected in a manual given to organizers, circulars given to participants, a sample press release prepared for the media, and a videotaped pep talk by the candidate sent to each location) was the mass registration of new voters who supported the candidate. However, the drive did include a fundraising appeal as a secondary purpose. As a result, the Committee charged 25% or \$60,989.39 of the event cost to the fundraising exemption pursuant to 11 C.F.R. § 100.8(21). The Audit staff noted that the Committee had received \$58,477.27 in contributions solicited during the drive.

b. Other Political Activities

Expenditures made by the Committee, totaling \$289,122.29, were identified by the Audit staff as apparently related to the general election campaign (See Attachment 2). According to documentation reviewed by the Audit staff, most of these expenditures represent polling expenses for surveys which began after most, if not all, of the primaries and caucuses had been held. The remainder of the amount represents political consulting work performed with respect to a specific state after the respective primary or caucus.

The Treasurer responded that the Committee was aware these expenditures would be questioned but felt that the expenditures were clearly made for the purpose of influencing the candidate's nomination. The expenditures were incurred prior to the nomination date and were made to demonstrate the candidate's continuing support and leadership role in his party and the nation. The expenditures were also made to show that the candidate could represent the party in the general election and convince convention delegates to support the candidate.

In the Commission approved interim report, the Audit staff recommended that within 30 days of receipt of the report, the Committee submit evidence to demonstrate that the \$2,136,898.83 in expenses for voter registration and other political activities were made in connection with the candidate's nomination and are therefore qualified campaign expenses. The interim report further stated that absent such a showing the Audit staff intended to recommend that the Commission make an initial

determination that the amount (\$2,136,898.83) representing the value of general election expenses be viewed as non-qualified campaign expenses and a pro-rata portion, \$802,208.92 (\$2,136,898.83 x .375408) be repaid to the U.S. Treasury pursuant to 26 U.S.C. § 9038(b)(2).

The Committee's response argues that expenses incurred after the date of delegate selection in a state merit no closer examination than expenses incurred prior to that date. In support of this position the Committee presents three arguments as follows:

1. The Statutory Definition of Qualified Campaign Expense Requires Only That the Expense Be Incurred Prior To the Date of the Candidate's Nomination.

The Committee contends that Congress did not intend "to require more than that the expense be incurred prior to the date of nomination or that Congress intended to authorize the Commission to evaluate the sufficiency of the nexus between the expenses and the campaign for nomination." The Committee cites legislative history wherein it is stated "that candidates are permitted full flexibility and discretion in their election efforts, subject only to limitation on the dollar amounts of expenditures and contributions." While the Audit staff acknowledges the concerns voiced in the legislative history cited by the Committee as well as the Commission's accordance of wide discretion to candidates in how to conduct their publicly-funded campaigns, the Commission also has the responsibility to insure that compliance with the Act's spending limitations is achieved. To permit candidates to exercise such wide discretion that primary election funds could be spent to further the candidate's general election would nullify the very limits established by Congress (see 26 U.S.C. §§ 9033(b)(1) & 9035(a) and 2 U.S.C. §§ 441a(b)(1)(A) and (B)).

2. The Staff's Request Conflicts With The Commission's Policy of Restraint In Its Review of Candidates' Spending Decisions

The Committee also contends that the Audit staff's request (that the Committee demonstrate that the expenses in question are not general election expenses) is in conflict with the Commission's policy of restraint in its review of candidates' spending decisions. Although as discussed above, the Commission has accorded wide discretion to candidates in how they conduct their publicly-funded campaigns, the Commission is required by the Act to "conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who receive payments under section 9037 (26 U.S.C. § 9038(a))."

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In addition, the Commission's regulations at 11 C.F.R. § 9033.11(e) states that "Each candidate shall have the burden of proving that disbursements made by the candidate or his or her authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or committee(s) are qualified campaign expenses as defined in 11 C.F.R. § 9032.9." Further, the candidate "shall obtain and furnish to the Commission on request any evidence regarding qualified campaign expenses made by the candidate or his or her authorized committee(s)." The Committee's comments in this area are not persuasive.

3. Expenditures Made After The Delegate Selection Process Has Been Completed Are Entitled To The Same Deference As Those Made Before

The Committee has provided a lengthy discussion concerning the nomination process in an attempt to show that expenditures made after the delegate selection process in a state has been completed are entitled to the same deference as those made before. In essence, the Committee sets forth, in support of its position, an overview of the various provisions of State law regarding the amount of discretion accorded to delegates to the national nominating convention in voting for their choice for the nominee of the party. The Committee contends that a large portion of the delegates at any convention are not bound to any particular candidate. Hence, their selection at the conclusion of a state's primary caucus or convention cannot have the importance that the Audit staff seeks to accord it.

Finally, the Audit staff considered additional documentation and explanations further detailing the purposes of the four (4) expenditures totaling \$4,813.00 which were reimbursed by the GEC. (See footnotes 2/ and 3/ on pages 3, 5 and 8 of Attachment 1). The information reviewed indicates that these are the type of start-up and polling expenses properly reimbursable by the GEC in accordance with 11 C.F.R. § 9003.4(b)(4)(i).

Summary

It appears that rather than addressing the reasoning contained in the interim audit report, the Committee has elected to argue only that expenses incurred after a state's primary election or caucus is completed are not per se non-qualified campaign expenses. The Audit staff does not disagree. However, the interim report's discussion was focused on what appeared to be expenses which benefitted the candidate's general election campaign since the registration of voters in states where the primary/caucus had

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occurred could only result in their votes being cast with respect to the general election with little, if any, benefit accruing to the primary campaign. Deference was accorded to the Committee in that expenses for activities (some of which were identified as voter registration) incurred prior to the date of the primary/caucus in a state were viewed by the Commission as qualified campaign expenses.

The Committee has argued that the expenses in question were qualified campaign expenses for the primary campaign since incurred prior to the date of nomination. The Audit staff acknowledges that with few exceptions the expenses in question were incurred prior to the date of nomination; however, in our opinion the Committee has not demonstrated that these expenses were incurred in connection with the candidate's primary election campaign. Rather, the expenses incurred with respect to the registration of voters in states where the primary/caucus had already occurred can only influence the election in which the voters may exercise their franchise which, in this case, is the general election.

#### Conclusion

On June 26, 1986, the Commission considered the matters noted above and made a determination that the \$2,072,283.83 (\$2,136,898.83 less \$64,615.00 properly reimbursed by the GEC) in expenses for voter registration and other political activities were made in connection with the candidate's campaign for nomination for election and are therefore qualified campaign expenses. No further action is necessary.

#### B. Statement of Net Outstanding Campaign Obligations

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

In addition, 11 C.F.R. § 9038.3(c)(1) requires a candidate whose net outstanding campaign obligations reflect a surplus on the date of ineligibility to repay to the Secretary within 30 calendar days of the ineligibility date an amount which represents the amount of matching funds contained in the surplus.

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Finally, 26 U.S.C. § 9038(b)(3) states that amounts received from the matching payment account may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred for a period not exceeding 6 months after the end of the matching payment period. After all obligations have been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the matching payment account bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the matching payment account.

On September 21, 1984, the Committee repaid \$344,893.24 to the U.S. Treasury representing a pro-rata share of the estimated surplus on the Candidate's date of ineligibility (August 22, 1984). The Audit staff reviewed records and documentation supporting the Committee's calculations. Depicted on page 9 is a WOCO statement prepared by the Audit staff, which reflects certain adjustments to the original WOCO filed by the Committee (these adjustments are based on the Audit staff's review of actual financial activity through January 15, 1985 and Commission action taken with respect to Finding III.B.2.). On February 6, 1985, the Committee's Deputy Treasurer agreed that the audited WOCO statement accurately reflected the Committee's financial position as of August 22, 1984.

It should be noted that the adjustments explained below at items B.1. and 2. were not developed during the initial phase of audit fieldwork and thus, the Deputy Treasurer's comments of February 6, 1985 regarding the WOCO do not extend to these adjustments, nor to the additional repayment determination resulting therefrom.

The WOCO statement on page 9 depicts a calculated surplus of \$1,569,320.32. Although the Committee made a repayment on September 21, 1984 in the amount of \$344,893.24, an additional amount of \$244,242.16 appears to be repayable, as shown on the WOCO below.

