



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE END OF MUR # 1401

Date Filmed 3/9/83 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

Routing slips, Inter-departmental memorandums, Comment sheet
of Commissioner Frank P. Reiche, Conciliation agreements &
communications re: conciliation negotiations in connection with
matters 1401, 1142/1255, 1349, 1360, 950, Audit matters, Duplicates,
Pre-brief report.

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|---|---|
| ☒ (1) Classified Information
(Conciliation attempts) | ☐ (6) Personal privacy |
| ☒ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☐ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☒ (5) Internal Documents | |

Signed Laverly B. Kramer
 date February 7, 1983

FEC 9-21-77

83040375066



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 4, 1983

Ronald E. Robertson, Esquire
Musick, Peeler & Garrett
Suite 1175 Ring Building
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1401 (81)

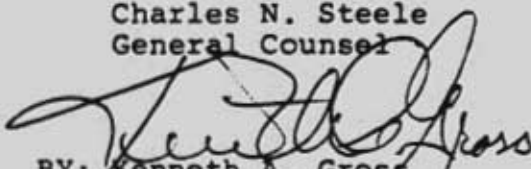
Dear Mr. Robertson:

On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i) in connection with the above-referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to Beverly Kramer at 523-4057.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

83040375069



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 4, 1983

Mr. Curtis Mack, Treasurer
Reagan Bush Committee
Reagan Bush Compliance Fund
10769 Ohio Avenue
Los Angeles, CA 90027

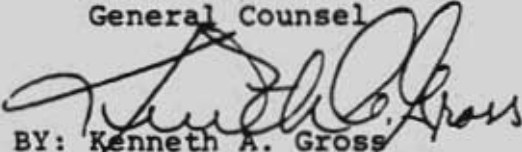
RE: MUR 1401

Dear Mr. Mack:

Enclosed please find a copy of a letter which we are forwarding to Mr. Ronald E. Robertson, special counsel representing the Reagan Bush Committee and Reagan Bush Compliance Fund in the above-captioned matter.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

Letter to Mr. Ronald E. Robertson

83040675070



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 4, 1983

John J. Duffy, Esquire
Pierson, Ball & Dowd
1200 18th Street, N.W.
Suite 1000
Washington, D.C. 20036

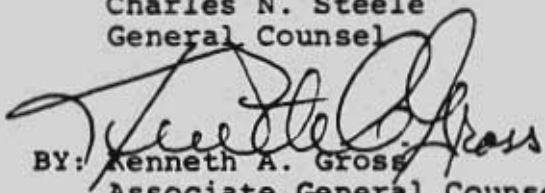
RE: MUR 1401

Dear Mr. Duffy:

Enclosed please find a copy of a letter which we are forwarding to Mr. Ronald E. Robertson, special counsel representing the Reagan Bush Committee and Reagan Bush Compliance Fund in the above-captioned matter.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosure

Letter to Mr. Ronald E. Robertson

83040375071

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1401
Reagan Bush Committee)
Reagan Bush Compliance Fund)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 3, 1983, the Commission decided by a vote of 6-0 to take the following actions in MUR 1401:

1. Take no further action against the Reagan Bush Committee and the Reagan Bush Compliance Fund regarding a violation of 11 C.F.R. § 9003.3(a)(2)(i).
2. Close the file in MUR 1401.
3. Approve and send the letter to the respondents in MUR 1401 as submitted with the General Counsel's Report dated January 31, 1983.

Commissioner Aikens, Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter.

Attest:

2-3-83

Date

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

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

1-31-83, 1:37
2-1-83, 11:00

8304037507

January 31, 1983

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Kayson
SUBJECT: MUR 1401

Please have the attached General Counsel's Report distributed to the Commission on a 48 hour tally basis as a sensitive matter. Thank you.

Attachment

cc: Kramer

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSIONER OF ELECTIONS

In the Matter of)
)
Reagan Bush Committee)
Reagan Bush Compliance Fund)

MUR 1401 (81)

82 JAN 31 P 1: 37

GENERAL COUNSEL'S REPORT

SENSITIVE

I. Background

The issues involved in this matter were brought to the attention of the Office of General Counsel by referral from the Commission's Audit Division. On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee ("RBC") and the Reagan Bush Compliance Fund ("the Compliance Fund") violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions of the Compliance Fund to defray operating costs of RBC. The amount involved in the violation is \$322,332.11.^{1/}

By letter dated June 18, 1982, Respondents requested pre-probable cause conciliation. The Commission responded that it would be prepared to enter into pre-probable cause conciliation upon completion of follow-up fieldwork.

Subsequently, RBC took corrective actions to mitigate a violation of 11 C.F.R. § 9003.3(a)(2)(i).

II. Factual and Legal Basis

Respondent, Reagan Bush Committee ("RBC"), registered with the Commission on May 29, 1980 under the name Reagan for

^{1/} The record before the Commission on January 26, 1982 indicated that the amount involved in the violation was \$316,188.16. Based on the results of follow-up fieldwork, this figure has increased to \$322,332.11.

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President General Election Committee and served as the principal campaign committee of Ronald Reagan, the Republican candidate for President of the United States. RBC operated with federal funds received under 26 U.S.C. § 9006(b).

Respondent, Reagan Bush Compliance Fund ("the Compliance Fund"), registered with the Commission on May 29, 1980, under the name Reagan for President Compliance Fund and served as an authorized committee of Ronald Reagan. The Compliance Fund was established under 11 C.F.R. § 9003.3.

A. The Applicable Law

Section 9003.3 of Title 11, Code of Federal Regulations, permits a candidate, receiving full federal funding for his or her general election campaign, to establish a separate account known as a legal and accounting compliance fund. A candidate may accept private contributions to a legal and accounting compliance fund if such contributions are received and disbursed in accordance with this section.

Subsection (a)(2)(i) of 11 C.F.R. § 9003.3 provides, in relevant part, that private contributions to the legal and accounting compliance fund "may be used in accordance with 11 C.F.R. § 9003.3(a)(2)(ii) to defray the cost of legal and accounting services provided solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq." Subsection (a)(2)(ii) states that "[p]ayments may not be made under 11 C.F.R. § 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to

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ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq."

Legal and accounting services which are provided solely to ensure compliance with 2 U.S.C. § 431 et seq. or 26 U.S.C. § 9001 et seq. are "qualified campaign expenses" which may be paid with federal funds received under 26 U.S.C. § 9006(b). If federal funds are used to pay for such services, the payments count against the candidate's expenditure limitation in 2 U.S.C. § 441a(b)(1)(B). Such services may also be paid from a legal and accounting compliance fund established in accordance with 11 C.F.R. § 9003.3. If payments for such services are made from the legal and accounting compliance fund, the payments are not attributable to the candidate's overall expenditure limitation. 11 C.F.R. § 9002.11(b)(5).

B. The Facts Giving Rise to the Commission's Finding of a Violation

The facts of this case are more fully set out in the First General Counsel's Report to the Commission.^{2/} However, to summarize briefly, the facts are as follows.

Between May 29, 1980 and December 31, 1980 the Compliance Fund expended \$1,512,152.26 to defray expenditures which RBC had designated as legal and accounting costs exempt from the expenditure limitation in 2 U.S.C. § 441a(b). The expenditures represented payment for 100% of the payroll, overhead and

^{2/} This report was before the Commission on January 26, 1982.

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computer costs relating to the functions of the Treasurer's Office, as well as, 100% of the computer costs relating to the legal and accounting functions of RBC.

In January of 1981 the Commission undertook an audit of RBC and the Compliance Fund pursuant to its authority under 26 U.S.C. § 9007(a). Based on a review of disbursements made from the Compliance Fund, the Commission's audit staff found that the Compliance Fund had assumed full payment for costs which were required to be allocated between RBC and the Compliance Fund.

According to the Commission's audit staff, the allocable expenditures consisted of costs for services which were not made solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq. as, for example, the salaries of individuals whose duties and responsibilities were divided between campaign and compliance activities.

The Commission's audit staff calculated that the allocable portion of costs which benefited RBC and which should have been treated as operating costs subject to the limitations in 2 U.S.C. § 441a(b) totaled \$322,332.11. Of this amount, RBC reimbursed the Compliance Fund \$137,883.67.

On January 26, 1982, the Commission found reason to believe that RBC and the Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions of the Compliance Fund to defray operating costs of RBC.

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C. Corrective Actions taken by Respondents.

Subsequent to receiving notice of the Commission's finding in this matter, RBC took corrective actions to mitigate a violation of 11 C.F.R. § 9003.3(a)(2)(i). Specifically, RBC submitted documentation and information (which it supplemented on September 8 and November 22, 1982) to show that there were sufficient compliance costs paid from the Federal Fund accounts of RBC to offset the remainder of Compliance Fund expenditures (\$184,448.44) that benefited RBC. See Attachments I, II and III. The costs consisted of 4.2% of the salaries and overhead costs of its national headquarters and state offices which performed services (e.g., reporting and recordkeeping) that were necessary to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq. In general, this allocation was supported by documentation detailing the total amount of salaries and overhead costs for the national headquarters and state offices and an affidavit from the former assistant treasurer of RBC explaining how RBC arrived at an allocation of 4.2% as a reasonable calculation of compliance-related expenditures paid from the federal fund accounts of RBC. Upon receipt of the documentation, the Commission's audit staff reviewed RBC's records and found this allocation to be reasonable. See Attachment IV.

D. Discussion

In that RBC spent sufficient funds for compliance purposes out of its operating accounts, there was no net gain realized by RBC or the Compliance Fund and thus private funds did not inure to the benefit of the RBC operating accounts.

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In view of the corrective action taken in this matter and the auditors' verification of that action, the Office of General Counsel recommends that the Commission take no further action and close the file on MUR 1401.

III. Recommendation

1. Take no further action against the Reagan Bush Committee and the Reagan Bush Compliance Fund regarding a violation of 11 C.F.R. § 9003.3(a)(2)(i).
2. Close the file in MUR 1401.
3. Approve and send the attached letter to the respondents in MUR 1401.

Charles N. Steele
General Counsel

[Signature]
Date 31, 1983

BY:

[Signature]
Kenneth A. Gross
Associate General Counsel

Attachments

- I. Affidavit of Scott B. MacKenzie dated September 7, 1982.
- II. Supplemental affidavit of Scott B. MacKenzie dated September 8, 1982.
- III. Supplemental affidavit of Scott B. MacKenzie dated November 22, 1982.
- IV. Audit Memorandum of December 1, 1982.
- V. Letter to Respondents.

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RECEIVED AT THE FEC
Cite 8422
82 SEP 9 All: 55

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ELVON MUSICK 1930-1998
LEROY A. GARRETT 1906-1993

DENVER OFFICE
SUITE 1800
710 SEVENTEENTH STREET
DENVER, COLORADO
(303) 828-5721

September 7, 1982

WRITER'S DIRECT DIAL NUMBER

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth Gross

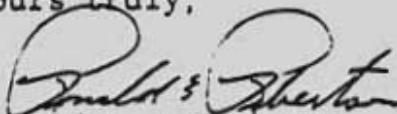
Re: MUR 1401

Dear Mr. Gross:

Pursuant to our recent discussion, enclosed please find executed Affidavit of Scott B. Mackenzie, Assistant Treasurer of the Reagan Bush Committee during the general election campaign period, regarding compliance related expenses paid from the general election fund.

Mr. Mackenzie's supplemental affidavit on this matter will be provided within the next several days.

Yours truly,


Ronald E. Robertson
for Musick, Peeler & Garrett

RER:nb
Enclosure
cc: Mr. Curtis Mack (w/encl.)

①

AFFIDAVIT OF SCOTT B. MACKENZIE

I, SCOTT B. MACKENZIE, being duly sworn, hereby depose and say that:

1) I was the Assistant Treasurer of the Reagan-Bush Committee during the general election campaign period..

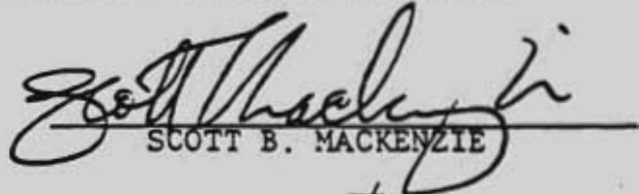
2) As part of the settlement of MUR 1401, I have undertaken to estimate the amount of monies paid from the general election fund to defray compliance related expenses. My approach, which was adopted in consultation with members of the staff of the Federal Election Commission, was to determine the amount of overhead expenses paid by the Committee and then to estimate the percentage of those expenses that was devoted to compliance related matters. The results of my analysis are attached as Appendix A.

3) The category of "State and Local Expenses" in Appendix A p. 1 requires some further explanation. In the Committee's general ledger, the category of "State and Local Expenses" included expenses other than overhead. In order to isolate that portion of the expenses in this category that is attributable to overhead costs, I examined the breakdown of "State and Local Expenses" that is set out in the post-election FEC report. The results of this examination are attached as Appendix B.

4) My analysis showed that 19.75% of the expenses categorized in the Committee's general ledger as "State and Local Expenses" were attributable to overhead. By multiplying

this percentage by the total expenses in the "State and Local Expenses" category, I reached the overhead figure shown in Appendix A.

5) Based on my general knowledge of the activities at the campaign headquarters, including Campaign '80, and the state and local offices of the campaign, I estimate that in addition to those expenses previously identified as specifically relating to compliance at least 5% of the overhead expenses of these offices were attributable to compliance activities. To insure a conservative estimate, for purposes of this showing, I shall estimate that the percentage of total overhead expenses attributable to compliance related activities was only 4.66%, and consequently, the total amount of general election expenditures identified clearly as compliance related activities totalled \$185,000.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this th30 day of August, 1982.


Notary Public

My Commission expires:
MY COMMISSION EXPIRES
JUNE 15, 1983.

(3)

Appendix A

REAGAN BUSH COMMITTEE
ANALYSIS OF OVERHEAD EXPENDITURES
MUR 1401

<u>Category of Expenditure</u>	<u>State Offices</u>	<u>Headquarters</u>
Permanent Staff	\$728,405.00	\$1,489,927.00
Office Rent & Utilities	154,717.93	153,871.40
Furniture & Equip. (Rented)	97,696.63	84,995.58
Furniture & Equip. (Purchased)	1,236.26	57,770.83
Telephone	296,978.18	319,056.39
Fringe Benefits	2,471.56	126,420.43
Payroll Taxes	3,477.40	45,038.50
State & Local Expenses (\$2,074,945.65 x 19.75%)	<u>409,801.77</u>	<u>-0-</u>
TOTALS	<u>\$1,694,784.73</u>	<u>\$2,277,080.13</u>
Headquarters Expenditures		2,277,080.13
State Expenditures		<u>1,694,784.73</u>
Total Overhead Expenditures		<u>3,971,864.86</u>

(4)

Appendix A

REAGAN BUSH COMMITTEE
HEADQUARTERS PERMANENT STAFF
MUR 1401

Chairman	\$ 71,365
Planning & Strategy	29,202
National Political	232,347
National Advertising	423,580
Communications	132,711
Research	173,469
Scheduling	158,605
Reagan Tour	15,575
Bush Tour	70,788
Voter Groups	116,760
Operations	<u>65,525</u>
TOTALS	<u>\$1,489,927</u>

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Appendix A

REAGAN BUSH COMMITTEE
ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
MUR 1041

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Alabama	12,827.19	4,987.05
Alaska	4,649.63	368.06
Arizona	8,436.54	570.68
Arkansas	5,459.67	1,068.92
California	103,653.15	21,948.76
Colorado	5,886.04	2,148.45
Connecticut	10,402.30	118.26
Delaware	10,129.55	1,498.17
Florida	109,621.92	6,293.13
Georgia	141.98	141.98
Hawaii	9,201.11	2,388.56
Idaho	3,240.37	1,549.49
Illinois	140,913.65	60,982.43
Indiana	29,504.44	1,794.38
Iowa	4,081.00	1,515.30
Kansas	<u>3,168.20</u>	<u>982.59</u>
SUBTOTALS	461,316.74	108,356.81

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Appendix B

ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
(CONTINUED)

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Balance Forward	461,316.74	108,356.81
Kentucky	7,960.87	949.15
Louisiana	33,194.83	1,734.01
Maine	33,758.58	9,869.43
Maryland	23,878.82	4,343.29
Massachusetts	3,718.58	105.35
Michigan	44,992.02	4,519.90
Minnesota	2,805.52	812.74
Mississippi	16,478.64	2,180.93
Missouri	31,366.77	4,245.71
Montana	-0-	-0-
Nebraska	1,533.93	830.71
Nevada	1,524.46	1,009.30
New Hampshire	11,976.39	2,123.88
New Jersey	97,538.44	6,173.64
New Mexico	20,045.49	7,244.72
New York	<u>3,184.72</u>	<u>2,784.13</u>
SUBTOTALS	795,274.80	157,283.70

7

Appendix B

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ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
(CONTINUED)

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Balance Forward	795,274.80	157,283.70
North Carolina	2,831.15	1,410.43
North Dakota	994.22	560.82
Ohio	121,623.00	37,246.78
Oklahoma	9,498.46	4,319.01
Oregon	50,904.08	2,298.75
Pennsylvania	162,155.80	22,213.56
Rhode Island	2,255.28	1,073.23
South Carolina	41,275.88	17,109.71
South Dakota	1,098.50	58.50
Tennessee	22,436.15	8,915.93
Texas	92,511.50	12,739.75
Utah	-0-	-0-
Vermont	14,681.73	998.47
Virginia	20,584.51	7,103.73
Washington	60,134.19	6,569.40
West Virginia	1,124.68	748.27
Wisconsin	38,425.12	3,765.18
Wyoming	<u>3,175.66</u>	<u>109.88</u>
 TOTALS	 \$1,440,984.71	 \$284,525.10
	(100%)	(19.75%)

REAGAN BUSH COMMITTEE
ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
MUR 1401

Expenditures included as Overhead:

- (1) Postage, Freight & Shipping
- (2) Utilities
- (3) Equipment Rental
- (4) Xeroxing
- (5) Office Supplies
- (6) Petty Cash
- (7) Refreshments
- (8) Stationary
- (9) Bank Charges
- (10) Office Rent
- (11) Telephone

Appendix B

- 4 -

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MUSICK, PEELER & GARRETT

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WRITER'S DIRECT DIAL NUMBER

P 1:29

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(714) 752-6100

September 8, 1982

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

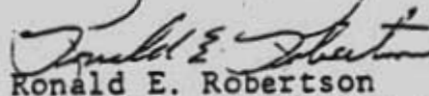
Attention: Kenneth Gross

RE: MUR 1401

Dear Mr. Gross:

Enclosed please find executed Affidavit of Scott B. Mackenzie, supplementing his Affidavit dated August 30, 1982 which was sent to you on September 7, 1982.

Yours truly,


Ronald E. Robertson

for Musick, Peeler & Garrett

RER:nb
Enclosure
cc: Mr. Curtis Mack (w/encl.)

10

SUPPLEMENTARY AFFIDAVIT OF
SCOTT B. MACKENZIE

I, Scott B. Mackenzie, being duly sworn, hereby depose and say that:

1. This affidavit supplements my affidavit, dated August 30, 1982.

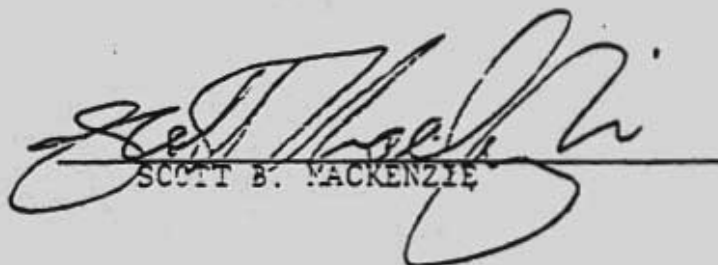
2. My duties as the Assistant Treasurer of the Reagan-Bush Committee during the general election period included monitoring compliance-related activities, both at the national headquarters and state offices.

3. In my aforementioned affidavit, I estimated that compliance-related activities in the campaign headquarters, including Campaign '80 and the state and local offices of the campaign, constituted 5% of the overhead expenses of these offices.

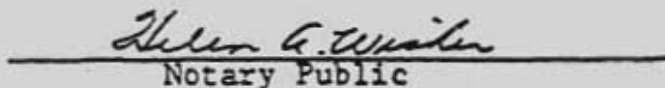
4. The compliance-related activities that were conducted in the state offices included: monitoring and documenting expenditures, reporting these expenditures to the national headquarters, typing reports of these expenditures, communicating on compliance-related activities with members of the national staff, and communicating with state and local party officials concerning compliance with the federal election laws. The activities conducted at the offices of Campaign '80 were similar.

(11)

Persons on the national staff devoted time to setting compliance-related policy and monitoring and coordinating the compliance activities of the state and local offices and Campaign '80.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this 8th day of
September, 1982.


Notary Public

My Commission expires: 10/31/83

62 NOV 22 P 2: 41

AFFIDAVIT OF SCOTT B. MACKENZIE

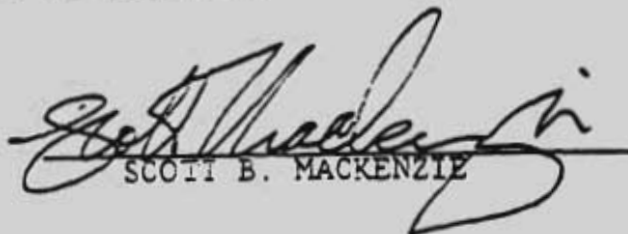
I, SCOTT B. MACKENZIE, being duly sworn, hereby depose and say that:

1) I was the Assistant Treasurer of the Reagan-Bush Committee during the general election campaign period.

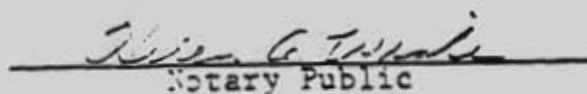
2) As part of the settlement of MJR 1401, I have undertaken to revise my estimate of the amount of monies paid from the general election fund to defray compliance related expenses. My approach, which was adopted in consultation with members of the staff of the Federal Election Commission, was to determine the amount of overhead expenses paid by the Committee and then to estimate the percentage of those expenses that was devoted to compliance related matters. The results of my analysis are attached as Appendix A.

3) Based on my general knowledge of the activities at the campaign headquarters, including Campaign '80, and the state and local offices of the campaign, I estimate that in addition to those expenses previously identified as specifically relating to compliance, at least 5% of the overhead expenses of these offices were attributable to compliance activities. To insure a conservative estimate, for purposes of this showing, I shall estimate that the percentage of total overhead expenses

attributable to compliance related activities was only 4.20%, and consequently, the total amount of general election expenditures identified clearly as compliance related activities totalled in excess of \$185,000.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this 22nd day of November, 1982.


Notary Public

My Commission expires:

My Commission Expires: Oct. 31, 1983

(14)

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REAGAN BUSH COMMITTEE
ANALYSIS OF OVERHEAD EXPENDITURES
MUR 1401

<u>Category of Expenditure</u>	<u>State Offices</u>	<u>Headquarters</u>
Permanent Staff	\$1,039,453.68	\$1,630,761.04
Office Rent & Utilities	154,717.93	153,871.40
Furniture & Equip. (Rented)	97,696.63	84,995.58
Furniture & Equip. (Purchased)	1,236.26	57,770.83
Telephone	296,978.18	319,056.39
Fringe Benefits	-0-	126,420.43
State & Local Expenses	<u>446,240.67</u>	<u>-0-</u>
TOTALS	<u>\$2,036,323.35</u>	<u>\$2,372,875.67</u>
Headquarters Expenditures		\$2,372,875.67
State Expenditures		<u>2,036,323.35</u>
Total Overhead Expenditures		<u>\$4,409,199.02</u>

REAGAN BUSH COMMITTEE
HEADQUARTERS PERMANENT STAFF
MUR 1401

Chairman	\$ 70,250.90
Planning & Strategy	40,592.87
National Political	222,966.73
Communications	213,808.86
Research	249,448.22
Scheduling	303,128.85
Reagan Tour	33,271.71
Bush Tour	126,902.70
Voter Groups	223,077.79
Operations	<u>147,312.41</u>
TOTALS	<u><u>\$1,630,761.04</u></u>



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

December 1, 1982

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: B. ALLEN CLUTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: ALLOCATION OF REAGAN BUSH COMMITTEE EXPENDITURES
TO THE REAGAN BUSH COMPLIANCE FUND, RE: MUR 1401

The Reagan Bush Committee ("the RBC" or "the Committee") filed its response to MUR 1401 with the Office of General Counsel on September 9, 1982. The Office of General Counsel referred the response to the Audit Division on September 10, 1982 and requested that we review it in accordance with the provisions outlined in the Audit Division's August 10, 1982 memorandum. The Audit staff contacted the RBC's Counsel shortly after receiving the response from the Office of General Counsel to set a mutually agreeable date to commence the review. Because the Audit staff was involved in other in-house audit wrap-up work on Reagan For President and the RBC, the field review was not commenced until November 2, 1982. However, the staff discontinued the review on this same date because RBC records supporting certain expenditure categories contained in the allocation were not made available. We requested these records from RBC's Counsel and former Treasurer on numerous occasions after November 2, 1982.

On November 22, 1982, the RBC presented an affidavit to the Audit staff which contained the Committee's revised estimates of monies paid from the general election fund to defray compliance-related expenses (see Exhibit A). This affidavit amended the RBC's response to MUR 1401 filed with the Office of General Counsel on September 9, 1982.

MEMORANDUM TO CHARLES N. STEELE
Page 2

The Audit staff reviewed the RBC records supporting each expenditure category contained in the affidavit. Further, the Audit staff verified that salaries and overhead costs associated with the operations of the campaign headquarters and state offices, totaling \$4,409,199.02, were made from the general election fund (federal funds). A portion of these expenses are allocable to compliance related activities.

The RBC estimated that at least 5% of these expenditures were attributable to compliance-related activities; however, the RBC has identified only 4.2% of the \$4,409,199.02 or \$185,186 as compliance related.

It is our opinion, based on our review of RBC records, that the RBC expended at least \$185,186 for compliance-related goods and services. Further, this amount may be viewed as an offset to the amount of operating expenditures (\$184,448.44) paid from the Reagan Bush Compliance Fund as noted in MUR 1401.

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

Attachments:

Exhibit A - Affidavit of Scott B. Mackenzie - Received November 22, 1982

cc: Dan Blessington - OGC

18

830405375077



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ronald E. Robertson, Esquire
Musick, Peeler & Garrett
Suite 1175 Ring Building
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1401 (81)

Dear Mr. Robertson:

On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i) in connection with the above-referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to Beverly Kramer at 523-4057.

Sincerely,

19

83040375098

02 NOV 22 P 2: 41

AFFIDAVIT OF SCOTT B. MACKENZIE

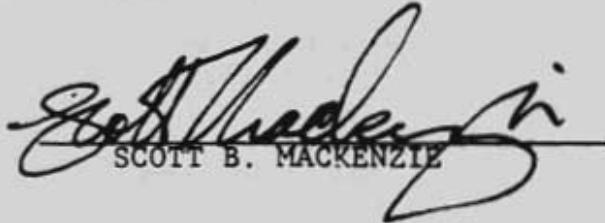
I, SCOTT B. MACKENZIE, being duly sworn, hereby depose and say that:

1) I was the Assistant Treasurer of the Reagan-Bush Committee during the general election campaign period.