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MEMPHIS-COMM '84

Analysis of Committee's WOCO Statement  
As of August 22, 1984 <sup>2/</sup>

**ASSETS**

Cash in Bank	\$2,686,849.92	
Accounts Receivable	922,415.41	
Contributions received post 8/22/84 <sup>2/</sup>	30,808.73	
Accrued Interest	22,973.13	
Reimbursements due from WOC		
-allocable amount of media fee <sup>3/</sup>	782,866.60	
-allocable amount of production costs for shared commercials <sup>4/</sup>	<u>32,322.12</u>	
<b>TOTAL ASSETS</b>		<b>\$6,817,745.32</b>

**LIABILITIES**

Accounts Payable	\$2,226,292.44
Income Taxes	<u>322,129.34</u>

**ESTIMATED WINDING DOWN  
COSTS (FINDING III.A.1)**

Legal Fees	\$300,000.00
Accounting Fees	25,000.00
Rent and Storage	25,000.00
General Expenses	<u>12,000.00</u>

**TOTAL ESTIMATED  
WINDING DOWN COSTS**

462,000.00

**TOTAL LIABILITIES**

2,948,421.00

**NET OUTSTANDING CAMPAIGN  
OBLIGATIONS - SURPLUS AS  
OF AUGUST 22, 1984 <sup>5/</sup>**

\$ 1,349,320.32

**AMOUNT REPAYABLE,  
(SURPLUS MULTIPLIED BY  
REPAYMENT RATIO) <sup>6/</sup>**

\$ 589,135.40

Less: 9/21/84 repayment made

(144,892.24)

Repayment Amount

\$ 244,243.16

- <sup>2/</sup> August 22, 1984 is the date determined by the Commission to be the Candidate's date of ineligibility for purposes of incurring qualified campaign expenses.
- <sup>3/</sup> Includes contributions received after 8/22/84 but dated prior to 8/22/84.
- <sup>4/</sup> This adjustment is explained fully at Finding III.B.1.
- <sup>5/</sup> This adjustment is explained fully at Finding III.B.2.
- <sup>6/</sup> An adjustment(s) to Estimated Winding Down Costs (1/15/85 to 7/31/85) will be made, as necessary, to account for any changes due to extending the projected termination date beyond 7/31/85, as well as the verification of the estimates used.
- <sup>7/</sup> Since certain estimates were used in computing this amount, the Audit staff will review the Committee's reports and records to compare the actual figures with the estimates and prepare adjustments if necessary. For example, the amount could change based on our review of the Committee's actual winding down costs. In addition, other adjustments to this amount may be necessary as a result of certain matters noted in Findings III.B.1. and 2.
- <sup>8/</sup> For calculation of the repayment ratio see discussion of apparent Non-Qualified Campaign Expenses under Finding III.A. on pages 2-3.

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The two adjustments to the HOCO which form the basis for the additional repayment amount are discussed below.

### Background

The Primary Committee and the DNC contracted with Tuesday Team, Inc. (TTI) to handle the production and time buying for commercials to be aired during both the primary and general election campaigns. A separate contract was negotiated for each election campaign. For these services, the Primary Committee paid a consultant fee of \$1,500,000 to TTI, and TTI received a consultant fee of \$1,315,000.29 for its services with respect to the general election campaign.

The committees wired funds to TTI which with the exception of the consultant fees were either deposited in the TTI production accounts or the media (time buying) accounts established by TTI to transfer the business relative to the contracts with each committee. TTI in turn made payments to vendors for the expenses related to production of commercials and the purchase of advertising space.

#### 1. Fee Payment to Media Firm

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

For a General Election Presidential candidate, the term "qualified campaign expense" is defined at 26 U.S.C. § 9002(11)(A)(iii) as an expense incurred by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices.

The Regulations at 11 C.F.R. § 105.1(a) require that expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit reasonably expected to be derived.

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In the Interim Report of the Audit Division on the GEC, the Audit staff cited 2 U.S.C. § 441b and said it appeared the consultant fee paid by the GEC to its media firm was too low and a possible in-kind corporate contribution had been made by the firm. Our analysis was based on the application of a standard 17.65% mark-up on media time buys and production costs normally charged by media firms. (In fact, initially the Primary Committee referred to this standard mark-up rate to explain a portion of the \$1,000,000 fee it paid to FTI.) Since the GEC incurred \$25,278,001.03 in media buys and production expenses, the \$1,315,000.25 fee appeared much too low in light of the normal 17.65% mark-up.

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

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

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

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

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

This amount is arrived at by applying the 8.336% rate to the \$25,278,001.03 paid by the GEC for production expenses and media time buys and results in an appropriate fee of \$2,107,066.89 or \$792,066.60 more than the \$1,315,000.29 actually paid. Conversely, application of the 8.336% gross profit rate to the Primary Committee's buys for time and production of \$2,494,543.58 results in an appropriate fee of \$207,933.40 or \$792,066.60 less than the \$1,000,000.00 actually paid. Therefore, the GEC should reimburse the Primary Committee \$792,066.60 for appropriate allocation of the media fee.

#### Conclusion

On June 26, 1986, the Commission determined that within 30 days of receipt of this report, the Primary Committee is to bill the GEC for the amount (\$792,066.60) of the allocable portion of the fee paid by the Primary Committee, which appears should have been borne by the GEC.

#### 2. Media Production Costs

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

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Certain production costs, identified by the Committee as relating to commercials to be aired during both the primary and general election campaigns, were viewed by the Committee as allocable between the primary and general election campaigns. On September 7, 1984, the GEC reimbursed \$304,389.50 to the Committee. The Committee indicated that this amount represented 30% of total production costs associated with certain commercials. The Committee's Deputy Treasurer stated that this allocation was based on the fact that the same commercials were produced for use in both the primary and general election campaigns and that the allocation percentage was developed in early 1984 based on planning and estimated usage of production prices.

The auditors made numerous requests for documentation supporting the 30% allocation before, during, and after our review of TTT media records in New York City on December 18 - 19, 1984; however, such information was not made available. During the February 12, 1985 exit conference, the Deputy Treasurer informed the auditors that on the previous day, the Committee had refunded \$167,807 to the GEC based on a further analysis of production costs and use of campaign commercials. This amount is included in the MOCO Statement under Accounts Payable. The Deputy Treasurer said he would supply information supporting his calculations in a few days. On February 25, 1985, the Deputy Treasurer supplied the Audit staff with Schedules (Attachment 3) indicating that some commercials were not used in the general election campaign. The schedules did not provide the following information necessary to verify the \$304,389.50 reimbursement by the GEC or the \$167,807 refund:

- (1) Verification that some TV spots were produced for the primary campaign only.
- (2) Justification for allocating production costs (of spots produced for both campaigns) between the primary and general election campaigns on a 30% basis.
- (3) Check copies, paid bills, and invoices to support production costs by commercial as listed on page 3 of Attachment 3.

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As noted above, in addition to paying production costs and the cost of the media time purchased, the Committee also paid the media firm a \$1,000,000 consulting fee. The Committee had initially indicated that the flat fee it paid to its media firm was in lieu of cost plus 17.65% not only on media time buys but also on production costs and a number of other services and facilities furnished by the firm. The Deputy Treasurer did not agree that any portion of the flat fee should be included in the total of allocable production costs. However, it is the Audit staff's opinion that to the extent that a portion of the fee is attributable to the cost of producing advertisements used by the GEC as well as by the Committee, the amount should be included in the total of allocable production costs.

#### Interim Report Recommendations and Committee Response

In the interim audit report, the Audit staff recommended that the Committee make available for our review documentation to support the allocation of media production costs to the primary and general election campaigns. The documentation requested was to include check copies, paid bills, and invoices to support production costs by commercial as listed on Attachment 3; evidence of how the flat consulting fee relates to the total of allocable production costs; justification for the 50% allocation of production costs between the primary campaign and general election campaign for spots aired in both campaigns; and verification for the Committee's contention that certain spots were used in the primary campaign only.

As part of their September 16, 1985 response to the interim audit report, the Committee made available for our review, documentation to support costs for commercials listed on Attachment 3. In addition, the Committee offered a justification for their 50%/50% allocation of production costs with the GEC and an explanation of how the \$1,000,000 fee paid to TTI relates to this allocation. In its December 9, 1985, response to the Interim Report of the Audit Division on the Reagan-Bush '84 General Election Committee, the GEC supplied documentation regarding the consulting fees paid TTI. The Audit staff performed follow-up fieldwork to review this information.

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### Follow-up Fieldwork

During follow-up fieldwork completed October 18, 1985, the Audit staff attempted to obtain traffic reports or other documentation necessary to verify the reasonableness of the 30% rate of allocation. The Deputy Treasurer responded that the Committee could not locate these records, if they [indeed] existed. Therefore, the Audit staff could not, at that time, verify that the 30% allocation rate was reasonable.

During the course of fieldwork relative to the GSC's December, 1985 response to the interim report, the Audit staff was in contact with a representative of the entity that purchased TV time on local stations. In February 1986, this representative indicated that if the firm did not have the documentation necessary (scheduling instructions to TV stations/networks on which commercials to broadcast) to calculate usage of the shared commercials, the Committee had those documents.

Therefore, on March 25, 1986, the Commission formally requested that the Committee make available for our review, documentation showing the extent of the shared advertisements' usage by both the Primary Committee and the GSC.

In a letter dated April 14, 1986, Counsel for Committee responded that material related to media purchases, including some scheduling instruction forms were located, however, the search of Committee records did not locate a significant number of these forms. Counsel then concluded that, in accordance with the media buyer's usual procedure, the forms must have been destroyed. Finally, Counsel stated that the Committee is willing to give the Audit staff direct access to the records in storage and if upon examination any records are found that the Audit staff wishes to examine more closely, the Committee will arrange to have them retrieved from storage and made available for Audit staff inspection along with the records already located as a result of Committee efforts. On April 30, 1986, the Audit staff visited the warehouse in Springfield, Virginia and located several boxes which contained background information on media purchases for both campaigns. This information, coupled with that found by the Committee, and in conjunction with documents made available in October 1985, appeared sufficient to proceed with an analysis of the shared commercials. Therefore, in May 1986, the Audit staff conducted additional follow-up fieldwork to review this data.

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Summary of Follow-up Fieldwork Performed

The first step in the review was to verify total production costs for each commercial as listed on page 1 of Attachment 3. The Audit staff reviewed invoices and other records made available relating to payments made from the 771 Production account. Our review indicated that the distribution of production costs by Commercial as listed on page 1 of Attachment 3 was accurate except for the amount associated with the commercial entitled "Statue of Liberty." As a result of our review of production account records, we identified \$84,691.36 in expenses related to the "Statue of Liberty" or \$24,197.36 more than the amount listed by the Committee. See listing of these expenditures at Attachment 6. The Deputy Treasurer could not explain the difference.