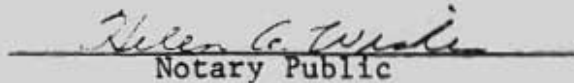
2) As part of the settlement of MUR 1401, I have undertaken to revise my estimate of the amount of monies paid from the general election fund to defray compliance related expenses. My approach, which was adopted in consultation with members of the staff of the Federal Election Commission, was to determine the amount of overhead expenses paid by the Committee and then to estimate the percentage of those expenses that was devoted to compliance related matters. The results of my analysis are attached as Appendix A.

3) Based on my general knowledge of the activities at the campaign headquarters, including Campaign '80, and the state and local offices of the campaign, I estimate that in addition to those expenses previously identified as specifically relating to compliance, at least 5% of the overhead expenses of these offices were attributable to compliance activities. To insure a conservative estimate, for purposes of this showing, I shall estimate that the percentage of total overhead expenses

attributable to compliance related activities was only 4.20%, and consequently, the total amount of general election expenditures identified clearly as compliance related activities totalled in excess of \$185,000.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this 22nd day of November, 1982.


Notary Public

My Commission expires:

My Commission Expires Oct. 31, 1983

33040375100

Appendix A

REAGAN BUSH COMMITTEE
ANALYSIS OF OVERHEAD EXPENDITURES
MUR 1401

<u>Category of Expenditure</u>	<u>State Offices</u>	<u>Headquarters</u>
Permanent Staff	\$1,039,453.68	\$1,630,761.04
Office Rent & Utilities	154,717.93	153,871.40
Furniture & Equip. (Rented)	97,696.63	84,995.58
Furniture & Equip. (Purchased)	1,236.26	57,770.83
Telephone	296,978.18	319,056.39
Fringe Benefits	-0-	126,420.43
State & Local Expenses	446,240.67	-0-
TOTALS	<u>\$2,036,323.35</u>	<u>\$2,372,875.67</u>
Headquarters Expenditures		\$2,372,875.67
State Expenditures		<u>2,036,323.35</u>
Total Overhead Expenditures		<u>\$4,409,199.02</u>

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REAGAN BUSH COMMITTEE
HEADQUARTERS PERMANENT STAFF
MUR 1401

Chairman	\$ 70,250.90
Planning & Strategy	40,592.87
National Political	222,966.73
Communications	213,808.86
Research	249,448.22
Scheduling	303,128.85
Reagan Tour	33,271.71
Bush Tour	126,902.70
Voter Groups	223,077.79
Operations	<u>147,312.41</u>
TOTALS	<u>\$1,630,761.04</u>

3 0 9 4 0 3 7 3 1 3 6

9
DIRECT D
P1:29

RER:nb
Enclosure
cc: Mr. Curtis Mack (w/encl.)

SUPPLEMENTARY AFFIDAVIT OF
SCOTT B. MACKENZIE

I, Scott B. Mackenzie, being duly sworn, hereby depose and say that:

1. This affidavit supplements my affidavit, dated August 30, 1982.

2. My duties as the Assistant Treasurer of the Reagan-Bush Committee during the general election period included monitoring compliance-related activities, both at the national headquarters and state offices.

3. In my aforementioned affidavit, I estimated that compliance-related activities in the campaign headquarters, including Campaign '80 and the state and local offices of the campaign, constituted 5% of the overhead expenses of these offices.

4. The compliance-related activities that were conducted in the state offices included: monitoring and documenting expenditures, reporting these expenditures to the national headquarters, typing reports of these expenditures, communicating on compliance-related activities with members of the national staff, and communicating with state and local party officials concerning compliance with the federal election laws. The activities conducted at the offices of Campaign '80 were similar.

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Persons on the national staff devoted time to setting compliance-related policy and monitoring and coordinating the compliance activities of the state and local offices and Campaign '80.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this 8th day of
September, 1982.


Notary Public

My Commission expires: 10/31/83

33040375108

MUSICK, PEELER & GARRETT

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SUITE 1175 RING BUILDING

1200 EIGHTEENTH STREET, N.W.

WASHINGTON, D.C. 20036



Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth Gross

82 SEP 9 AM:13

83040575106

RECEIVED AT THE FEC
Cec# 8422
82 SEP 9 All: 55

MUSICK, PEELER & GARRETT

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SUITE 1175 RING BUILDING
1200 EIGHTEENTH STREET N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 778-1427

ELVON MUSICK 1890-1988
LEROY A. GARRETT 1906-1983

DENVER OFFICE

SUITE 1500
718 SEVENTEENTH STREET
DENVER, COLORADO
(303) 825-5721

WRITERS DIRECT DIAL NUMBER

LOS ANGELES OFFICE
ONE WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA
(213) 829-7800

NEWPORT BEACH OFFICE

SUITE 900
4000 MACARTHUR BOULEVARD
NEWPORT BEACH, CALIFORNIA
(714) 752-8000

September 7, 1982

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth Gross

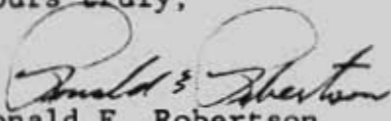
Re: MUR 1401

Dear Mr. Gross:

Pursuant to our recent discussion, enclosed please find executed Affidavit of Scott B. Mackenzie, Assistant Treasurer of the Reagan Bush Committee during the general election campaign period, regarding compliance related expenses paid from the general election fund.

Mr. Mackenzie's supplemental affidavit on this matter will be provided within the next several days.

Yours truly,


Ronald E. Robertson
for Musick, Peeler & Garrett

RER:nb
Enclosure
cc: Mr. Curtis Mack (w/encl.)

3304073107

AFFIDAVIT OF SCOTT B. MACKENZIE

I, SCOTT B. MACKENZIE, being duly sworn, hereby depose and say that:

1) I was the Assistant Treasurer of the Reagan-Bush Committee during the general election campaign period.

2) As part of the settlement of MUR 1401, I have undertaken to estimate the amount of monies paid from the general election fund to defray compliance related expenses. My approach, which was adopted in consultation with members of the staff of the Federal Election Commission, was to determine the amount of overhead expenses paid by the Committee and then to estimate the percentage of those expenses that was devoted to compliance related matters. The results of my analysis are attached as Appendix A.

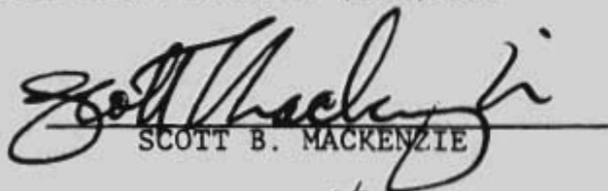
3) The category of "State and Local Expenses" in Appendix A, p. 1 requires some further explanation. In the Committee's general ledger, the category of "State and Local Expenses" included expenses other than overhead. In order to isolate that portion of the expenses in this category that is attributable to overhead costs, I examined the breakdown of "State and Local Expenses" that is set out in the post-election FEC report. The results of this examination are attached as Appendix B.

4) My analysis showed that 19.75% of the expenses categorized in the Committee's general ledger as "State and Local Expenses" were attributable to overhead. By multiplying

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this percentage by the total expenses in the "State and Local Expenses" category, I reached the overhead figure shown in Appendix A.

5) Based on my general knowledge of the activities at the campaign headquarters, including Campaign '80, and the state and local offices of the campaign, I estimate that in addition to those expenses previously identified as specifically relating to compliance at least 5% of the overhead expenses of these offices were attributable to compliance activities. To insure a conservative estimate, for purposes of this showing, I shall estimate that the percentage of total overhead expenses attributable to compliance related activities was only 4.66%, and consequently, the total amount of general election expenditures identified clearly as compliance related activities totalled \$185,000.


SCOTT B. MACKENZIE

Subscribed and sworn to before me this th30 day of August, 1982.


Notary Public

My Commission expires:

MY COMMISSION EXPIRES

JUNE 15, 1983

Appendix A

REAGAN BUSH COMMITTEE
ANALYSIS OF OVERHEAD EXPENDITURES
MUR 1401

<u>Category of Expenditure</u>	<u>State Offices</u>	<u>Headquarters</u>
Permanent Staff	\$728,405.00	\$1,489,927.00
Office Rent & Utilities	154,717.93	153,871.40
Furniture & Equip. (Rented)	97,696.63	84,995.58
Furniture & Equip. (Purchased)	1,236.26	57,770.83
Telephone	296,978.18	319,056.39
Fringe Benefits	2,471.56	126,420.43
Payroll Taxes	3,477.40	45,038.50
State & Local Expenses (\$2,074,945.65 x 19.75%)	<u>409,801.77</u>	<u>-0-</u>
TOTALS	<u>\$1,694,784.73</u>	<u>\$2,277,080.13</u>
Headquarters Expenditures		2,277,080.13
State Expenditures		<u>1,694,784.73</u>
Total Overhead Expenditures		<u>3,971,864.86</u>

REAGAN BUSH COMMITTEE
HEADQUARTERS PERMANENT STAFF
MUR 1401

Chairman	\$ 71,365
Planning & Strategy	29,202
National Political	232,347
National Advertising	423,580
Communications	132,711
Research	173,469
Scheduling	158,605
Reagan Tour	15,575
Bush Tour	70,788
Voter Groups	116,760
Operations	<u>65,525</u>
TOTALS	<u>\$1,489,927</u>

Appendix A

Appendix B

REAGAN BUSH COMMITTEE
ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
MUR 1041

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Alabama	12,827.19	4,987.05
Alaska	4,649.63	368.06
Arizona	8,436.54	570.68
Arkansas	5,459.67	1,068.92
California	103,653.15	21,948.76
Colorado	5,886.04	2,148.45
Connecticut	10,402.30	118.26
Delaware	10,129.55	1,498.17
Florida	109,621.92	6,293.13
Georgia	141.98	141.98
Hawaii	9,201.11	2,388.56
Idaho	3,240.37	1,549.49
Illinois	140,913.65	60,982.43
Indiana	29,504.44	1,794.38
Iowa	4,081.00	1,515.30
Kansas	<u>3,168.20</u>	<u>982.59</u>
SUBTOTALS	461,316.74	108,356.81

Appendix B

ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
(CONTINUED)

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Balance Forward	461,316.74	108,356.81
Kentucky	7,960.87	949.15
Louisiana	33,194.83	1,734.01
Maine	33,758.58	9,869.43
Maryland	23,878.82	4,343.29
Massachusetts	3,718.58	105.35
Michigan	44,992.02	4,519.90
Minnesota	2,805.52	812.74
Mississippi	16,478.64	2,180.93
Missouri	31,366.77	4,245.71
Montana	-0-	-0-
Nebraska	1,533.93	830.71
Nevada	1,524.46	1,009.30
New Hampshire	11,976.39	2,123.88
New Jersey	97,538.44	6,173.64
New Mexico	20,045.49	7,244.72
New York	<u>3,184.72</u>	<u>2,784.13</u>
SUBTOTALS	795,274.80	157,283.70

Appendix B

ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
(CONTINUED)

<u>State</u>	<u>Expenditures Reported</u>	<u>Overhead</u>
Balance Forward	795,274.80	157,283.70
North Carolina	2,831.15	1,410.43
North Dakota	994.22	560.82
Ohio	121,623.00	37,246.78
Oklahoma	9,498.46	4,319.01
Oregon	50,904.08	2,298.75
Pennsylvania	162,155.80	22,213.56
Rhode Island	2,255.28	1,073.23
South Carolina	41,275.88	17,109.71
South Dakota	1,098.50	58.50
Tennessee	22,436.15	8,915.93
Texas	92,511.50	12,739.75
Utah	-0-	-0-
Vermont	14,681.73	998.47
Virginia	20,584.51	7,103.73
Washington	60,134.19	6,569.40
West Virginia	1,124.68	748.27
Wisconsin	38,425.12	3,765.18
Wyoming	<u>3,175.66</u>	<u>109.88</u>
TOTALS	\$1,440,984.71	\$284,525.10
	(100%)	(19.75%)

Appendix B

REAGAN BUSH COMMITTEE
ANALYSIS OF STATE & LOCAL EXPENSE CATEGORY
MUR 1401

Expenditures included as Overhead:

- (1) Postage, Freight & Shipping
- (2) Utilities
- (3) Equipment Rental
- (4) Xeroxing
- (5) Office Supplies
- (6) Petty Cash
- (7) Refreshments
- (8) Stationary
- (9) Bank Charges
- (10) Office Rent
- (11) Telephone

Appendix B

83040375115

FIRST CLASS MAIL

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82 SEP 9 All: 55



FROM * *
Law Office
MUSICK, PEELER & GARRETT
1200 EIGHTH STREET, N.W., SUITE 1175
WASHINGTON, D.C. 20006

TO * *

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attention: Kenneth Gross



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 1, 1982

Arthur J. Dellinger, Sr.
Dellinger & Dellinger
9220 Sunset Blvd.
Suite 206
Los Angeles, CA 90069

Re: MUR 1401

Dear Mr. Dellinger:

Per your request in a letter dated June 17, 1982, enclosed please find a copy of a letter which we are forwarding to Mr. Ronald E. Robertson, Special Counsel to the Reagan Bush Committee/ Reagan Bush Compliance Fund.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name.

Kenneth A. Gross
Associate General Counsel

Enclosure

Letter to Mr. Ronald E. Robertson

83040375117



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 1, 1982

Ronald E. Robertson, Esquire
Musick, Peeler and Garrett
Suite 1176 Ring Building
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1401

Dear Mr. Robertson:

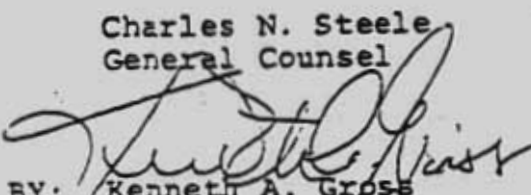
83040375118
The Commission is in receipt of your letter dated June 18, 1982, wherein you propose that the Commission and your clients, the Reagan Bush Committee/Reagan Bush Compliance Fund, enter into pre-probable cause conciliation in the above-captioned matter. The Commission is interested in entering into such negotiations, however, as members of my staff expressed to you in a meeting on June 22, 1982, we must wait for the completion of follow-up audit fieldwork in order to update and incorporate the facts as they relate to this matter.

Upon completion of the audit fieldwork, the Commission will be prepared to enter into pre-probable cause conciliation with respect to MUR 1401.

If you have any questions, please contact Beverly Kramer at 523-4060.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

cc: Arthur J. Dellinger

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Reagan Bush Committee)
Reagan Bush Compliance)
Fund)

MUR 1401

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 30, 1982, the Commission approved by a vote of 5-0 the sending of the letter to Ronald E. Robertson as submitted with the Memorandum to the Commission dated June 25, 1982.

Commissioners Aikens, Elliott, Harris, McGarry and Reiche voted affirmatively; Commissioner McDonald did not cast a vote in this matter.

Attest:

6-30-82

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

6-25-82, 1:44
6-28-82, 11:00

83040375119

June 25, 1982

MEMORANDUM TO: Marjorie W. Emmons

FROM: Phyllis A. Kayson

SUBJECT: MUR 1401

Please have the attached Memo to the Commission distributed to the Commission on a 48 hour tally basis. Thank you.

Attachment

cc: Kramer

83040375120

SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 25, 1982

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
82 JUN 25 P 1:44

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel *KAG*

SUBJECT: MUR 1401 - Request for Pre-Probable
Cause Conciliation

On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee (the "Committee") and the Reagan Bush Compliance Fund (the "Compliance Fund") violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Compliance Fund for purposes other than those enumerated in this provision. On March 5, 1982, both committees responded through counsel, Mr. Edward Weidenfeld, to the allegations involved. See Attachment I. In a subsequent letter, Mr. Arthur Dellinger, treasurer of both committees, notified this office that the Committees had designated Ronald E. Robertson and John J. Duffy to represent them in all pending matters before the Commission and that no further communications from the Commission or its staff relating to the Committees were to be sent to Mr. Weidenfeld. See Attachment II.

By letter dated June 18, 1982, Mr. Ronald Robertson requested pre-probable cause conciliation with regard to MUR 1401. Both parties have since met to review the facts of the case and to discuss the desire to enter into negotiations directed toward reaching a conciliation agreement in this matter.

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As we stated in this meeting, the audit staff is in the process of completing its ordinary follow-up audit fieldwork and we are waiting for a report which will update the information presently available.

According to the audit staff, this report should be completed by the middle of next week (June 30, 1982).

Accordingly, the Office of General Counsel recommends that in reply to the respondents' request for pre-probable cause conciliation, the Commission approve and send the attached letter. See Attachment III. The letter expresses the Commission's desire and anticipation of entering into pre-probable cause conciliation upon completion of follow-up audit fieldwork.

Recommendation

Approve and send the attached letter to Ronald E. Robertson.

Attachments

- Attachment I - Response to RTB Notification (41 pages)
- Attachment II - Letter from Arthur Dellinger (2 pages)
- Attachment III - Proposed letter to Ronald E. Robertson (1 page)

86040375122

ATTACHMENT I

LAW OFFICES
McKENNA, CONNER & CUNEO

1575 EYE STREET, N.W.

WASHINGTON, D.C. 20005

(202) 789-7500

CABLE ADDRESS: MCKENCONN WASHDC

TELEX (TWX) 710-822-0149

TELECOPIER (202) 789-7894

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LOS ANGELES, CALIFORNIA 90010

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1900 MILLS TOWER

220 BUSH STREET

SAN FRANCISCO, CALIFORNIA 94104

(415) 433-0840

NINTH FLOOR

811 ANTON BOULEVARD

COSTA MESA, CALIFORNIA 92626

(714) 781-3600

ASHLEY SELLERS 1803-1871
SILBERT A. CUNEO 1803-1871

WILSON H. ADAMS JR.
JEFFREY P. ALTMAN
ROBERT A. ANTHONY
ROBERT S. BADAL
DANIEL N. BELIN
MICHAEL D. BERN
STEVEN L. BRIDGEMAN
JOHN D. CONNER JR.
EDWARD H. CONNOR
HOWARD DANTLON
JOHN F. DAVIS
C. STANLEY DEES
RONALD J. DUFFICE
LAWRENCE D. ESHER
AUDRE L. ENGLEMAN
LAWRENCE N. FARRELL
HERBERT L. FENSTER
RICHARD A. FINE
PAUL FITTING
D. MICHAEL FITZGUSH
RICHARD A. FITE
TERRY A. FRALICH
S. HOWDEN FRASER
JOSEPH SABAT
JAMES J. GALLAGHER
L. ANDREW GIFFORD
DAVID J. GRANT
ALLEN S. GREEN
ROBERT E. GREEN
MICHAEL R. GRZANKA
E. SANDERSON HOE

JOE S. HOLLINGSWORTH
TERRY D. KELLY
BERNARD KOLBON
MARTIN H. KRESSE
EDWIN H. LOWEY
ROBERT A. MARGRUM
ELLEN S. MARSHALL
MICHAEL A. MCDONNELL
WILLIAM F. MCKENNA
LARRY L. MYERS
CHARLES S. MILLER
CHARLES A. O'CONNOR, JR.
JOHN S. RUCHTER
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RICHARD J. PERRY, JR.

March 5, 1982

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1305 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

The Reagan Bush Committee and the Reagan Bush Compliance Fund submitted a response to the Commission's reason to believe finding involving MUR 1401 on March 4, 1982. This letter forwards an amended response, which corrects certain typographical errors. Please properly dispose of the response submitted on March 4, 1982.

I apologize for any inconvenience.

Sincerely yours,

Edward L. Weidenfeld
Edward L. Weidenfeld

Enclosure
/dac

cc: Ms. B. Kramer

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1

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(202) 789-

March 5, 1982

REVISED

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1305 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

In accordance with Federal Election Commission procedures, the Reagan Bush Committee (the "Committee") and the Reagan Bush Compliance Fund (the "Fund") hereby responds to the General Counsel's brief attached to the Commission's letter dated February 1, 1982. In the brief, the Committee is alleged to have violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Fund to defray expenses incurred by the Committee. The Committee's response clearly establishes that no violation of 11 C.F.R. § 9003.3(a)(2)(i) occurred.

INTRODUCTION

The Fund was formed on May 29, 1980. The Fund's purpose was to raise contributions to offset legal and accounting costs incurred by the Committee in complying with the requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431 et

seq.) and the Presidential Election Campaign Financing Act (2 U.S.C. § 9001 et seq.). Although the Committee contended at the time of the audit (and still contends) that all legal and accounting costs were compliance expenditures, the Committee agreed to allocate those fund expenditures which may have benefited Committee operations.

Allocations were made using FEC allocation methods and other allocation methods rationally related to the expenditure involved. As a result, the Committee allocated \$137,883.67 to Committee operations and reported this amount as Committee operating expenses. The General Counsel disputes the results of this allocation, maintaining that an additional \$178,304.99 benefited the Committee and should be reported as Committee operating expenses.

3 3 0 4 0 5 7 5 1 2 3
The Committee contends that the General Counsel's conclusion is incorrect because: (1) as explained below, the Committee's allocations are based on FEC and other appropriate allocation methods; and (2) as explained previously, the audit provides no basis to dispute these methods. Moreover, the Committee notes that the General Counsel in reaching his conclusion ignored the fact that after November 4, 1980 (the date of the presidential election) all expenditures incurred, by definition, either were not campaign expenditures (see 2 U.S.C. § 431(9) or were compliance expenditures. However, because of a lack of guidance in both the law and regulations on this matter, the Committee, while reserving its right to pursue this issue, allocated fund expenditures incurred through March 31, 1981.

COMMITTEE ALLOCATION METHODOLOGY

The Committee allocated the following twelve expenditure categories between Fund and Committee activities:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Computer Costs
- (9) Reimbursed expenses
- (10) Consultants
- (11) Sundry expenditures
- (12) In-kind accounting expenditures

These expenditures were allocated as discussed below. (Worksheets describing the allocations are provided in Attachment 1.)

General

During the primary audit, the Reagan for President Committee contended that the Treasurer's office payroll and related expenses were exempt accounting and legal expenditures, because they were incurred in complying with federal election laws. During the audit the FEC disagreed, stating that 15 percent of these expenditures were not exempt. The FEC derived the 15 percent allocation from activity studies of other campaigns. The auditors believed "that the percentage (85%) represents a reasonable allocation of costs to exempt legal and accounting." (Report of the Audit Division on Reagan for President, p. 7, attached to a letter from Robert J. Costa to Scott Mackenzie dated January 30, 1981.) Although, the RFPC disagreed that any allocation was required, it acquiesced to the FEC's position.

During the audit of the general election campaign, the FEC again concluded that the Treasurer's office payroll and related expenses should be allocated to noncompliance activities. The Committee disputed this conclusion, but again acquiesced, under protest, to the FEC's insistence that an allocation be made.

The law and regulations provide little, if any, guidance to determine how costs should be allocated. Therefore, the Committee decided that the most appropriate allocation method was the 85/15 ratio used by the FEC auditors to allocate primary expenses. This method was believed to be the most appropriate because it was developed and used by the FEC to allocate identical costs in similar circumstances.

The Committee allocated the following expenditure categories using the 85/15 ratio:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Reimbursed expenses

This resulted in an allocation of \$76,322.68 to noncompliance activities. The Committee reclassified this amount as operating expenditures subject to the spending limitations of 2 U.S.C. § 441(b) (1) (B).

Computer

Prior to the nomination of the 1980 Republican candidate, the Campaign Manager and Treasurer of the Committee met with a computer expert from Arthur Young and Co. The following concerns were addressed in determining the feasibility and desirability of using a computerized accounting system for the general election.

1. If the computer route were to be chosen, a complete computer system had to be designed, set up and placed in working order within 60 days.
2. Since current accurate reports were required every 48 hours, on-line capability and immediate turn around were essential to the system.
3. The system would be needed only for a four month period.

It was determined that under normal business circumstances a computer system would not be justified, because the expense of the computer far exceeded its benefits. However, one factor, in the opinion of the Treasurer, did warrant the substantial expense of a computerized accounting system - the Federal Election Campaign Act. Therefore, the legal spending limit and the demanding accounting and reporting requirements placed on a general election campaign committee by the Act were the sole reasons for the decision to expend over \$230,000 for a payroll computer system.

However, at the insistence of FEC auditors that an allocation be made and after an analysis of the services provided by this computer, the Committee allocated 10 percent of computer costs to Committee operations.

Consultants

The Fund employed numerous consultants to perform specific tasks. The proper method for allocating such costs is to analyze the services provided by each consultant and allocate the costs accordingly. The Committee followed this method in making its

allocations. The results of the allocation of accounting consultants were:

- 83040575128
- (a) Ted Woblicky - Served as a Systems Consultant. Mr. Woblicky developed the computer software needed to produce the reports required by the Act. The Committee believed that 100 percent of Mr. Woblicky's fees were compliance related. However, consistent with the allocation of computer costs, the Committee allocated 10 percent of Mr. Woblicky's total fees to Committee operations.
 - (b) Tom Moran - Served as a consultant to the Controller. Mr. Moran assisted the Controller, monitoring the expenditure limitations through use of detailed budgets. The FEC auditors argued that only 50 percent of Mr. Moran's functions were compliance related. While disagreeing with this position, the Committee acquiesced and allocated 50 percent of these expenses to Committee operations.
 - (c) DeLoitte, Haskins & Sells - This CPA firm prepared a report to the Controller relating to implementation of a monitoring system used to ensure that the expenditure limitations were not exceeded. Fifty percent of these costs were allocated to the Committee for the reasons discussed in (b) above.
 - (d) Amy Gilbert - Served as a consultant to the Treasurer. Miss Gilbert had extensive experience in FEC matters. Consequently, she assisted in balancing FEC disclosure reports and worked closely with necessary parties to assure that a computer system was established that would produce reports essential for compliance with election law. For these reasons, 100 percent of Miss Gilbert's fees were allocated to compliance.
 - (e) John Pasquali - Served as Controller for Campaign '80, Inc. The Committee allocated to compliance only those fees paid Mr. Pasquali in 1981 relating to the final audit of Campaign '80 records.

The Fund also employed two legal experts for compliance matters: Loren Smith and Mary Lee Garfield. Mr. Smith was chief counsel to the campaign and Ms. Garfield was his assistant. These individuals were responsible for all campaign legal matters. Because all campaign legal matters ultimately had campaign finance law consequences, 100 percent of their fees were allocated to compliance.

On occasion the Fund required the services of outside legal consultants for assistance on matters relating to compliance. The consultants employed and the percentage of their fees allocated to Committee operations are as follows:

- (1) Jones, Day, Reavis & Pogue (3%)
- (2) Peabody, Rivlin, Lambert & Meyers (0%)
- (3) Sedam & Herge (0%)
- (4) Gang, Tyre & Brown (50%)

The percentage allocated to Committee operations was determined by an analysis of the services provided to the Committee. (See Attachment 2 for a copy of the bills sent to the Committee.)

Sundry Expenditures

The Committee classified \$57,807.44 of allocable expenditures as "sundry". These expenditures were broken down into three categories. The first, totalling \$10,873.60, included: refundable deposits; FEC account expenses; office security; storage expenditures; and telegrams.

The Committee allocated 100 percent of these expenditures to compliance activities because:

- (1) 2 U.S.C. § 432(d) states:

The Treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Therefore, the costs involved in storing the records and in protecting them were considered to be compliance related.

- (2) The telegrams were used to contact contributors to the Fund who recently had been contacted by the FEC.

- (3) Refundable deposits and FEC account expenses supported compliance activities and, therefore, were compliance related.

The second category, totaling \$29,035.07, included: taxes, insurance, petty cash, moving expenses, office improvements, equipment maintenance, freight, printing and materials. This category was allocated 85 percent to compliance activities and 15 percent to Committee operations using the FEC approved allocation

ratio. Use of the FEC approved allocation ratio was considered to be appropriate because each category was thought to contain a small portion of indistinguishable noncompliance expenditures.