The next step in the review was to analyze all TV network/local station invoices and affidavits for both the Primary Committee and GEC. The Audit staff examined approximately \$23,000,000 in documentation related to the purchase of TV broadcast time for the primary and general election campaigns and tabulated the frequency (number of times the commercial ran) and also the cost of all commercials produced by the Primary Committee. Because time costs vary widely depending on markets and the disparities in time costs between network, cable, and local buys, the Audit staff calculated relative usage between the Primary Committee and GEC based on time costs instead of frequency. Our review revealed that Primary Committee produced commercials entitled "Spring of 84:30," "Spring of 84:60," "America's Back:30," "America's Back:60," and "Ronald Reagan 5 minute #1" were used exclusively by the Primary Committee. The commercial entitled "The Bear," also produced by the Primary Committee, was used exclusively by the GEC, and Primary Committee produced commercials entitled "Prouder, Stronger, Better:30," "Prouder, Stronger, Better:60" and "Statue of Liberty" were shared by both campaigns.

Our review further revealed that 55.25% of the buys for "Statue of Liberty" were made by the Primary Committee and 44.75% were made by the GEC. On the other hand, 43.10% of the buys for "Prouder, Stronger, Better:30" was Primary related and 56.90% was GEC related. The ratio for "Prouder, Stronger, Better:60" was 29.75% Primary and 70.25% GEC. These percentages were applied to the verified production costs. The audited results as shown on Attachment 5 indicated that the GEC portion of the production costs for the three shared commercials total \$166,131.44 or \$50,574.44 more than allocated by the Committee.

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In addition, the Committee allocated only 50% of the cost for "The Bear" which was produced by the Primary Committee at a cost of \$53,754.00 but was used exclusively by the GEC. Therefore, the Audit staff allocated the entire cost of "The Bear" to the GEC. Further, the GEC paid several bills related to the May, 1984 production of "America's Back30" and "America's Back60" (used exclusively by the Primary Committee); the amount paid (\$9,893.13) may be offset against any amounts determined to be owed by the GEC to the Primary Committee (see Attachment 5, line 10).

As noted on Attachment 5, we have calculated that the GEC's share of the direct production costs paid by the Primary Committee is \$219,885.44. Based on our analysis of the fee payment to the media firm discussed at B.1., it appears that the Audit staff should add a markup of 8.336% (vs 17.6%) to the GEC's share (\$219,885.44) of the direct production costs. Because the Primary Committee is to be reimbursed for these production costs by the GEC, the Primary Committee must also be reimbursed for the related portion [818,339.65 (\$219,885.44 x 8.336%)] of the production costs included in the fee paid to TTI.

To summarize, the audit analysis at Attachment 5, shows that given the 8.336% markup is reflective of the value of the production expenses contained in the fee paid to TTI, the allocable amount is further increased resulting in a reimbursement due the Primary Committee (over and above the \$142,434 already reimbursed by the GEC) of \$85,887.96.

#### Conclusion

On June 26, 1986, the Commission determined that the audit analysis at Attachment 5 should be adjusted to reflect Commission approval of the Committee's 50/50 formula for allocating production costs between the two campaigns. The Commission further determined that within 30 days of receipt of this report, the Primary Committee is to seek from the GEC the amount (\$55,429.55) of allocable production costs still owing.

#### Initial Repayment Determination on WOCO Surplus

On July 7, 1986, the Commission made an initial determination that the pro rata portion (\$589,135.40) of the Committee's surplus as calculated by the Audit staff, is repayable to the U.S. Treasury pursuant to 26 U.S.C. § 9038(b)(3). After applying the \$344,893.24 repaid by the Committee on September 21, 1984, the amount to be repaid totals \$244,242.16 which is to be repaid to the U.S. Treasury within 90 calendar days of receipt of this report in accordance with 11 C.F.R. § 9038.2(d).

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If the candidate does not dispute this determination within 30 calendar days of receipt of this report under 11 C.F.R. § 9038.2(c)(1), the initial determination will be considered final.

Repayment Amount: \$144,743.16

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HEARS-2008 '84

PAYMENTS FOR VOTER REGISTRATION (EXPENSES)  
INCURRED AFTER STATES PLANNED BY CAUCUS

Approved 1  
Final Audit Report  
August 1984  
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STATE/TERRITORY	PHYSICIAN OR CAUCUS DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR SERVICE DATE	AMOUNT	EXPLANATION
FLORIDA	March 22, 1980					
Computerized Teleconferencing		26176	6-25-80	6-25-80	2000.00	State of Florida
		17777	7-25-80	6-25-80	9700.00	State of Florida
		17406	7-24-80	6-25-80	2000.00	State of Florida
		26178	6-2-81	6-25-80	2000.00	State of Florida
Computerized Teleconferencing		26081	6-17-80	6-25-80	2000.00	State of Florida
Direct Mail System		26170	6-11-80	6-25-80	2000.00	State of Florida
		25371	6-11-80	6-25-80	2000.00	State of Florida
		25709	6-30-80	6-25-80	2000.00	State of Florida
		26612	7-1-80	6-25-80	2000.00	State of Florida
		17900	7-25-80	6-25-80	2000.00	State of Florida
		26267	6-2-80	6-25-80	2000.00	State of Florida
		26920	6-2-80	6-25-80	2000.00	State of Florida
		25279	6-2-80	6-25-80	2000.00	State of Florida
		26143	6-2-80	6-25-80	2000.00	State of Florida
		26345	6-2-80	6-25-80	2000.00	State of Florida
		26412	7-3-80	6-25-80	2000.00	State of Florida
Direct Mail System		26086	6-2-80	6-25-80	2000.00	State of Florida
Kidney-Women		25700	6-25-80	6-2-80	17700.00	Propaganda Paper with per contract dated 7-2-80
		25702	6-25-80	6-2-80	7200.00	Propaganda Paper with per contract dated 7-2-80
		26294	6-1-81	6-2-80	2000.00	Propaganda Paper with per contract dated 7-2-80
Kidney-Women		24128	7-30-80	6-2-80	10000.00	Propaganda Paper with per contract dated 7-2-80
FIG Telecomputer		13528	6-26-80	6-3-80	2000.00	Water Registration with per 10-2-80 contract Orange County FLA task order
FIG Telecomputer		16000	6-17-80	6-4-80	1125.00	Water Registration with per 10-2-80 contract Orange County FLA task order
Markus Bailey		13622	6-12-80	6-12-80	574.00	State of Florida
Markus Bailey		13720	6-2-80	6-12-80	625.00	State of Florida
Markus Bailey		26772	7-2-80	6-12-80	272.00	State of Florida

Items listed herein were generated from a comprehensive review of large expenditures exceeding more than \$500 of the dollar volume of total expenditures totaling.

Attachment 1  
Final Audit Report  
Range-Book '94  
Page 2 of 8

STATE/VENDOR	PRIMARY OR SAPCON RATE	CRSCK NUMBER	CRSCK DATE	CONTRACT OR SERVICE DATE	AMOUNT	DESCRIPTION
<b>NEW JERSEY</b>						
June 3, 1994						
Direct Conventions		17770	7-30-94	7-3-94	6 14750.00	Water Registration
"		17280	7-30-94	7-3-94	14750.00	calls in New Jersey
"		20963	6-7-94	7-3-94	13998.00	for Contract Addition
Direct Conventions		20207	6-12-94	7-3-94	94250.00	dated 7-4-94
Unbilled Data		17290	7-30-94	6-11-94	6797.33	Computerized calls for
Unbilled Data		22825	6-15-94	6-6-94	23998.00	Registration effort
U. S. Postmaster		20003	6-6-94	6-6-94	1000.00	Postage for Water
						Registration
State account			6-3-94	6-6-94	20.00	State account - June 94
					<b>14750.00</b>	
<b>ALABAMA</b>						
March 11, 1994						
U. S. Postmaster		18040	6-30-94	6-30-94	6 1000.00	Postage for Water
FHG Telecomputer		17520	6-30-94	6-30-94	10000.00	Water Registration
"		20000	6-30-94	6-30-94	10000.00	calls for Water
"		17270	7-30-94	6-30-94	10000.00	dated 6-30-94
"		17272	7-30-94	6-30-94	10000.00	
"		17990	7-30-94	6-30-94	10000.00	
FHG Telecomputer		20000	6-17-94	6-30-94	10000.00	
					<b>10000.00</b>	
<b>GEORGIA</b>						
March 11, 1994						
Computerized Telemarketing		100027	6-4-94	6-4-94	6 10000.00	Water Registration
"		14320	6-17-94	6-4-94	10000.00	calls for 6-4-94
"		23185	6-7-94	6-4-94	10000.00	Contract
Computerized Telemarketing		23767	6-20-94	6-4-94	10000.00	
FHG Telecomputer		17000	6-23-94	6-4-94	10000.00	Water Registration
"		17020	6-23-94	6-4-94	10000.00	calls for 6-4-94
FHG Telecomputer		18000	6-23-94	6-4-94	10000.00	Contract
					<b>10000.00</b>	

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Attachment 1  
 Flood Relief Report  
 August-Sept '94  
 Page 3 of 8