The third category, totaling \$17,898.77, included direct mailing expenses and auto-pen costs. Fifty percent of these costs were allocated to Committee operations. At the time of the allocation, the Committee did not take into consideration 11 C.F.R. § 9003.3(a)(2)(D) which states:

Such contributions (to the compliance fund) may be used to defray the cost of soliciting contributions to the legal and accounting compliance fund.

Therefore, the Committee may wish at a later date to revise the above allocation.

In-kind Expenditures

The Compliance Fund reported \$25,621.08 in accounting services contributed by three "Big-Eight" accounting firms (Arthur Young & Co; Deloitte, Haskins & Sells; and Peat, Marwick, Mitchell & Co.) and the AICPA. These services were given and received pursuant to 2 U.S.C. § 431(8)(B)(ix)(II) and were allocated 100 percent to compliance.

The three consultants on loan from PMM & Co. (Rick Edick, Kevin Tan and John Willet) helped the Committee set-up and maintain an accounting system designed to meet the reporting and recordkeeping requirements of the Act. Arthur Young and Co. supplied the Committee with two staff accountants (Gene Preston and Cheri Kurland) who assisted in compiling and balancing the FEC disclosure reports. Mary Widner of the AICPA and Ian McKay of D,H&S were responsible for assisting the Treasurer in ensuring that disbursements were qualified campaign expenditures and proper support documentation existed. Ms. Widner and Mr. McKay also helped maintain a system designed to assure compliance with expenditure limitations.

Conclusion

The Committee allocated expenditures only after careful examination of the nature of the expenditure involved. The allocations were based on methodologies which were FEC approved or appropriate to the nature of the expenditure involved and

which resulted in rational and equitable allocations. As requested, worksheets are provided documenting these allocations. For these reasons, the Committee's allocation of \$137,883.67 to Committee operations should be accepted by the Commission.

FEC ALLOCATION METHODOLOGY

33040375131
The General Counsel bases his finding that the Committee expended private contributions to the Fund to defray Committee expenses on the audit determination that \$178,304.99 should be allocated to Committee operations. Since the completion of the audit in March 1980, the Committee has disputed this audit determination because the auditors did not follow generally accepted auditing standards or accounting principles. (See, the Committee's initial response dated July 20, 1981 and its supplemental response dated August 11, 1981 (pertinent portions are provided in Attachment 3).) The Committee believes that because these deficiencies exist, the audit determination provides no basis for the General Counsel's finding of reason to believe.

CONCLUSION

33040375131
The Committee allocated Fund expenditures between the Fund and the Committee at the insistence of FEC auditors. The Committee allocated the expenses rationally, using FEC approved and other appropriate allocation methodologies. The audit report provides no basis to dispute the Committee's allocations. Therefore, the General Counsel should find no probable cause and close this matter.

The Committee recognizes, as does the General Counsel, that following the auditor's allocation rationale, significant Committee costs may be allocable to the Fund. The Committee also recognizes that such an allocation may result in a complete offset to the audit report's finding. However, the Committee believes that neither allocation is required by law, and, therefore, the issue of an offset is not addressed.

Sincerely yours,

Edward L. Weidenfeld

cc: Ms. B. Kramer

(9)

Attachment 1

REAGAN BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/21/81

2884
4-3-81

[A]

COMPLIANCE EXPENDITURES PER BANCORP'S	6,386,576.34 (C-1)
<u>LESS: NON-OPERATING EXPENDITURES:</u>	
INTERNAL TRANSFERS	{ 5,110,524.28 } (C-11)
LOANS TO GEC	{ 470,000.00 } (C-12)
SUNDRY EXPENDITURES:	
GEC TRANSFERS 30,859.58 (Y-1)	
CONTRIB REFUNDS 6,570.04 (Y-2)	(47,399.62) (Y-12)
	758,652.44 (R-1)
<u>ADD: PAYROLL EXPENDITURES</u>	339,225.99 (D-1)
IN-KIND EXPENDITURES	25,621.08 (D-2)
<u>TOTAL OPERATING EXPENDITURES</u>	<u>1,123,499.57 (R-2)</u>

OPERATING EXPENDITURES SUBJECT
TO ALLOCATION

1,123,499.57 (R-2)

REAGAN Bush Compliance Fund
 ALLOCATION TO GEC
 3/31/81

2054
 3-4-81

[6]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	COMPLIANCE PORTION	GENERAL PORTION
Payroll	(C-1) 339,225.99	(C-1) 288,342.09	50,883.90
Office Supplies	(C-2) 11,707.58	(C-2) 9,951.44	1,756.14
Printing & Stationery	(C-3) 16,225.25	(C-3) 13,791.46	2,433.79
Telephone	(C-4) 1,608.34	(C-4) 1,367.09	241.25
Furniture & Equip	(C-5) 3,426.06	(C-5) 2,912.15	513.91
Rentals & Leases	(C-6) 85,774.57	(C-6) 30,408.21	55,366.36
Postage & Freight	(C-7) 35,251.89	(C-7) 30,474.11	5,377.78
Computer Costs	(C-8) 232,572.29	(C-8) 209,315.02	23,257.27
Reimbursed Expenses	(C-9) 64,998.34	(C-9) 55,248.56	9,749.78
Consultants	(C-10) 298,680.91	(C-10) 273,681.76	24,999.15
Sundry Expenditures	(C-11) 57,807.44	(C-11) 44,502.81	13,304.63
In-kind Expenditures	(C-12) 25,621.05	(C-12) 25,621.05	—
	(A-2) 1,123,499.51	985,615.84	137,883.67

83040375133

REARMAN BUCH COMPLIANCE FUND
EXPENDITURE SPREAD SHEET
3/30/81

Prepared By: 280A
Approved By: 4/2/81
[C]

BANK	PERIOD	BANK	OFFICE SUPPLIES	PRINTING STATIONARY	TELEPHONE	FURN & EQUIP.
UCB	6/1 - 6/30/80	222364	—	2360	—	—
2	7/1 - 7/31/80	19216208	—	—	—	—
	8/1 - 8/31/80	203810	—	—	—	—
RINGS	7/1 - 7/31/80	12524367	3467	17000	—	—
	8/1 - 8/31/80	7643724	417498	209138	5929	149115
	9/1 - 9/15/80	7623076	493576	244162	—	46570
	9/16 - 9/30/80	45473107	1820	700000	—	—
	10/1 - 10/15/80	46019232	109146	577417	—	10996
	10/16 - 10/31/80	5494203	11500	—	—	12213
	11/1 - 11/15/80	124366523	96347	—	—	—
	11/16 - 11/30/80	40107630	—	—	—	—
	12/1 - 12/30/80	45515518	—	—	—	—
	12/1 - 12/15/80	2769321	2557	—	—	2570
	12/16 - 12/31/80	61794353	—	—	—	—
	1/1 - 1/31/81	61613570	—	343507	8000	—
	2/1 - 2/15/81	2250378	—	77311	—	24160
	2/16 - 2/28/81	1962170	—	135546	20476	—
	3/1 - 3/15/81	896553	—	—	64253	—
	3/16 - 3/30/81	1270161	34958	—	12202	—
TOTAL EXPENDITURES		62465237	1170750	1622525	160834	34210

(C-1) (C-2) (C-3) (C-4) (C-5)

REAGAN Bush Compliance Fund
 ALLOCATION TO GEC
 3/31/81

~~2001~~
 3-4-81

[D]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	PERCENTAGE COMPLIANCE	COMPLIANCE PORTION
OFFICE SUPPLIES	(C-2) 11,707.58	85%	(C-2) 9,951.44
PRINTING & STATIONERY	(C-2) 16,225.25	}	(C-2) 13,791.46
TELEPHONE	(C-2) 1,608.34		(C-2) 1,367.09
FURNITURE & EQUIP.	(C-2) 3,426.06		(C-2) 2,912.15
RENTALS & LEASES	(C-2) 35,774.37		(C-2) 30,406.21
POSTAGE & FREIGHT	(C-2) 35,851.69	—	(C-2) 30,474.11
COMPUTER COSTS	(C-2) 232,572.29	90%	(C-2) 209,315.06
REIMBURSED EXPENSES	(C-10) 64,998.31	85%	(C-2) 55,248.56
	402,164.09	—	353,468.08
Payroll EXPENDITURES	(C-1) 339,225.99	85%	(C-2) 288,342.09
IN-KIND EXPEND.	(C-2) 25,621.08	100%	(C-2) 25,621.08
	364,847.07	—	313,963.17

Reagan Base Compliance Fund
Allocation to GEC
3/31/81

2000
4-3-81

[E]

CONSULTANTS: Fees	TOTAL BILLED	PERCENTAGE Compliance	Compliance Portion
TED WROBICKY - Computer sys.	4,186.00	90% (B)	3,767.40
TOM MORAN - BUDGETS	13,700.00	50% (B)	6,850.00
AMY GILBERT - Fee Reports	32,900.00	100% (C)	32,900.00
HOREN SMITH - General Counsel	15,625.00	100% (C)	15,625.00
MARY GARFIELD - ASST. Counsel	20,590.00	100% (C)	20,590.00
JOHN PASQUALI - Campaign '80	2,810.00	100% (D)	2,810.00
JONES, DAY, REARIS & ABRAHAM	180,032.30	97% (E)	174,096.33
PEABODY, RIKLIN, LAMBERT & WHEELER	2,521.93	100% (F)	2,521.93
SEDAM & HERGENROTTER	2,661.56	100% (F)	2,661.56
GANG, TYRE & BROWN	15,839.12	50% (G)	7,919.56
DELOITTE, HASKINS & SELL	7,750.00	50% (G)	3,875.00
BICKLER, CARLTON, CPA's	65.00	100% (H)	65.00
	298,680.91	—	273,681.79

- (A) THE SAME % WAS USED HERE, AS FOR THE COMPUTER COSTS.
(B) IT IS ESTIMATED THAT ONLY 50% OF BUDGETING IS COMPLIANCE.
(C) TOTAL COMPLIANCE - NO QUESTION.
(D) WRAP-UP WORK AT CAMPAIGN '80 - TOTAL COMPLIANCE.
(E) LEGAL WORK - SEE INVOICE ON HOW % WAS DERIVED.
(F) LEGAL WORK RE: FEC MATTERS.
(G) WORK ONLY CONSIDERED TO BE (1/2) COMPLIANCE.
(H) PUT TOGETHER DICK ANDERSON'S RPT ON CHINA TRIP, FOR FEC.

83040375137

Both

4-5-81

[F]

REAGAN CASH COMPLIANCE FUND

ALLOCATION TO GEC

3/31/81

CATEGORY	AMOUNT ALLEGED	PERCENTAGE COMPLIANCE	COMPLIANCE POSITION
<u>Sundry expenditures:</u>			
GEC TRANSFERS (F-1)	30,859.50	— *	—
CONTRIBUTION REFUNDS (F-2)	16,540.04	— *	—
DIRECT MAIL ASSE (F-3)	17,786.27	50%	8,893.14
PAYROLL TAXES (F-4)	15,349.75	85%	13,047.29
INSURANCE (F-5)	6,147.29	85%	4,375.20
DEPOSITS (F-6)	3,315.03	100%	3,315.03
PETTY CASH (F-7)	1,101.45	55%	936.23
FEC H/C & MATERIALS (F-8)	521.77	100%	521.77
SECURITY (F-9)	6,723.50	100%	6,723.50
MOVING EXPENSES (F-10)	5,425.10	85%	4,611.25
OFFICE IMPROVEMENTS (F-11)	1,543.00	85%	1,311.55
EQUIPMENT MAINTENANCE (F-12)	315.65	85%	268.23
STORAGE (F-13)	260.00	100%	260.00
FREIGHT, PRINTING & MATERIALS (F-14)	152.92	85%	130.02
AUTO PEN EXPENSES (F-15)	112.50	50%	56.25
TELEGRAMS (F-16)	13.30	100%	13.30
(F-17)	105,207.06	—	44,502.81
(F-18)	105,207.06		
(F-19)	(47,399.62)		
(F-20)	57,807.44		

* - ITEMS HAVE NO EFFECT ON COMPLIANCE RE GENERAL ELECTION EXPENDITURES.

PERCENTAGES - 100% - REFLECTS A TOTAL COMPLIANCE EXP.