STATE/ZIP	PRIMARY OR CANCEL DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR CHECK DATE	AMOUNT	REMARKS		
LOUISIANA	May 23, 1994	14804	5-21-94	5-21-94	20750.00	Water Registration		
		15704	6-11-94	6-09-94	22750.00	Water per Contract		
		16851	6-25-94	6-25-94	20000.00	Water 5-25-94		
		16819	6-25-94	6-25-94	20000.00			
		16841	6-2-94	6-25-94	20000.00			
		16816	6-25-94	7-29-94	20000.00			
		U. S. Postmaster	15880	6-25-94	6-25-94	20000.00	Package for Water Program	
		KENTUCKY	May 23, 1994	15374	6-14-94	6-25-94	9411.00	Water Registration Water
				16200	6-4-94	6-25-94	20475.00	Water per 7-25-94 Contract
				15345	6-7-94	6-6-94	22750.00	Water Registration
17177	7-20-94			6-6-94	11750.00	Water Registration		
17176	7-20-94			6-6-94	17400.00	Water (Contract) Water		
15182	6-17-94			6-6-94	6574.00	Water 6-6-94 with		
Campaign Mail and Data	16123			6-25-94	6-25-94	4200.00	Water Registration Package	
U. S. Postmaster	15713			6-25-94	6-25-94	15000.00	Water Registration Package	
U. S. Postmaster	16864			6-27-94	6-25-94	20000.00	Water Registration Package	
125 Individuals	Various			Various	5/94 - 12/94	20000.00	Payment for Water	
NORTH CAROLINA	May 8, 1994	15100	6-7-94	6-25-94	20000.00	Water Contract		
		14915	7-12-94	6-25-94	20000.00	Water Registration		
		17476	7-20-94	7-20-94	6000.00	Water (Contract) Water		
		17477	7-20-94	7-20-94	6000.00	Water		
		16905	6-13-94	7-20-94	20000.00			
		16904	6-8-94	6-2-94	17750.00			
		16904	6-17-94	6-17-94	20000.00			
		15000	6-17-94	6-17-94	20000.00			
		FNG Telecomputer	15000	6-17-94	6-17-94	20000.00		

Relinquished by August-Sept '94 General Election Committee  
 \$7500 of this amount relinquished by August-Sept '94 General Election Committee

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Attachment 1  
Final Audit Report  
Budget-Basis '04  
Page 4 of 8

STATE/YES/PO#	PRIMARY OR CASHIN DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR SERIAL PATH	AMOUNT	EXPLAN
TEXAS	May 5, 2004					
Campaign Mail and Data		14134	5-17-04	7-25-04	0 2770.00	Was Provided Vote;
" " " "		14953	5-26-04	9-15-04	2004.00	Project began 9-20-04
" " " "		14954	5-26-04	9-25-04	2752.32	
Campaign Mail and Data		14955	5-26-04	9-25-04	2250.30	
U. S. Postmaster		30082	6-25-04	6-27-04	11000.00	Postage for Peter
U. S. Postmaster		30083	6-25-04	6-27-04	10000.00	Postage
Conventions Speech/Info		12304	6-20-04	6-24-04	4200.00	Postage and
" " " "		12278	7-20-04	6-29-04	6002.70	disbursement of cash
" " " "		10040	6-4-04	7-00	6200.00	Other for 2-2004
" " " "		10611	6-20-04	6-24	27000.00	
" " " "		20072	6-23-04	6-24	6000.00	
" " " "		25703	7-20-04	9-20-04	2000.00	
" " " "		25700	7-20-04	9-20-04	700.00	
" " " "		20430	7-00	7-00	2000.00	
" " " "		17087	7-00	7-00	200.00	
Conventions Speech/Info		20494	7-00	6-00	400.00	
FNG Telecomputer		10005	6-20-04	7-04	2070.32	Phone Registration calls
From State Account		Vouchers	Vouchers	After 5-20-04	200.00	
WISCONSIN	March 26, 2004					
Campaign Mail and Data		29204	6-17-04	6-04	0 10000.00	List for Registration
FNG Telecomputer		13046	6-12-04	6-0-04	2000.00	Phone Registration
" " " "		13177	5-9-04	6-0-04	2000.00	calls per Contract
" " " "		20073	6-26-04	6-2-04	13007.77	dated 6-0-04
" " " "		16915	7-12-04	6-0-04	2000.00	
" " " "		17130	7-20-04	6-0-04	2000.00	
FNG Telecomputer		20094	6-15-04	6-0-04	2007.00	
Election Computer Services		17000	5-10-04	5-0-04	1000.00	Computer Base-Data Lists
Election Computer Services		17000	7-31-04	7-23-04	20.00	Postage

DISBURSE

DISBURSE

STATE/ENDOR	PRIMARY OR CANCEL DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR SERVICE DATE	AMOUNT	REMARKS
<b>VERMONT</b>	<b>May 1, 2004</b>					
Computerized Telemarketing		17495	7-24-04	7-04	6,250.71	Voter Registration calls made in July
Computerized Telemarketing		18509	8-9-04	7-04	8094.83	
Capital Telemarketing		17785	7-20-04	7-04	22500.00	Voter Registration calls made after February
Capital Telemarketing		19086	9-3-04	7-04	20582.01	
Capital Telemarketing		20421	7-20-04	7-04	520.00	
U. S. Postmaster		19086	8-17-04	8-20-04	98.00	Postage
Approximately 23 Individual & Group		Various	Various	8-04	2077.25	Pay made for voter registration checks
					<u>1,000.00</u>	
<b>KANSAS</b>	<b>April 14, 2004</b>					
Direct Mail Systems		15772	6-14-04	6-04	7004.00	Voter Registration program began after census
Direct Mail Systems		19128	6-04	6-04	630.30	
Direct Mail Systems		16144	6-04	6-04	747.00	
Capital Telemarketing		23787	6-20-04	6/04 - 7/04	7220.00	Voter Registration calls which began after census
"		16420	7-9-04	6/04 - 7/04	23000.00	
"		17664	7-20-04	6/04 - 7/04	9720.70	
"		17666	7-20-04	6/04 - 7/04	82.20	
"		18990	6-25-04	6/04 - 7/04	1300.00	
"		20421	7-20-04	6/04 - 7/04	170.00	
Capital Telemarketing		21629	10-24-04	6/04 - 7/04	122.00	
FNG Telecomputer		16125	6-25-04	6/04 - 7/04	700.00	Voter Registration calls began after census
FNG Telecomputer		16126	6-20-04	6/04 - 7/04	9004.00	
FNG Telecomputer		18004	6-20-04	6/04 - 7/04	130.00	
South Central Bell		18077	6-20-04	6/04 - 7/04	1000.00	Phone bank for voter registration
					<u>1,000.00</u>	

STATE/YEAR	PRIMARY OR CANCEL DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR SERVICE DATE	AMOUNT	REMARKS
WASHINGTON STATE Pacific Northwest Bell . . . . . . . . . . . . . . . Pacific Northwest Bell Payroll	March 11, 2004	14724	0-4-04	4-04 - 0-04	526.50	Value Reimbursement
		14826	0-4-04	4-04 - 0-04	289.94	Value Reimbursement
		14828	0-4-04	4-04 - 0-04	284.50	Value Reimbursement
		14970	0-4-04	4-04 - 0-04	252.52	Value Reimbursement
		14982	0-4-04	4-04 - 0-04	274.47	Value Reimbursement
		14988	0-4-04	4-04 - 0-04	228.22	Value Reimbursement
		14170	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14180	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14187	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14197	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14193	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14195	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14196	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14197	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
		14198	0-03-04	4-04 - 0-04	288.25	Value Reimbursement
14199	0-03-04	4-04 - 0-04	288.25	Value Reimbursement		
14200	0-03-04	4-04 - 0-04	288.25	Value Reimbursement		
ORIGON Hanson-Thomas Hanson-Thomas  Hanson Computer Services Hanson Computer Services	May 11, 2004	14923	7-12-04	0-04 - 0-04	2000.00	Value Reimbursement
		14894	0-4-04	0-04 - 0-04	2000.00	Value Reimbursement
		14922	0-12-04	0-04 - 0-04	200.00	Value Reimbursement
		14114	0-17-04	0-04 - 0-04	2000.00	Value Reimbursement
14884	0-9-04	0-04 - 0-04	2000.00	Value Reimbursement		
NORTH CAROLINA Wright Services Wright Services State Account	March 11, 2004	1072	3-01-04	3-01-04	0177.00	Value Reimbursement
		11179	0-7-04	3-01-04	2000.00	Value Reimbursement
		11172	0-03-04	3-01-04	2000.00	Value Reimbursement
		Value	Value	0-04 - 0-04	2000.00	Value Reimbursement

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Attachment 1  
Final Audit Report  
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STATE/TERRITORY	PRIMARY OR CARGEN PATH	CHECK NUMBER	CHECK DATE	CHECKED BY CHECK NO.	AMOUNT	REMARKS
CALIFORNIA American Political Creditors	June 5, 1966	10220	6-22-66	700 - 000	1,000.00	Water Department on 1.20 each
NEW HAMPSHIRE New Hampshire Republican State Committee New Hampshire Republican State Committee	February 18, 1966	970	2-4-66	700	9,120.00	Balance of Water bill after primary
		10700	2-20-66	700	1,000.00	
IOWA Republican State Central Committee	February 24, 1966	10377	2-9-66	700	1,100.00	Water bill for after primary
ARIZONA FNG Telecomputer State Account	May 5, 1966	10323	5-17-66 6-22-66	700 640	9,400.00 1,000.00	Water Department bill after primary
NEW MEXICO Data Company Inc. Data Company Inc	June 5, 1966	10201	6-1-66	700 - 000	9,100.00	Water bill for after primary
		10323	6-9-66	700 - 000	1,000.00	
FNG Telecomputer		10004	6-22-66	700 - 000	1,000.00	Water Department bill after primary

Attachment 1  
Final Audit Report  
August-Dech '64  
Page 8 of 5

YENDOR	PRIMARY OR CARGO DATE	CHECK NUMBER	CHECK DATE	CONTRACT OR SERVICE DATE	AMOUNT	REMARKS
<b>NATIONAL EFFORT AFTER LAST</b>						
<b>PRIMARY OR CARGO</b>						
	June 5, 1964					
Secretary Direct		17267	7-10-64	6/64 - 9/64	2282.52	Check; Votor
"		18918	8-13-64	6/64 - 9/64	2046.93	Registration
"		19897	8-17-64	6/64 - 9/64	2024.51	Same after all
"		21875	9-04	6/64 - 9/64	52.25	privates and
Secretary Direct		17496	7-04	6/64 - 9/64	604.29	amount
Walter Kelley		23021	10-16-64	6/64 - 9/64	237.01	Refund Votor
						Registration / etc
Eileen Conway		Various	Various	6/64 - 9/64	6225.00	Various amounts - check for Votor Registration
U. S. Postmaster		18938	8-1-64	7-64	1221.00	Postage
<b>EMILIAN BODD-UP</b>						
<b>Various</b>						
	June 11, 1964	Various	Various	6-23-64	2,000.00	Refund of Votor Registration check and other amounts
<b>GRAND TOTAL</b>						

Retained by August-Dech '64 General Election Committee

Attachment 2  
Final Audit Report  
August-October '64  
Page 3 of 5

RECAP-GIVE TO  
POLITICAL EXPENSES SUBCOMMITTEE  
GENERAL ELECTION CAMPAIGN ONLY

YEAR	CHRC# HYPER#	CHRC# DATE	CONTRACT OR SERVICE DATE	AMOUNT	REMARKS
	14174	5-17-64	5-14-64	6 24150.00	Printing - Start up
Decker/Walsh/Information	14884	6-4-64	5-31-64	12000.00	Printing - Start up
"	14885	6-4-64	5-31-64	12000.00	Printing - Start up
"	14886	6-4-64	5-31-64	12000.00	Printing - Start up
"	15118	6-12-64	6-11-64	20000.00	Printing - Book form
"	15119	6-12-64	6-11-64	20000.00	Printing - Memoranda
"	15120	6-12-64	6-11-64	20000.00	Printing - Memoranda
"	17392	7-23-64	7-12-64	20000.00	Printing - Typing
"	17393	7-23-64	7-12-64	20000.00	Printing - On Line Answer
"	17394	7-23-64	7-12-64	20000.00	Printing - Mapping
"	17413	7-23-64	7-12-64	6000.00	Printing - 20 Questions
"	17946	7-31-64	7-30-64	20700.00	Printing - Typing
"	18281	8-4-64	8-4-64	12000.00	Printing - Mapping
"	18257	8-4-64	7-30-64	10000.00	Printing - HI, VT, CA, WA
"	20482	9-30-64	7-30-64	2000.00	Printing - Cook County
				<b>1,171,000</b>	
Ed Nichols Associates	13750	5-1-64	4/64	2,171.00	Local Working after February census
Robert Gony Company	13260	4-25-64	4-25-64	0 1000.00	Candidate - Ethics
"	14417	5-24-64	5-25-64	2000.00	after March February
"	14982	7-0-64	6-25-64	2000.00	
Robert Gony Company	15985	6-30-64	7-25-64	2000.00	
				<b>1,175,000</b>	
Harvey Tompkins	13537	4-26-64	4/64	0 2000.00	Candidate - Ethics
"	14098	5-31-64	5/64	2700.00	Candidate - Ethics
"	15088	6-30-64	6/64	2000.00	March February
"	17422	7-25-64	7/64	2700.00	
Harvey Tompkins	15453	8-20-64	8/64	2000.00	
				<b>1,177,000</b>	
				<b>TOTAL</b>	<b>1,177,000</b>

The President's Authorized Campaign Committee

Attachment 3  
Final Audit Report  
Reagan-Bush '84  
Page 1 of 3

MEMORANDUM

February 25, 1984

TO: HAY ROCKAWAY  
FROM: SCOTT WACKENHIE  
SUBJECT: ALLOCATION OF CAMPAIGN COSTS

Attached is a copy of the Tuesday Teen's "Allocable" Production Costs expended in the Primary Campaign. Originally, it was anticipated that the General Election Committee would use all of the commercials except "The Bear". Therefore, the following allocation was computed:

Total Allocable Production Costs	\$ 662,533
Less: "The Bear"	<u>(53,734)</u>
Production Cost to be split	\$ 608,779
Allocation Percentage	<u>50%</u>
Allocation to the GEC	<u>\$ 304,389</u>

However, prior to the start of the General Election Campaign decision was made to utilize only the following commercials in the General Election:

- (1) "The Bear"
- (2) The Statue of Liberty
- (3) Spring of '84: 60
- (4) Prouder, Stronger, Better: 60

Therefore, our allocations should have been adjusted as follows:

Total Allocable Production Costs	\$ 662,531
Less: "Primary Only" Commercials	
Spring of '84 30	49,306
America to Beat 80	146,354
America to Beat 80	97,869
Procter, Stronger, Better 30	84,837
Non-Allocable Commercials	(377,660)
Production Costs to be Split	\$ 284,867
Allocation Percentage	50
Allocation to the SEC	\$ 142,434

To date, the following has occurred between the Primary and General Election Committees:

	<u>PRIMARY</u>	<u>GENERAL</u>
Allocable Production Costs	\$ 662,531	\$ -0-
Committee Allocation 9/87	(304,389)	304,389
Allocation Adjustment 3/88	162,807	(162,807)
Current Balance 3/88	\$ 120,941	\$ 141,982
Required Adjustments	(832)	832
Appropriate Allocations	\$ 120,099	\$ 142,434

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0/11/84

GENERAL LEDGER '84  
 THE CHERRY CORP., INC.  
 ALABAMA PROPERTIES CODE

	1983		1984		1985		1986		Production 1986
	AMOUNT								
Production	900,000	900,000	900,000	900,000	900,000	900,000	900,000	900,000	900,000
Materials	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Salaries	200	200	200	200	200	200	200	200	200
Shipping	50	50	50	50	50	50	50	50	50
Overhead	100	100	100	100	100	100	100	100	100
Travel & Expense	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Depreciation	100	100	100	100	100	100	100	100	100
Interest	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Other Income	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
<b>1983 General Total</b>	<b>902,000</b>								
<b>1984 General Total</b>	<b>902,000</b>								
<b>1985 General Total</b>	<b>902,000</b>								
<b>1986 General Total</b>	<b>902,000</b>								

Attachment 3  
 Final Audit Report  
 Cherry Corp '84  
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Reagan-Bush '84  
 Schedule of Production Costs 1/  
 Commercial Entitled "State of Liberty"

PAID TO	CHECK NUMBER	DATE	AMOUNT	PURPOSE
THY Productions	997	6/1/84	\$17,735.00	50% of Production Contract
THY Productions	1125	6/14/84	17,735.00	50% of Production Contract
Broadcast Traffic	1194	6/24/84	521.75	Performer's Sessions
Broadcast Traffic & Residuals	1141	6/2/84	1,861.17	Performers Sessions Fees
Princeto Productions	2244	6/1/84	1,839.83	Editing
Manhattan Transfer/ Edit	1146	6/1/84	992.91	Conversion of Film to tape
Bee Vee Sound	1148	6/1/84	418.39	Audio Production
Finley Photographics, Inc.	1149	6/1/84	44.99	Line Matter & Glossy State
THY Productions	1154	6/1/84	1,500.00	Production
Broadcast Traffic & Residuals	1168	6/8/84	6,328.24	Performer's Sessions
Federal Express	1184	6/11/84	9.07	Deliveries
Finley Photographics, Inc.	1185	6/11/84	15.09	Glossy Stats, Reproduction
Piece of Cake	1186	6/11/84	12,977.25	Music Production
Bell Sound	1187	6/11/84	1,350.31	Editing & Dubbing
Audio Video Resources	1194	6/12/84	193.83	Re-Recording
Ogilvy and Mather	1195	6/12/84	49.33	Shipping
Bill Werts Photography	1196	6/12/84	267.73	Photography

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Reagan-Bush '84  
 Schedule of Production Costs  
 Commercial Entitled "State of Liberty"

PAID	Check		AMOUNT	PURPOSE
	NUMBER	DATE		
Aspen Graphics Photo	1198	6/12/84	2.43	Title set j stats
Mary Lou Chapman	1202	6/26/84	60.00	Spanish Translation
Teletronics	1206	6/26/84	83.89	Videos
Teletronics	1208	7/2/84	806.61	Editorial
TNT Production	1210	7/7/84	136.12	Production
Corelli Jacobs Recordings	1216	7/20/84	142.38	Music
TOTAL			<u>844,621.36</u>	
Per Committee (Att.3, p.3)			<u>39,428.00</u>	
Difference			<u><u>805,193.36</u></u>	

✓ A copy of an Audit workpaper containing this information was presented to the Committee's Deputy Treasurer on October 18, 1985.