55% - GIVEN SAME TREATMENT AS P/R

50% - ONLY PARTIAL COMPLIANCE ($\frac{1}{2}$)

16

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1700 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20006

(202) 462-1000

GLENN SEDAM, JR.
J. CLAY HERGEEDWARD ABRAMSON
A. MARK B. HATFIELD
JAMES H. PLECO, JR.
MICHAEL D. HUGHES
ROBERT A. SPANGLERTHOMAS W. DAVIS, JR.
OF COUNSEL

July 2, 1980

RECEIVED

JUL 7 1980

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During the Month of June, 1980:

Consideration of problems and examination of the law in connection with the organization and activities of Campaign '80, Inc. under the provisions of the Federal Election Campaign Act of 1971, as amended, the Communications Act of 1934, as amended, the Presidential Election Campaign Fund Act, the regulations and opinions issued thereunder by the Federal Election Commission and the Federal Communications Commission, including the preparation of a general summary of the applicable provisions of the relevant law; extensive research and analysis of the records of the Federal Election Commission relative to compliance by Presidential campaign committees; numerous conferences with representatives of Gang, Tyre & Brown relative to the application of the law; correspondence in connection with the foregoing-----

\$ 2,250.00

Miscellaneous Expenses:

Reproduction charges incurred at
the Federal Election Commission \$35.90
Long distance telephone charges 3.95
Parking fees 4.00--

93.85

TOTAL-----\$ 2,343.85

SEDAN & HERGE

A PACIFIC COAST CORPORATION

ATTORNEYS AT LAW

1001 1/2 BROADWAY NEW YORK

NEW YORK, NEW YORK 10019

1961-62-1963

August 12, 1960

D. PHILIP SEDAN, JR.
J. EDWIN HERGE

EDWIN M. SPANGLER, JR.
MICHAEL D. HUGHES
& MARK CHRISTOPHER

1909 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 293-7134

TELETYPE: 710-821-6004
CABLE: SEDAN-HERGE

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During The Month of July, 1960:

Consideration of problems and examination
of the law in connection with the application
of the Federal Election Campaign Act of 1971,
as amended, and the Presidential Election,
Campaign Fund Act of Campaign '80, Inc.,
including the compilation of a report and
correspondence relative to the activities
of previous campaigns, issues relative to
disclaimers required by the Act; numerous
conferences relative to the application
of the Act to various factual circumstances;
correspondence in connection with the
foregoing----- \$ 270.00

Miscellaneous Expenses:

Long distance telephone charges \$ 7.20
Federal Express charges \$ 40.51----- \$ 47.71
TOTAL DUE----- \$ 317.71

(18)

GANG, TYRE & BROWN, INC.
ATTORNEYS AT LAW

WALTER T. GANG
WALTER A. TYRE
WILLIAM E. BROWN
JAMES H. CAMP
1811 N. W. 10th St.
Miami, Florida 33136
Telephone: 375-1111
Telex: 511111
Cable: 511111

WALTER T. GANG
WALTER A. TYRE
WILLIAM E. BROWN
JAMES H. CAMP
1811 N. W. 10th St.
Miami, Florida 33136
Telephone: 375-1111
Telex: 511111
Cable: 511111

October 15, 1980

Ms. Ray Buchanan
National Treasurer
Reagan/Bush Compliance Fund
201 South Highland
Arlington, Virginia 22204

Re: Reagan Campaign '80, Inc. --
Legal fees and expenses

Dear Ms. Buchanan:

Enclosed is our statement for services on account
and for expenses incurred to date on behalf of Reagan
Campaign '80, Inc. We are sending the statement directly
to you as requested by Paul Muller, chief financial officer
of Reagan Campaign '80, Inc.

If you have any questions, please call me.

Very truly yours,

GANG, TYRE & BROWN, INC.

By *Tom A. Camp*
Tom A. Camp

TRC:K1

Enclosure

19

GANG, INF. & FLOW

10 Reagan/Bush Compliance Fund
Ray Buchanan, National Treasurer
301 So. Highland
Arlington, Va. 22204

中国地质大学(北京) 地质工程研究所 地质工程研究所
 地址: 北京市海淀区学院路29号 邮编: 100029
 电话: 010-62311234 传真: 010-62311235

August 20, 1960

On account for services to Campaign '80, Inc. rendered in connection with incorporation, qualification to do business in foreign states, change to not-for-profit status, union and guild relations, advertising submission policies, review of contracts, and other matters relating to compliance with Federal Election Law requirements.

87,520.22

הערה:

25

LAW OFFICES
OF
GANG, TYRE, & BROWN, INC.

TRUST BUILDING
LOS ANGELES CALIF 90028
212-121-2222

TO Reagan/Bush Compliance Fund
Ray Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

October 14, 1980

In account for services to Campaign '80, Inc. rendered
in connection with qualification to do business in
foreign states, change to not-for-profit status, union and
guild relations, advertising submission policies, review
of contracts, and other matters relating to compliance with
Federal Election Law requirements \$ 7,500.00

Costs advanced per statement dated October 9, 1980 (attached) 789.49

Additional costs:
Telephone - Virginia in August (31 calls) 49.53

\$ 8,339.12

W. RIGGS NATIONAL BANK

For *Reagan/Bush Compliance Fund*

⑆001337⑆ ⑆054000030⑆ 01-08358344⑆

[Signature]

83040375144

LOW OFFICES
OF
GANG, TYRE, & BROWN, INC.

Fagan/Bush Compliance Fund
to Ray Fagan, National Treasurer
901 So. Highland
Arlington, Va. 22204

6400 SUNSET BLVD. #8
LOS ANGELES, CALIF. 90028
213-462-4888

October 9, 1980

Items advanced:

Interpex 7/24/80	\$ 2.53
Interpex - special handling mail 7/15 and 7/24	15.90
Secretary of State 8/6/80	15.00
Air Freight to Arlington, Va.	50.00
Interpex 8/26 and 9/29	10.51
Secretary of State - Applicant to Articles	18.00
I.T. Corp. Systems - N.Y. & Virginia qualification of corporation	619.00
Telephone Malson, Va. 6/2/80, New York, Conn., Washington, D.C. (15 calls in June) and Arlington, Va. and Sacramento, Ca. July 8, 7/22 and 7/25/80	50.55
Interpex - special handling mail 9/15	8.00
	\$ 739.49

G. RIGGS NATIONAL BANK

Provisional Indemnity Corp. 1980

⑈001337⑈ ⑈054000030⑈ ⑈01-08368344⑈

(23)

83040375115

NOV 04 1980

PEABODY, RIVLIN, LANDERT & MEYER
ATTORNEYS AT LAW
CONNECTICUT BUILDING, 1000 FIFTH FLOOR
HARTFORD, CONNECTICUT 06103
TELEPHONE 262-1000

11/4 - Acad
to Dean Burch

Reagan Bush Committee
c/o James A. Baker, III
901 South Highland Street
Arlington VA 22204

October 31, 1980

TO PROFESSIONAL SERVICES.

Professional services rendered through
September 30, 1980, in connection with
various Federal Election Commission
matters, including Advisory Opinion
Request re Dean Burch, including tele-
phone and office conferences with legal
staff of Commission \$2,515.00

Disbursements

Duplicating & Printing \$5.60
Postage 1.33
Total Disbursements. 6.93

TOTAL: \$2,521.93

ck. 1377

100%

(24)

83040375146

JONES, DAY, REAVIS & POGUE

1732 EYE STREET N.W.

WASHINGTON, D.C. 20006

TEL (202) 691-2626

CABLE ATTORNEYS WASHINGTON

TELETYPE DOMESTIC 84142

TELETYPE INTERNATIONAL 84363

TELETYPE 84-272 440 8842

December 30, 1980

IN CLEVELAND

1700 UNION COMMERCE BUILDING 44 S

1201 696-3639

IN COLUMBUS

50 WEST BROAD STREET 4321

164 469-3535

IN LOS ANGELES

2010 CENTURY PARK EAST 95567

121 525-8636

PERSONAL & CONFIDENTIAL

Mr. William J. Casey
Campaign Director
Reagan Bush Committee
c/o Capitol Hill Club
301 First Street, S.E.
Washington, D.C. 20003

Dear Bill:

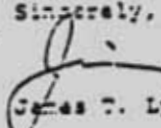
Enclosed is our Firm's statement to the Reagan Bush Committee for services and expenses through October 1980.

As you know, there were certain services where we also represented the Republican National Committee. As to these, the enclosed statements reflect a 75% allocation to the Reagan Bush Committee, and we have billed the balance to the RNC.

I trust you will find the enclosed statements to be in order, but if you have any questions, please call. I would much appreciate payment in the current calendar year.

Best regards.

Sincerely,


James T. Lynn

Enclosures

(25)

83040375147

JONES, DAY, REAVIS & POGUE

1735 EYE STREET, N.W.

WASHINGTON, D.C. 20006

TEL 202 82-3919

CABLE-ATTORNEYS WASHINGTON

TELEX-SCHEMATIC 87142

TELEX-INTERNATIONAL 84193

December 30, 1980

Felgan Bush Committee
Finance Division
c/o Capitol Hill Club
301 First Street, S.E.
Washington, D.C.

STATEMENT OF ACCOUNT

For all legal services rendered through October 1980
as follows:

Services rendered in connection with
various counseling matters regarding
compliance with Federal Election laws \$9,800.00

Services rendered in connection with
analysis of and possible responses to the
investigation of an administrative complaint
filed with the Federal Election Commission
by the Carter-Mondale Committee and Democratic
National Committee 28,700.00

Services rendered in connection with the
defense of a suit brought in the U.S. Court
of Appeals by the Carter-Mondale Committee
and the Democratic National Committee seeking
a block payment of \$30 million in federal
or foreign funds to the Committee 75,200.00

Services rendered in connection with
representation of the Committee in a suit
filed by Common Cause in which extensive
discovery was sought from the Committee 7,300.00

Services rendered in connection with
an analysis of potential liability of
Committee personnel for campaign activities 9,400.00

Services rendered in connection with
research and analysis of potential claims
regarding misuse of incumbency (A) 4,600.00

Total Services (B) \$135,500.00

26

Expenses Incurred for Your Account:

In connection with the rendition of the above-described legal services, expenses were incurred in the amounts indicated:

Expenses of printing briefs \$ 12,788.99

Other expenses including copying,
messenger services, telephone, staff
overtime, computerized legal and factual
research facilities 31,743.31

Total Expenses (P) . . \$ 44,532.30

TOTAL SERVICES AND EXPENSES \$180,032.30

(B)
(A)
:
(c)

(E)

124,072.32

(D)
(A)
(P)
(C)
(E)

83040375119

SECTION B

ISSUE

In its Audit Report of June 19, 1981, the Federal Election Commission (FEC) concluded that \$316,188.16 of Compliance Fund expenses were not incurred to ensure compliance with the Federal Election Campaign Act of 1971, as amended, and must be shown by the Reagan Bush Committee (RBC) as expenditures subject to the limitation prescribed by 2 U.S.C. 441a(b)(1)(B).

BACKGROUND

The FEC audit report states that the audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the committees at the time of the audit. The report points out that the Compliance Fund reported total expenditures during the period of \$1,512,152.36. However, the FEC auditors' working papers deal only with expenditures of \$919,991.29 (D 1/3). Although the reasons were not specifically stated in the working papers the auditors apparently concluded that expenditures of \$919,991.29 were not solely for compliance and therefore should be subject to further analysis.

A summary of that analysis follows:

<u>Cost Category</u>	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Computer	\$ 96,356.41	\$128,751.50	\$225,107.91
Payroll	175,668.81	98,813.71	274,482.52
Consultants	251,434.98	54,025.12	305,460.10
Overhead	27,746.69	15,607.52	43,354.21
Miscellaneous	--	8,360.58	8,360.58
Additional Overhead	--	10,629.73	10,629.73
Direct costs	52,596.24	--	52,596.24
	<u>\$603,803.13</u>	<u>\$316,188.16</u>	<u>\$919,991.29</u>

The following sections discuss our review of the FEC working papers and the approaches and methodologies used by the FEC auditors and illustrate the effects of the deficiencies, in general, and on each of the major categories of cost discussed in the audit report.

We reviewed in detail the 84 individual working papers supporting the FEC auditors' findings regarding the Compliance Fund. Forty-six of the working papers consisted of invoices for services received and copies of checks as evidence of payment by the Compliance Fund. The remaining working papers consisted of:

- schedules showing the allocation of individual categories of cost such as payroll expenses to compliance related and not compliance related categories.

- summaries which describe work performed and conclusions reached for the categories of expenses.

ABSENCE OF CRITERIA

The Act and the implementing regulations provide only very basic guidance with regard to expenses to be borne by the Compliance Fund. The regulations (9003.3(a)(2)(ii)) state that:

8 3 0 4 0 3 7 5 1 3 3
All legal and accounting costs related to compliance with Title 2 and Chapter 95 of Title 26, United States Code may be paid from the compliance fund. Such costs may include payments for personnel, computer services, reproduction, mailing expenses, and independent audits to assure compliance with Title 2 or Chapter 95 of Title 26, United States Code. A committee may pay from its compliance fund costs incurred for establishing that portion of its financial accounting system which is allocable to the legal and accounting aspects of compliance. In addition, a committee may pay from its compliance fund an amount equal to 10% of all other legal and accounting compliance costs to cover overhead costs allocable to such compliance services. If the amount of overhead so allocated exceeds 10% of all other legal and accounting compliance costs, the committee shall provide proof to the Commission that the entire amount so allocated represents overhead costs relating to legal and accounting compliance services.

Further, the regulations (11 C.F.R. 9003.3(c)) state that:

Payments may not be made under 11 CFR 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. 431 et seq. and 26 U.S.C. 9001 et seq.

This guidance is by no means specific enough to provide practical criteria against which to measure whether functions performed,

represented by items of expense, were solely for compliance. What is needed under these circumstances is the development by the auditors of clear, specific statements as to what legal and accounting functions must be performed to achieve compliance, supported by explanations as to why these functions had to be performed. Only then would there be a sound basis for (1) evaluating a specific function that was actually performed and (2) reaching a logical, supported conclusion as to whether the function and its associated cost was or was not for compliance purposes.

Professional knowledge, experience, background, and personal skills of the audit staff play a major role in selecting the criteria to be used to evaluate events that have occurred. It is important to recognize that auditors bear the burden and obligation to ensure the validity and wisdom of the criteria used. In reviewing the working papers, we could not assess the validity of the criteria used by the auditors, because neither the criteria nor the application of the criteria to specific situations was documented. Rather, it appears that the auditors applied individual judgment as to the criteria against which individual items of expense were evaluated and documented the conclusions reached, but not the process by which they arrived at these conclusions.

METHODOLOGICAL DEFICIENCIES

In certain instances, particularly payroll expenses, the problems we noted in the FEC auditors' working papers due to the absence of stated evaluation criteria were compounded by deficiencies in gathering data. Allocation of costs were based, in several instances, on interviews of employees but the working papers did not contain written memoranda discussing interview results. In the absence of interview memoranda, it appears that structured interview questionnaires were not used.

Standardized interview questionnaires are frequently-used audit tools which, when properly designed and properly administered, considerably enhance the validity of data obtained through interviews. Properly designed, a structured interview questionnaire ensures that questions were developed to avoid ambiguity and bias and that answers elicited were based on a clear understanding of the questions offered. For example, a question such as "What percentage of your time was devoted to compliance activities?" would likely result in a meaningless answer unless the interviewee were provided with a clear definition of what functions are or are not considered to be compliance in nature. In the absence of this definition, the judgment as to whether an activity was compliance or not is left solely to the interviewee. The working papers contain no indication that (1) interview results were based on written structured interview questionnaires; (2) clear, unbiased questions were asked; (3) definitions were provided to

interviewees; and (4) interviewees were knowledgeable to answer the questions.