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Reagan-Bush '84  
Calculation of Allocable Production Costs

	Committee	Audit Analysis	Audit Analysis as adjusted
1. Total Allocable Production Costs	3442,533.00	3442,533.36	3442,726.36
2. Less: Primary Only Commercials:			
Spring of 84:30	(49,206.00)	(49,206.00)	(49,206.00)
Spring of 84:30	(73,910.00)	(73,910.00)	(73,910.00)
America's Back:30	(146,354.00)	(146,354.00)	(146,354.00)
America's Back:30	(97,569.00)	(97,569.00)	(97,569.00)
Prouder Stronger Better:30	(64,527.00)		
3. Less: General Only Commercials The Bear	(52,754.00)	(52,754.00)	(52,754.00)
4. Net Production Costs to be split	231,210.00	231,011.36	276,633.36
5. Allocation to GEC of shared Commercials	819,597.00	819,132.44	819,016.68
6. Add: General Only Commercial The Bear	59,754.00	59,754.00	59,754.00
7. Net Amount Allocable	142,434.00	129,887.44	191,770.68
8. Add: Media agency markup (.083304)	-0-	19,329.65	19,326.00
9. Gross Amount Allocable	142,434.00	238,215.09	207,756.68
10. Less: GEC payments for Primary Only Commercials:			
America's Back:30	-0-	(7,012.10)	(7,012.10)
America's Back:30	-0-	(2,881.03)	(2,881.03)
11. Amount Reimbursed	(142,434.00)	(142,434.00)	(142,434.00)
12. Amount yet to be Reimbursed by GEC	\$ -0-	\$ 85,887.96	\$ 55,429.55

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Assumes 8.336% markup is reasonable.

Change Must Be Guided By Principle :60 TV

Super:

"Change must be guided by principle."

President Bush:

Everyone wants change. America must change. But change must be guided by principle, and there are three basic principles that must lead our quest for change.

First, we must control wasteful government spending. That's absolutely essential for the kind of change the American people want.

And second, we must strengthen the American family. The decline of the American family is hurting the soul of America, and we've got to change that.

Third, we're a nation of laws. We must increase respect for the law. We must pass strong legislation to help the fight against crime and to back up our police officers and law enforcement officers out on the street.

These are the kind of changes that America needs, and I'm convinced I can bring about that change.

Logo: President Bush  
Paid for by Bush-Quayle '92  
Primary Committee, Inc.

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We Must Reduce the Federal Deficit :30 TV

Super:

"We must reduce the federal deficit."

President Bush:

To get our economy moving faster we have to reduce the huge federal deficit by cutting spending.

The only way to do that with certainty is to pass the Balanced Budget Amendment. And earlier this summer we came nine votes short of getting the two-thirds majority needed to pass it.

I'm going to fight to get those nine votes from a new Congress next year and pass the Balanced Budget Amendment.

Logo: President Bush

Paid for by Bush-Quayle '92 Primary  
Committee, Inc.

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We Must Not Let Our Guard Down :30 TV

Super:

"We must not let our guard down."

President Bush:

We have seen the demise of the communist system.

We have seen the fall of the Berlin Wall.

We've seen democracy and freedom come to Eastern Europe and to all across South America the same.

We've made dramatic strides toward world peace, but we must not our guard down. . .

Who knows where the next tyrant will come from?

Logo: President Bush

Paid for by Bush-Quayle '92 Primary  
Committee, Inc.

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I Favor Strong Welfare Reform ;30 TV

Super:

"I favor strong welfare reform."

President Bush:

The welfare system has got to be reformed. I favor reformed welfare.

The victims of the current system are the welfare recipients themselves, and I'm not opposed to welfare, but I'm opposed to the existing system that strips every recipient of his dignity.

And I want to restore that dignity by giving them a chance to work, give them a chance to give them a shot at the American Dream.

Logo: President Bush  
Paid for by Bush-Quayle '92 Primary  
Committee, Inc.

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# Democratic

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# News

Democratic National Committee

FOR IMMEDIATE RELEASE:  
Thursday, July 30, 1992

CONTACT: Ginny Terrano, 202-863-8020  
Laura Quinn, 202-224-6472  
Tom Keaney, 202-225-7143

**DEMOCRATS FILE COMPLAINT AGAINST BUSH-QUAYLE COMMITTEE;  
CHARGE BUSH WIFE ILLEGAL MEDIA BUY**

WASHINGTON -- Today the Democratic National Committee (DNC) filed a complaint with the Federal Election Commission (FEC) against the Bush-Quayle Campaign Primary Committee for illegally paying for general election expenditures with prohibited primary election funds.

In the complaint filed today with the FEC, the DNC notes that the Bush-Quayle primary committee has a reported \$7 million left over from this year's primary season, which it is using to influence the general election. This is illegal, and represents the biggest violation of the federal campaign finance laws in United States history. (FEC Regulations provide that left over presidential primary matching funds must be returned to the U.S. Treasury).

Chairman Ronald H. Brown said, "George Bush has said that he will do anything to get re-elected, and once again he is proving it. He is willing to break the law by using these funds to buy ads to reshape his tarnished image. Americans will not be fooled by this slick media campaign. They see the same old Republican tactic, ignoring laws and regulations which do not comport with their narrow interest."

Additionally, DNC Finance Chair Senator Jay Rockefeller (D-WV) charged the Bush campaign with breaking federal election law, called on Mr. Bush to cease using prohibited funds, and for him to give the money back.

"The Bush campaign cannot be allowed to get away with abusing the public's trust for political gain. Instead of misappropriating public funds for his sinking campaign effort, George Bush should return the funds to the Treasury. If he expects a second term, he will need to regain the public's trust. He should start by returning the money he has misused to reduce the deficit and to invest in America. Give the money back, George," said Senator Rockefeller.

DNC Treasurer Representative Robert T. Matsui added, "These ads and the manner in which they were funded are not only inappropriate, but they also show how desperate George Bush and the Republican Party have become. To even try to pass these expenditures off as primary campaign disbursements is laughable, and it demonstrates the depths to which George Bush will lower himself just to get re-elected. I would hope that the FEC will act on this complaint and prevent the Republican Party from making a mockery of the electoral process."

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4TH STORY of Level 1 printed in FULL format.

Copyright 1992 The Washington Post  
The Washington Post

June 20, 1992, Saturday, Final Edition

SECTION: FIRST SECTION; PAGE A11

LENGTH: 309 words

HEADLINE: GOP Asks Agency to Bar Public Funds for Clinton

SERIES: Occasional

BYLINE: Charles R. Babcock, Washington Post Staff Writer

BODY:

Bill Clinton's presidential campaign should be barred from receiving federal funds because he illegally used Democratic Party money to buy television time last week, the Republican National Committee (RNC) alleged yesterday.

In a complaint before the Federal Election Commission (FEC), the Republican committee's general counsel, Benjamin Ginsberg, challenged Clinton's use of Democratic National Committee (DNC) money for a call-in show on NBC-TV.

The DNC paid nearly \$ 400,000 for the show under a provision of federal law that lets the national party finance some of its nominee's general election expenses. The DNC acted on the basis of a 1984 FEC ruling that let the RNC spend money on Ronald Reagan before the party convention officially renominated him.

"Bill Clinton and his debt-ridden campaign cannot accept \$ 400,000 . . . for what they call 'our general election strategy' and then spend the time flashing his '800' number asking for primary campaign donations," RNC Chairman Richard N. Bond said in a statement.

The complaint contained an affidavit from a man who called the 800 number and was told by a recording: "If you believe that it's time for real change, help the Clinton campaign and make a contribution by pressing 2." An operator then asked for the caller's name and address, how much he wanted to contribute and whether he wanted to pay by credit card or check.

Clinton spokeswoman Max Parker said the use of the 800 number for donations was "a technical mistake" and the campaign would not accept contributions generated by the show.

Clinton's campaign was about \$ 2.5 million in debt at the end of April. Its end of May report will be filed today as required, Parker said.

The Bush-Quayle committee said yesterday that it raised \$ 2 million during May and had \$ 8.2 million in the bank at the end of the month.

TYPE: NATIONAL NEWS

SUBJECT: PRESIDENTIAL CANDIDATES; POLITICAL PARTIES; CAMPAIGN CONTRIBUTIONS AND FUNDS; ELECTION LAWS; POLITICAL ADVERTISING

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U.S. News & World Report

July 20, 1992

SECTION: U.S. NEWS; COVER STORY; Vol. 113, No. 3; Pg. 32

LENGTH: 1175 words

HEADLINE: How the lessons of his 1980 defeat shape this campaign Campaign '92

BYLINE: By Matthew Cooper

DATELINE: Little Rock

HIGHLIGHT:  
Clinton's last comeback

BODY:

Bill Clinton regularly accuses the White House of using welfare "as a wedge to divide the American people." But 10 years ago, Clinton himself was denounced for doing the same. In 1982, he was out to recapture the Arkansas governorship. In a TV ad and speeches, he labeled his primary foe, Jim Guy Tucker, a "liberal" for not backing a workfare bill. In fact, Tucker, now lieutenant governor, favored such schemes.

That decade-old story of political hardball is a stain on Clinton's well-deserved image as a healer. But it has another meaning as well: It ought to assuage the fears of Democrats -- and dash the hopes of Republicans -- that Clinton is a pushover. He isn't. If his recovery from draft-and-womanizing charges this year isn't proof enough, his 1982 comeback confirms that he is no Michael Dukakis. Unlike Dukakis, who also once lost a re-election bid and bounced back, Clinton never forgot a key lesson: Fight back -- and if you must, fight a little dirty. A year after his 1980 defeat, he told an audience: "If your opponent picks up a hammer, you need to pick up a meat-ax and cut off his arm." The years out of power "forever influenced the way he approached government," says Betsey Wright, Clinton's former chief of staff. Clinton told U.S. News: "I learned the hard way that you really have to have priorities and make them clear to people. You have to win people over. And to do that, you have to spend some time listening to them."

The lessons of exile sank in so deeply, perhaps, because Clinton's fall was so dramatic. If anything, he seemed to be riding high in early 1980. He was a wunderkind who had been touted as presidential timber. His wife, Hillary Rodham, had been promoted by Jimmy Carter to head the board of the Legal Services Corp., which distributes legal-aid funds -- and had just given birth to their child, Chelsea. Clinton was upbeat. After being cited for speeding while Hillary was pregnant, Clinton joked that he'd name his daughter "Hot Rodham."

But trouble was brewing. In the Democratic primary, Clinton lost seven counties to a 77-year-old turkey farmer. Clinton downplayed the results, but the recession conspired with other events to fuel voter outrage. There was the smoldering issue of higher automobile-license fees. And that summer, a Titan II missile exploded at an Arkansas Air Force base, adding to voter dissatisfaction. Then, 8,000 Cuban refugees rioted at the Army's Fort Chaffee, on the Oklahoma border. Clinton had objected to so many

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refugees' being housed in his state, but he had not actively resisted it. Even Clinton allies thought he handled the crisis poorly.

The Cubans and car tags came atop other frustrations with the young governor. He was considered inaccessible and arrogant in this state of just 2.5 million people, where politicians and voters enjoy a special intimacy. Top aides -- many from out of state, some sporting beards -- seemed too liberal and too aloof.

No pushover. Clinton thought he had an easy opponent in the GOP's Frank White, an affable former Democrat. Clinton aides doubted that White, known for his bulging eyes and stomach, could triumph. Indeed, polls showed a big Clinton lead almost until the end. But throughout the fall -- as White pounded on Cubans and car tags -- Clinton seemed befuddled. On election night, White won handily and Clinton wept openly. A few days later, he had a plaintive air about his political paradise lost. "This is what I've wanted to do since I was a little boy growing up in Hot Springs," Clinton said.

Out of office, Clinton considered jobs as varied as chairing the Democratic National Committee and running a small college. He settled on a perch at a prestigious Little Rock law firm, where he handled commercial litigation and planned his political comeback. Almost as soon as he was out of office, Clinton started barnstorming the state. In meetings with small-town newspaper editors and at Rotary Club luncheons, he'd ask people what he'd done wrong. At times, he seemed almost possessed. Shalah Brummett was jogging one morning in Little Rock when the ex-governor started jogging alongside her and without prompting started talking about what he had done wrong in office. By all accounts, Clinton was a quick study. "A guy who supposedly has an IQ of a zillion did something stupid," he conceded about the car-license fees and other issues. Cartoonist George Fisher began to portray Clinton as a penitent monk.

In the 1982 campaign, Clinton learned lessons about political survival that inform him to this day. If he learned to hit hard -- bashing Democrat Tucker on workfare, accusing Republican White of diverting Arkansas water to Texas -- he also learned to communicate directly with voters. Early in this year's primary season, when his aides mocked Jerry Brown's 800 number, Clinton understood technology's ability to make voters feel empowered. He announced his 1982 comeback bid by buying television time for a direct apology. The move, like hitting TV talk shows this year, was locally unprecedented.

New pragmatism. The need to bring voters along -- not to push too fast on too many fronts -- became Clinton's hallmark. After his comeback, he often raised money privately -- as he did for his 1983 education reforms -- to solicit public support for his programs. And he chose issues carefully, avoiding thorny matters like environmental reform. "He was no longer the young person out to change the world tomorrow; he came back much more pragmatic," says Roby Robertson, director of the Arkansas Institute of Government. Such pragmatism extended to his family life. It's no coincidence that on the day Clinton announced his comeback bid, Hillary changed her surname to Clinton.

There's no doubt, too, that the years in exile made Clinton more cautious -- some say too much so. "He decided he'd never offend another interest or voter again," says Arkansas Democrat-Gazette columnist Paul Greenberg, who coined the moniker "Slick Willie" for Clinton. But if he was more flexible after his comeback, he was more effective, too. "He moved closer to the center," says former state Sen. Knox Nelson.

To be sure, Clinton did forget some of the best lessons of that period. After his comeback, the triumvirate of top aides blamed for much of the first term's isolation and inefficiency was replaced by one strong chief of staff. But Clinton's presidential campaign is reminiscent of the chaotic first term:

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Power is diffuse, in the hands of many top aides, and the campaign often seems rudderless. Still, if his years in exile are seen as a proving ground -- a way to test resilience under personal and professional pressure -- Clinton held up well. It's important to remember, too, that he is only 45. Should he lose this fall, he won't disappear. Like some other very different politicians who overcame defeats and tarnished images, Clinton could become a Richard Nixon or Winston Churchill of the late 20th century, capable of reinventing himself decade after decade.

GRAPHIC: Picture, 1981. After his adieu to the Arkansas legislature (Arkansas Democrat-Gazette); Picture, 1980. Clinton never realized how deeply he alienated voters until they threw him out. (Arkansas Democrat-Gazette)

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 19, 1992

John J. Sullivan, Esquire  
Bush/Quayle '92  
1030 15th Street, N.W.  
Washington, D.C. 20005

RE: MUR 3571  
Bush/Quayle '92 Primary  
Committee, Inc. and J. Stanley  
Huckaby, as treasurer

Dear Mr. Sullivan:

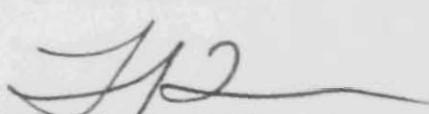
On August 4, 1992, the Federal Election Commission notified Bush/Quayle '92 Primary Committee, Inc. ("Committee") of a complaint alleging that the Committee violated certain sections of the Federal Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. A copy of the complaint was forwarded to the Committee at that time.

The complainant seeks injunctive relief to prevent the Committee from continuing to engage in allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny the complainant's request for injunctive relief at this juncture. The Commission will nonetheless proceed with the processing of the complaint pursuant to 2 U.S.C. § 437g(a).

If you have any further questions, please contact Phillip Wise, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: Lois G. Lerner  
Associate General Counsel

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Clinton Launches Blistering Broadside on Quayle in Union Speech  
By KAREN BALL=  
Associated Press Writer=

LAS VEGAS, Nev. (AP) Bill Clinton launched a blistering new broadside against the Bush administration on Wednesday for sending Vice President Dan Quayle out as a "spearbearer ... to terrorize the American political landscape."

The Democratic presidential candidate also turned on President Bush, too, for breaking campaign promises.

"Tough-on-crime has turned into wimp-out in the face of other pressures," Clinton said of Bush's refusal to back a gun control bill.

Clinton said Bush was "still in the grip of a dumb idea" for thinking anything good for the environment hurts corporate America.

In a rousing speech to the American Federation of State County and Municipal Employees, one of the first unions to back the Arkansas governor, Clinton chided Quayle for his crusade against the "cultural elite."

"Who is he to call me part of an elite?" Clinton said, noting Quayle grew up wealthy while he once lived in a house with outdoor plumbing.

"I've read a book or two in my life and maybe that qualifies me to be in the cultural elite," Clinton said.

"This administration's idea of family values is to lecture the rest of us on how to behave. If only 'Murphy Brown' were taken off television, what a wonderful world this would be," Clinton said sarcastically.

Clinton's complained like this about the Bush administration before, but Wednesday's comments were laced with feisty new rhetoric and came just before Clinton flew to Washington for a morning meeting Thursday with Russian President Boris Yeltsin.

Clinton is meeting with Yeltsin to boost his appeal in the foreign policy arena, Clinton's weak point and Bush's strong suit.

In his union speech, Clinton said Bush promised 15 million new jobs in his first term and is still 14.5 million short.

"The president said sometimes unemployment goes up when you come out of recession. I do believe if he became unemployed we'd be coming out of the recession," Clinton said.

Then he knocked Bush for not fully funding the Head Start educational program for young children. At the rate the program is being funded, it will take until 2035 to fund the program, Clinton said.

"Under the constitution, we can't give him 43 more years. Why give him four more years?" said Clinton, in a new version of his stump speech in which he pledged universal health care and college access and a new economic strategy to invest in American business.

Clinton offered a mild version of his strategy of telling special interest groups what they don't want to hear as a way to prove his independence.

Clinton told the 1.3 million-member union of state and local workers that he would cut the federal government's administrative budget by 3 percent every year for four years to help bring down spending.

But did not blame public employees for government gridlock, instead pinning it on political leaders and special interests that had "plundered" the system for their own benefit.

"I promise you I will never bash public employees, I will challenge us all to change," Clinton said.

He said he needed the union's help to change Americans' belief that "government would mess up a one-car parade, that we're incapable of doing anything right."

"We have to prove as Democrats that we can make it work again," he said.

Clinton, as a public employee of Arkansas, has been a dues-paying member of AESCME since 1984.