The following sections illustrate the effect of the deficiencies discussed above on each of the major elements of cost presented in the audit report.

COMPUTER COSTS

The auditors determined that total computer costs were \$225,107.91 (D 1/10). Of this amount, costs of \$16,567.91 associated with the use of three computer systems were considered to be compliance related by the auditors because the systems were used to support solicitations of contributions for the Compliance Fund (D 1/11). With regard to the remaining \$208,540 in computer costs which were for computer services furnished by the Republican National Committee, the auditors determined that costs of \$128,751.50 were not related to compliance (D 1/10).

Computer costs were divided by the auditors into the following categories for analysis and allocation:

- payroll support which included maintenance of a payroll check register and total employee earnings records
- compliance accounting support which included maintenance of the general ledger and the accounts payable system
- staff support which consisted of Republican National Committee computer personnel costs.

The following illustrates the results of the FEC auditors' allocations (D 1/10) of each of the above elements of computer costs:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Payroll Support	\$ 6,344.00	\$ 6,344.00	\$ 12,688.00
Compliance Accounting Support	59,367.00	98,945.00	158,312.00
Staff Support	<u>14,077.50</u>	<u>23,462.50</u>	<u>37,540.00</u>
	<u>\$ 79,788.50</u>	<u>\$ 128,751.50</u>	<u>\$208,540.00</u>

Payroll support costs of \$12,688 were evaluated by the auditors (D 1/13) based on the number and type of computer printouts produced. The auditors determined that two of the four printouts were prepared for compliance purposes, and therefore allocated 50% (\$6,344) of payroll support costs to compliance. The auditors determined one printout, the payroll check register, was compliance related because it produced a list of the names and addresses to whom disbursements were made. A second printout, referred to in the working papers only as "FEC Report" was also considered compliance related because it supported the filing of reports on receipts and disbursements. The remaining two printouts, a report on year-to-date employee earnings and a report on employee changes, were considered to be not related to compliance. The working papers contain no evidence of the criteria by which the auditors reached this conclusion.

Compliance accounting support costs of \$158,312 were allocated based on the number, as well as frequency, of reports produced. The auditors determined that \$98,945 of compliance accounting support costs were not compliance related. The auditors first determined the cost per report by the following method:

- divided the compliance accounting cost of \$158,312 by 22 weeks to arrive at a weekly cost of \$7,196.
- divided the weekly cost by the number of reports (8) produced in a week. Because six accounts payable reports and two general ledger reports were produced each week, 75% of weekly costs or \$5,397 was allocated to accounts payable activity and 25% of weekly costs or \$1,799 were allocated to general ledger activity.

The auditors then determined that 50% of the cost of the weekly accounts payable activity (\$2,698.50) was related to compliance because two of the four printouts in the report provided data on disbursements and supported filings on receipts and disbursements. By multiplying \$2,698.50 by 22 weeks, the auditors determined the \$59,367 related to compliance. The remaining \$59,367 associated with the accounts payable reports and all of the \$39,578 associated with general ledger reports were considered to be not related to compliance.

The working papers contain no evidence of the criteria by which the auditors determined that 50% of the accounts payable reports and all of the general ledger reports were not related to compliance.

With regard to the staff support costs, the allocation method was strictly mathematical (C 1/15, D 1/16). The working papers do not contain an analysis of the nature or purpose of support services provided. The auditors determined, based on RNC invoices, that support costs totalled \$37,540. The costs were allocated using the percentages calculated for compliance accounting support costs. The auditors apparently assumed that because 62.5% of compliance accounting support costs were not related to compliance, then 62.5% or \$23,462.50 of staff support costs were also not related to compliance.

The absence of evidence in the working papers of the criteria by which computer costs were judged to be either related or not related to compliance is a major audit deficiency. Further, allocations based on the number of printouts is a questionable allocation technique; it assumes that all printouts require the same level of computer usage and personnel costs -- an assumption which does not recognize volumes of data processed and the fact that some reports such as the preparation of year-to-date employee earnings statements are merely a small part of the more complex activity of payroll preparation.

PAYROLL COSTS

3
5
7
9
0
4
9
3
7
3
1
5
9
The auditors determined that payroll costs totalled \$274,482.52. Of this amount, the auditors concluded that \$175,668.81 (64%) was related to compliance (D 3/3). The auditors calculated the gross salary for each individual whose salary was paid by the Compliance Fund, estimated the percentage of time the individual spent on compliance activities, and multiplied the percentage and the gross salary to arrive at payroll costs that were related to compliance.

3
5
7
9
0
4
9
3
7
3
1
5
9
The principal weakness in this approach is the methodology by which the percentage of time devoted to compliance was determined. Based on our review of the working papers we found no evidence of interviews with individual employees. Rather, it appears that the auditors obtained a job description and list of functions for each employee by interviewing, according to the FEC working papers, Mr. Haas. As discussed earlier, obtaining data through interviews requires an approach which must ensure that the data obtained is unbiased and accurate.

The following examples illustrate the problems resulting from the approach used by the FEC auditors:

- for one employee (V. Shields), the working papers show that the individual performed "all payroll." The auditors determined that 20% of the individual's time was related to compliance (D 3/2).

— for another employee (J. Pate), the working papers show that the individual "monitored budget." The auditors determined that 50% of the individual's time was related to compliance (D 3/2). In these two examples, as for all Compliance Fund employees, the working papers contain no evidence as to the method the auditor used to arrive at the percentage of time devoted to compliance.

We also noted inconsistencies among conclusions reached by the auditors. To illustrate, the auditors concluded that the time of an employee (L. DeGrandi) who was responsible for "travel expense file maintenance" was 80% compliance related. In contrast, the auditors concluded that the time of another employee (L. Wood) who "supervised travel expenses" was only 50% compliance related (D 3/1, D 3/3).

The working papers (D 3/3) also contained the following:

Auditor's note:

The Treasurer agreed with the percentages as calculated above but felt that the payroll after the 11/4/80 election should be entirely compliance related because after that date it would not be possible to further the candidate's election.

The working papers contain no evidence as to how the auditors dealt with the comment regarding post election expenses. Also, the Treasurer told us that notwithstanding the auditor's note, he

had not agreed with the calculations of the percentages of time that individual employees devoted to compliance.

CONSULTANT COSTS

8
3
3
0
4
0
3
7
5
1
6
1
The auditors determined that \$54,025.12 out of a total of \$305,460.10 in consultant costs were not related to compliance (D 1/6). As in the case of payroll costs, there is no evidence of the use of structured interview questionnaires and written interview notes. Also, the basis for the auditors' judgment as to the percentage of time devoted to compliance is not documented in the working papers. Further, the working papers contain inconsistencies in the conclusions reached. For example, fees of \$8,514 paid to a consultant to modify the Republican National Committee computer system to meet Compliance Fund requirements were allocated to compliance activities based on a percentage derived for certain computer costs (D 3/9, D 3/10). However, the fees of an individual who had responsibility for the actual operations of the computer system were allocated in total to compliance (D 3/9, D 3/10).

OVERHEAD COSTS

Overhead costs were allocated based on the percentages calculated for payroll costs -- 64% to Compliance Fund and 36% to non-compliance (D 1/3, D 1/5). Therefore, the deficiencies

MISCELLANEOUS COSTS AND ADDITIONAL OVERHEAD

The additional overhead expenses, rent (D 1/18) and security service (D 1/20), were both allocated as follows:

- the auditors determined that the Compliance Fund payroll was 9.5% of the combined payroll of RBC and the Compliance Fund.
- 9.5% of total rent and security service, was multiplied by 64% (see discussion of overhead) to determine the amount of rent and security service that should be allocated to the Compliance Fund.

40

The results of the auditors' calculations (D 1/18, D 1/20) were as follows:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Rent	\$ 6,987.93	\$ 6,273.57	\$ 13,261.50
Security Service	<u>794.84</u> <u>\$7,782.77</u>	<u>4,356.16</u> <u>\$10,629.73</u>	<u>5,151.00</u> <u>\$18,412.50</u>

The validity of these allocations rest on two assumptions:

- payroll cost is an appropriate basis for allocating rent and security service.
- the original overhead calculation is valid.

Customarily, rent and related services are allocated based on a measure such as square footage of space used. This method avoids problems that arise using payroll costs which can be affected by factors such as salary levels and occupancy by volunteers. Therefore the use of payroll costs for allocation of rent and security services seems inappropriate.

ATTACHMENT II

644-1611

Arthur J. Dellinger, Sr.
Dellinger & Dellinger
Certified Public Accountants
9220 Sunset Boulevard
Suite 206
Los Angeles, CA 90069

June 17, 1982

12 JUN 17 P 4: 06

Mr. Frank P. Reiche
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Dear Mr. Reiche:

The undersigned as the Treasurer of the Reagan for President Committee, the Reagan Bush Committee and the Reagan Bush Compliance Fund (hereinafter collectively referred to as the "Committees") hereby officially notifies the Commission that the Committees have designated Ronald E. Robertson of the law firm of Musick, Peeler & Garrett, 1200 18th Street, N.W., Suite 1175, Washington, D.C. 20036 as Special Counsel to represent the Committees before the Federal Election Commission with respect to all pending matters and the Committees have designated John J. Duffy of the law firm of Pierson, Ball & Dowd, 1200 18th Street, N.W., Suite 1000, Washington, D.C. 20036 as Associate Special Counsel with respect to all FEC matters.

In addition to myself it is contemplated that Angela M. (Bay) Buchanan and Scott Mackenzie will be conferring with your audit and legal staffs in connection with these pending matters.

All communication from the FEC's General Counsel should now be sent directly to Mr. Robertson with a copy to me at the address shown above.

All other correspondences from the Commission and its staff should be sent directly to me at the above address with copies to Mr. Robertson.

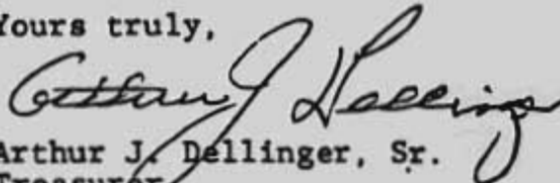
42

Mr. Frank P. Reiche
June 17, 1982
Page Two

No further communications from the Commission or its staff relating to the Committees are to be sent to Mr. Edward L. Wiedenfeld or the law firm of McKenna, Conner & Cuneo.

Thank you for your attention to these matters.

Yours truly,



Arthur J. Dellinger, Sr.
Treasurer
Reagan for President Committee
Reagan Bush Committee
Reagan Bush Compliance Fund

83040375165

ATTACHMENT III



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ronald E. Robertson, Esquire
Musick, Peeler and Garrett
Suite 1176 Ring Building
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1401

Dear Mr. Robertson:

The Commission is in receipt of your letter dated June 18, 1982, wherein you propose that the Commission and your clients, the Reagan Bush Committee/Reagan Bush Compliance Fund, enter into pre-probable cause conciliation in the above-captioned matter. The Commission is interested in entering into such negotiations, however, as members of my staff expressed to you in a meeting on June 22, 1982, we must wait for the completion of follow-up audit fieldwork in order to update and incorporate in a proposed agreement the facts as they relate to this matter.

Upon completion of the audit fieldwork, the Commission will be prepared to enter into pre-probable cause conciliation with respect to MUR 1401. At such time we anticipate presenting to you a proposed conciliation agreement.

If you have any questions, please contact Beverly Kramer at 523-4060.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

cc: Arthur J. Dellinger

44

60077986

JUN 22 2:00

MUSICK, PEELER & GARRETT

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

SUITE 1175 RING BUILDING
1200 EIGHTEENTH STREET N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 775-4627

ELDON MUSICK 1930-1988
LEROY A. GARRETT 1908-1983

LOS ANGELES OFFICE
ONE WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA
(213) 629-7800

NEWPORT BEACH OFFICE
SUITE 900
4000 MACARTHUR BOULEVARD
NEWPORT BEACH, CALIFORNIA
(714) 752-6100

DENVER OFFICE
SUITE 1800
710 SEVENTEENTH STREET
DENVER, COLORADO
(303) 859-8721

WRITER'S DIRECT DIAL NUMBER

June 18, 1982

Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Attention: Kenneth A. Gross
Associate General Counsel

Re: MUR 1401

Dear Mr. Gross:

The Reagan Bush Committee and the Reagan Bush Compliance Fund hereby request pre probable cause conciliation with regard to MUR 1401 and we hope to pursue this matter at a meeting next week.

Yours truly,

Ronald E. Robertson
Ronald E. Robertson
for Musick, Peeler & Garrett

RER:nb
Enclosure
cc: Arthur J. Dellinger
John J. Duffy, Esq.

2 JUN 22 P 4:56

83040375167

62-7677

Mem 1401

Arthur J. Dellinger, Sr.
Dellinger & Dellinger
Certified Public Accountants
9220 Sunset Boulevard
Suite 206
Los Angeles, CA 90069

June 17, 1982

2 JUN 17 4:06

Mr. Frank P. Reiche
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Dear Mr. Reiche:

The undersigned as the Treasurer of the Reagan for President Committee, the Reagan Bush Committee and the Reagan Bush Compliance Fund (hereinafter collectively referred to as the "Committees") hereby officially notifies the Commission that the Committees have designated Ronald E. Robertson of the law firm of Musick, Peeler & Garrett, 1200 18th Street, N.W., Suite 1175, Washington, D.C. 20036 as Special Counsel to represent the Committees before the Federal Election Commission with respect to all pending matters and the Committees have designated John J. Duffy of the law firm of Pierson, Ball & Dowd, 1200 18th Street, N.W., Suite 1000, Washington, D.C. 20036 as Associate Special Counsel with respect to all FEC matters.

In addition to myself it is contemplated that Angela M. (Bay) Buchanan and Scott Mackenzie will be conferring with your audit and legal staffs in connection with these pending matters.