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In the Matter of

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28 U.S.C. § 2462  
Statute of Limitations

**SENSITIVE**

MAR 11 1997

GENERAL COUNSEL'S REPORT

**EXECUTIVE SESSION**

I. INTRODUCTION

On December 26, 1996, the United States Court of Appeals for the Ninth Circuit issued a decision in *Federal Election Commission v. Williams*, No. 95-55320 (9th Cir. Filed Dec. 26, 1996). That decision held, *inter alia*, that the five-year statute of limitations for filing suit to enforce a civil penalty established at 28 U.S.C. § 2462 applies not only to judicial proceedings to enforce civil penalties already imposed, but also to proceedings seeking the imposition of these penalties, including the Commission's law enforcement suits under 2 U.S.C. § 437g(a)(6).

As noted in the memorandum regarding the filing of a petition for rehearing, the Office of General Counsel believes that the Commission should accept the court's core application of 28 U.S.C. § 2462 to its enforcement suits as the current state of the law. See Memorandum to the Commission, *Petition for Rehearing, and Suggestion for Rehearing En Banc, In Federal Election Commission v. Williams*, dated January 10, 1997. As also noted, however, we have sought further review of the court's decision

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relating to issues of equitable relief and equitable tolling.<sup>1</sup> *Id.* See also *FEC v. NRSC*, 877 F. Supp. 15, 21 (D.D.C. 1995).

This General Counsel's Report discusses the impact of 28 U.S.C. § 2462 on the Office of General Counsel's enforcement caseload.<sup>2</sup> This Report describes the active and inactive enforcement matters which are potentially affected by the application of the five-year statute of limitations under 28 U.S.C. § 2462, and makes recommendations for each of the potentially affected matters. This Report addresses all cases where the statute of limitations potentially expires, or partially expires, by the end of calendar year 1997 (December 31, 1997).

The Office of General Counsel is recommending that

18 matters be closed at this time. By doing so, this Office believes that it will be able to devote more resources toward more recent activity, particularly those matters that arose from the 1996 election cycle. To avoid potential statute of limitations problems in the future, this Office will track its cases against the relevant statute of limitations and will perform regular reviews of its caseload. In addition, this Office will be making periodic recommendations to the Commission with respect to matters that may be affected by the application of the five-year statute of limitations under 28 U.S.C. § 2462.

<sup>1</sup> Pending the court's decision, issues such as equitable relief, equitable tolling and ongoing violations, will remain open. In some instances, although issues such as equitable tolling and equitable relief may still be viable, this Office has cited other factors to support our recommendation to close the matter. See, e.g., cases involving apparent violations of 2 U.S.C. § 441a(f).

<sup>2</sup> This Report addresses enforcement matters assigned to the Public Financing, Ethics & Special Projects ("PFESP") and Enforcement areas.

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### III. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

A. Decline to open a MUR, close the file, and approve the appropriate letters in Pre-MUR 344.

B. Take no action, close the file and approve the appropriate letters in the following matters:

1. MUR 4267
2. MUR 4370
3. MUR 4392
4. MUR 4432
5. MUR 4468
6. MUR 4591
7. MUR 4614

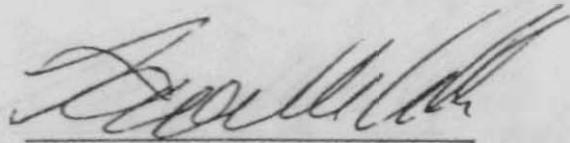
C. Take no further action, close the file and approve the appropriate letters in the following matters:

1. MUR 3351
2. MUR 3571
3. MUR 3582
4. MUR 3586
5. MUR 3838
6. MUR 3841
7. MUR 3969
8. MUR 4091
9. MUR 4183
10. MUR 4209

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3/4/97  
Date

  
Lawrence M. Noble  
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) Agenda Document #X97-15  
28 U.S.C. § 2462, )  
Statute of Limitations )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 11, 1997, do hereby certify that the Commission took the following actions with respect to Agenda Document #X97-15:

1. Decided by a vote of 5-0 to -
  - A. Decline to open a MUR, close the file, and approve the appropriate letters in Pre-MUR 344.
  - B. Take no action, close the file, and approve the appropriate letters in the following matters:
    1. MUR 4267;
    2. MUR 4370;
    3. MUR 4392;
    4. MUR 4432;
    5. MUR 4468;
    6. MUR 4591;
    7. MUR 4614.

(continued)

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C. Take no further action, close the file, and approve the appropriate letters in the following matters:

1. MUR 3351;
2. MUR 3571;
3. MUR 3582;
4. MUR 3586;
5. MUR 3838;
6. MUR 3841;
7. MUR 3969;
8. MUR 4091;
9. MUR 4183;
10. MUR 4209.

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

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Federal Election Commission  
Certification: Agenda Document  
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March 11, 1997

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Attest:

3-12-97

Date

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



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 27, 1997

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Joseph E. Sandler, Esq.  
General Counsel  
Democratic National Committee  
430 South Capitol Street, S.E.  
Washington, D.C. 20003

RE: MUR 3571

Dear Mr. Sandler:

On June 30, 1992, the Federal Election Commission received a complaint filed by Carol Darr on behalf of the Democratic National Committee that alleged certain violations of the Federal Election Campaign Act of 1971, as amended, and requested injunctive relief. On August 17, 1992, the Commission declined to seek injunctive relief.

After considering all the facts and circumstances of this case, including but not limited to the applicability of the relevant statute of limitations to some or all of the activity described in the complaint, the Commission has exercised its prosecutorial discretion to take no further action in this case. The Commission reached this determination objectively based upon the information on the record as a whole, the significance of the case relative to others, the amount of time that has elapsed, and other relevant factors. A brief narrative describing the basis for the Commission's decision is attached. The Commission closed its file in this matter effective March 11, 1997. The matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Delanie DeWitt Painter  
Attorney

Enclosure  
Narrative

97043823671

**MUR 3571 (Bush-Quayle '92 Primary, Bush-Quayle '92  
General Committee)  
(complaint generated) ('92 cycle)  
PFESP Team II**

This matter was generated by a complaint filed with the Commission on July 30, 1992, which alleged that the Bush-Quayle '92 Primary Committee used surplus campaign funds to influence the general election. This issue is inextricably linked to the Commission's audits of the Bush-Quayle '92 Committees and the resulting repayment determinations. This matter was transferred to CED on February 4, 1994. The case was transferred from CED to PFESP on December 31, 1994.

On August 17, 1995, the Commission made a final determination that the Primary Committee must repay \$323,832 to the United States Treasury, including a *pro rata* repayment of \$106,979 for non-qualified campaign expenses related to the general election and a repayment of \$216,853 for matching funds that the Primary Committee received in excess of its entitlement. The Statement of Reasons approved by the Commission also contained a recommendation that the Compliance Committee reimburse the GEC \$182,785 in order to eliminate the GEC's expenditures in excess of its overall expenditure limitations, which resulted from the payment of expenditures related to the general election campaign by the Primary Committee. The repayment and the recommended reimbursement arose from expenditures related to the general election which were paid for by the Primary Committee, including a newspaper advertisement addressed to Ross Perot supporters cited in the complaint. Thus, the repayments are based on the same expenditures that are the subject of the complaint.

On August 22, 1995, the Primary Committee, GEC, and Compliance Committee filed petitions for review of the Commission's final repayment determinations and a joint motion to consolidate with the United States Court of Appeals for the District of Columbia Circuit. On November 29, 1995, the Commission granted the Committee's request to stay the repayment pending appeal. On January 14, 1997, the D.C. Circuit remanded the case to the Commission to justify its departure from the approach taken in the audit of the Reagan-Bush '84 Committee, or to reconsider its repayment determination. *See Bush-Quayle '92 Primary Committee, Inc. et al. v. Federal Election Commission*, No. 95-1430 (D.C. Cir. January 14, 1997).

This Office recommends that the Commission exercise its prosecutorial discretion and take no further action, and close the file with respect to this matter. Based on the court's opinion on the prefunding issue in the repayment case, pursuit of this matter would be problematic. Since the expenditures at issue were incurred in July and early August 1992, this matter may be barred by the five-year statute of limitations before the Commission could litigate this matter. Moreover, pursuit of this matter would not be an efficient use of the Commission's resources.

97043823672



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 27, 1997

***CERTIFIED MAIL RETURN RECEIPT REQUESTED***

Bobby R. Burchfield, Esq.  
Covington & Burling  
1201 Pennsylvania Ave., N.W.  
Suite 913  
Washington, D.C. 20044

RE: MUR 3571  
Bush-Quayle '92 Primary Committee, Inc.  
and J. Stanley Huckaby, as treasurer

Dear Mr. Burchfield:

On August 4, 1992, the Federal Election Commission notified your clients, the Bush-Quayle '92 Primary Committee, Inc. and J. Stanley Huckaby, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering all the facts and circumstances of this case, including but not limited to the applicability of the relevant statute of limitations to some or all of the activity described in the complaint, the Commission has exercised its prosecutorial discretion to take no further action against the Bush-Quayle '92 Primary Committee, Inc. and J. Stanley Huckaby, as treasurer, in this case. The Commission reached this determination objectively based upon the information on the record as a whole, the significance of the case relative to others, the amount of time that has elapsed, and other relevant factors. A brief narrative describing the basis for the Commission's decision is attached. Accordingly, the Commission closed its file in this matter on March 11, 1997.

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.

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

Sincerely,



Delanie DeWitt Painter  
Attorney

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3571

DATE FILMED 7-11-97 CAMERA NO. 4

CAMERAMAN SMH

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