All communication from the FEC's General Counsel should now be sent directly to Mr. Robertson with a copy to me at the address shown above.

All other correspondences from the Commission and its staff should be sent directly to me at the above address with copies to Mr. Robertson.

83040375139

Mr. Frank P. Reiche
June 17, 1982
Page Two

No further communications from the Commission or its staff relating to the Committees are to be sent to Mr. Edward L. Wiedenfeld or the law firm of McKenna, Conner & Cuneo.

Thank you for your attention to these matters.

Yours truly,



Arthur J. Dellinger, Sr.
Treasurer
Reagan for President Committee
Reagan Bush Committee
Reagan Bush Compliance Fund

83040375169

602#7293

RECEIVED

82 MAR 5 P2: 50

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 WASHINGTON, D.C. 20005
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 JULIE FOX BLACKSHAW
 DAVID S. BROWN
 A. VICTOR BRUN, JR.
 JESSE CARGO, JR.
 KENNETH A. CHEITUM
 DAVID A. CHURCHILL
 HUGH R. COFFIN
 SCOTT F. COOPER
 JOHN A. COURTNEY
 MARY C. DELANEY
 LELAND G. DRISH
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 KAREN E. EBEL
 OWEN J. ELLIS
 T. MARK FLANAGAN, JR.
 THOMAS R. FLETCHER
 RONALD M. GRIFFITH
 BRUCE A. HIRONAKA
 ROBERT J. HORN
 STEVEN P. HOWARTH
 THOMAS W. HUSSEY
 ALLAN H. IKOWITZ
 JESSE S. ISHIIAWAY
 MICHAEL T. JAHN
 ROBERT J. KALERS
 MICHAEL T. KAVANAGH
 STEPHEN D. KNIGHT
 KENNETH E. KOHLER
 DOROTHY S. LAMBERT
 MICHAEL T. LAMBERT
 CHRISTINE M. LANGENFELD
 MICHELLE L. LAWSON
 DARRYL J. LEE
 JOHN F. LEHR, JR.
 THOMAS A. LEMMER
 ADELE G. LEVITT
 FREDERIC M. LEVY
 ROBERT M. LINDQUIST
 JOSEPH T. LYNAL
 STANLEY D. MABITT
 JUDITH E. McCAFFREY
 C. STEVEN MURPHY
 MONA D. MILLER
 SUSAN A. MITCHELL
 STEVEN C. NOCK
 RICHARD B. OLIVER
 ANTHONY M. PALLADINO
 THOMAS C. PABSON
 BARBARA A. POTASHNICK
 ARTHUR SIDAY
 ARTHUR P. SILBERGELD
 SARA J. SMITH
 SABRINA A. STANLEY
 MARTIN E. STEERE
 DEL STILTNER
 JERRY STOUCK
 BONNIE A. SULLIVAN
 JEFFREY A. TISDALE
 STEPHANIE TSACOLMIS
 CURTIS ULLMAN
 CHRISTIAN VOLZ
 CHARLES E. WARDMAN, JR.
 ROBERT M. WARDMAN
 BRIAN S. WHITE
 LOUISE P. WISER
 RENEE YOSHIDA
 DEAN J. ZIPSER

WILBIE H. ADAMS, JR.
 JEFFREY A. ALTMAN
 ROBERT A. ANTHONY
 ROBERT S. BADAL
 DANIEL M. BELIN
 MICHAEL D. BERN
 STEVEN L. BRIDGERMAN
 JOHN D. CONNER
 JOHN D. CONNER, JR.
 EDWARD H. CONNOR
 ROHMAN DANTLW
 JOHN F. DAVIS
 C. STANLEY DESSA
 RONALD J. DUFELCE
 LAWRENCE S. EBERH
 AUDRE L. ENGLEMAN
 LAWRENCE H. FARNELL
 HERBERT L. FENSTER
 RICHARD A. FINN
 PAUL FITTING
 D. MICHAEL FITZHUGH
 RICHARD A. FLYE
 TERRY A. FRALCHT
 S. HOWDEN FRASER
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 JAMES J. GALLAGHER
 L. ANDREW GIFFORD
 DAVID J. GRANTY
 ALLEN S. GREEN
 ROBERT E. GREGG
 MICHAEL R. GREGORY
 E. SANDERSON HOG
 JOE G. HOLLINGSWORTH
 TERRY G. KELLY
 BERNARD KOLBOR
 MARTIN H. KRESSE
 EDWIN K. LOWE
 ROBERT A. MANDRUS
 ELLEN R. MARSHALL
 MICHAEL A. MCDONNELL
 ORVILLE W. MCDONNELL
 WILLIAM F. MCKENNA
 LANE L. MURPHY
 CHARLES S. MILLER
 CHARLES A. O'DONNOR, JR.
 JOHN B. PACHTER
 JARON H. PECK
 RAYMOND S. E. PUSKAS
 NORMAN H. RAIDEN
 DOUGLAS H. RAYLINS
 MICHAEL ROSTER
 MARTIN S. SCHWARTZ
 HARVEY S. SHERES
 L. BRUCE SPEDDER
 WILLIAM J. SPRINGER
 JEFFREY E. STEINER
 JAMES R. WATHER
 EDWARD L. WIDENFELD
 KENNETH W. WENSTEIN
 LEE J. WIDSTEIN
 BUEL WHITE
 DANIEL H. WILKIN
 CHARLES E. YONKERS

COUNSEL
 EDWARD LABREY
 ALBERT L. REYES
 ALBERT H. COLE
 HAR GOLDENBY
 JOEL P. SHEDDY
 RICHARD J. PERRY, JR.

NOT ADMITTED IN CALIFORNIA
 NOT ADMITTED IN D.C.
 WRITER'S DIRECT DIAL NUMBER
 (202) 789-7500

March 4, 1982

Charles N. Steele, Esq.
 General Counsel
 Federal Election Commission
 1305 K Street, N.W.
 Washington, D.C. 20463

Dear Mr. Steele:

In accordance with Federal Election Commission procedures, the Reagan Bush Committee (the "Committee") and the Reagan Bush Compliance Fund (the "Fund") hereby respond to the General Counsel's brief attached to the Commission's letter dated February 1, 1982. In the brief, the Committee is alleged to have violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Fund to defray expenses incurred by the Committee. The Committee's response clearly establishes that no violation of 11 C.F.R. § 9003.3(a)(2)(i) occurred.

INTRODUCTION

The Fund was formed on May 29, 1980. The Fund's purpose was to raise contributions to offset legal and accounting costs incurred by the Committee in complying with the requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431 et

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seq.) and the Presidential Election Campaign Financing Act (2 U.S.C. § 9001 et seq.). Although the Committee contended at the time of the audit (and still contends) that all legal and accounting costs were compliance expenditures, the Committee agreed to allocate those fund expenditures which may have benefited Committee operations.

Allocations were made using FEC allocation methods and other allocation methods rationally related to the expenditure involved. As a result, the Committee allocated \$137,883.67 to Committee operations and reported this amount as Committee operating expenses. The General Counsel disputes the results of this allocation, maintaining that an additional \$178,304.99 benefited the Committee and should be reported as Committee operating expenses.

The Committee contends that the General Counsel's conclusion is incorrect because: (1) as explained below, the Committee's allocations are based on FEC and other appropriate allocation methods; and (2) as explained previously, the audit provides no basis to dispute these methods. Moreover, the Committee notes that the General Counsel in reaching his conclusion ignored the fact that after November 4, 1980 (the date of the presidential election) all expenditures incurred were, by definition, compliance expenditures. However, because of a lack of guidance in both the law and regulations on this matter, the Committee, while reserving its right to pursue this issue, allocated fund expenditures incurred through March 31, 1981.

COMMITTEE ALLOCATION METHODOLOGY

The Committee allocated the following twelve expenditure categories between Fund and Committee activities:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Computer Costs
- (9) Reimbursed expenses
- (10) Consultants
- (11) Sundry expenditures
- (12) In-kind accounting expenditures

The allocation of each of these categories was explained to FEC auditors at the time of the audit. The explanations are restated below. (Worksheets describing the allocations are provided in Attachment 1.)

General

During the primary audit, the Reagan for President Committee contended that the Treasurer's office payroll and related expenses were solely compliance related, because the expenses were incurred in complying with federal election laws. During the audit the FEC disagreed, stating that 15 percent of these expenditures were not compliance related. The FEC derived the 15 percent allocation to noncompliance activities from activity studies of campaigns of similar sizes. The auditors believed "that the percentage (85%) represents a reasonable allocation of costs to exempt legal and accounting." (Report of the Audit Division on Reagan for President, p. 7, attached to a letter from Robert J. Costa to Scott dated January 30, 1981.) Although, the RFPC disagreed that any allocation was required, it acquiesced to the FEC's position.

During the audit of the general election campaign, the FEC again concluded that the Treasurer's office payroll and related expenses should be allocated to noncompliance activities. The Committee disputed this conclusion, but again acquiesced, under protest, to the FEC's insistence that an allocation be made.

The law and regulations provide little, if any, guidance to determine how costs should be allocated. Therefore, the Committee decided that the most appropriate allocation method was the 85/15 ratio used by the FEC auditors to allocate primary expenses. This method was believed to be the most appropriate because it was developed and used by the FEC to allocate identical costs in similar circumstances.

The Committee allocated the following expenditure categories using the 85/15 ratio:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Reimbursed expenses

This resulted in an allocation of \$76,322.68 to noncompliance activities. The Committee reclassified this amount as operating expenditures subject to the spending limitations of 2 U.S.C. § 441(b)(1)(B).

Computer

Prior to the nomination of the 1980 Republican candidate, the Campaign Manager and Treasurer of the Committee met with a computer expert from Arthur Young and Co. The following concerns were addressed in determining the feasibility and desirability of using a computerized accounting system for the general election.

1. If the computer route were to be chosen, a complete computer system had to be designed, set up and placed in working order within 60 days.
2. Since current accurate reports were required every 48 hours, on-line capability and immediate turn around were essential to the system.
3. The system would be needed only for a four month period.

It was determined that under normal business circumstances a computer system would not be justified, because the expense of the computer far exceeded its benefits. However, one factor, in the opinion of the Treasurer, did warrant the substantial expense of a computerized accounting system - the Federal Election Campaign Act. Therefore, the legal spending limit and the demanding accounting and reporting requirements placed on a general election campaign committee by the Act were the sole reasons for the decision to expend over \$230,000 for a payroll computer system.

However, at the insistence of FEC auditors and after an analysis of the services provided by this computer, the Committee allocated 10 percent of computer costs to Committee operations.

Consultants

The Fund employed numerous consultants to perform specific tasks. The proper method for allocating such costs is to analyze the services provided by each consultant and allocate the costs accordingly. The Committee followed this method in making its

allocations. The results of the allocation of accounting consultants were:

- 33040375179
- (a) Ted Woblicky - Served as a Systems Consultant. Mr. Woblicky developed the computer software needed to produce the reports required by the Act. The Committee believed that 100 percent of Mr. Woblicky's fees were compliance related. However, consistent with the allocation of computer costs, the Committee allocated 10 percent of Mr. Woblicky's total fees to Committee operations.
 - (b) Tom Moran - Served as a consultant to the Controller. Mr. Moran assisted the Controller, monitoring the expenditure limitations through use of detailed budgets. The FEC auditors argued that only 50 percent of Mr. Moran's functions were compliance related. While disagreeing with this position, the Committee acquiesced and allocated 50 percent of these expenses to Committee operations.
 - (c) DeLoitte, Haskins & Sells - This CPA firm prepared a report relating to implementation of a monitoring system used to ensure that the expenditure limitations were not exceeded. Fifty percent of these costs were allocated to the Committee.
 - (d) Amy Gilbert - Served as a consultant to the Treasurer. Miss Gilbert had extensive experience in FEC matters. Consequently, she assisted in balancing FEC disclosure reports and worked closely with necessary parties to assure that a computer system was established that would produce reports essential for compliance with election law. For these reasons, 100 percent of Miss Gilbert's fees were allocated to compliance.
 - (e) John Pasquali - Served as Controller for Campaign '80, Inc. The Committee allocated to compliance only those fees paid Mr. Pasquali in 1981 relating to the final audit of Campaign '80 records.

The Fund also employed two legal experts for compliance matters: Loren Smith and Mary Lee Garfield. Mr. Smith was chief counsel to the campaign and Ms. Garfield was his assistant. These individuals were responsible for all campaign legal matters. Because all campaign legal matters ultimately had campaign finance law consequences, 100 percent of their fees were allocated to compliance.

On occasion the Fund required the services of outside legal consultants for assistance on matters relating to compliance. The consultants employed and the percentage of their fees allocated to Committee operations are as follows:

- (1) Jones, Day, Reavis & Pogue (3%)
- (2) Peabody, Rivlin, Lambert & Meyers (0%)
- (3) Sedam & Herge (0%)
- (4) Gang, Tyre & Brown (50%)

The percentage allocated to Committee operations was determined by an analysis of the services provided to the Committee. (See Attachment 2 for a copy of the bills sent to the Committee.)

Sundry Expenditures

The Committee classified \$57,807.44 of allocable expenditures as "sundry". These expenditures were broken down into three categories. The first, totalling \$10,873.60, included: refundable deposits; FEC account expenses; office security; storage expenditures; and telegrams.

The Committee allocated 100 percent of these expenditures to compliance activities because:

- (1) 2 U.S.C. § 432(d) states:

The Treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Therefore, the costs involved in storing the records and in protecting them were considered to be compliance related.

- (2) The telegrams was related to solicitation of contributions for the Fund.

- (3) Refundable deposits and FEC account expenses were compliance requirements and, therefore, compliance related.

The second category, totaling \$29,035.07, included: taxes, insurance, petty cash, moving expenses, office improvements, equipment maintenance, freight, printing and materials. This category was allocated 85 percent to compliance activities and 15 percent to Committee operations using the FEC approved allocation

ratio. Use of the FEC approved allocation ratio was considered to be appropriate because each category was thought to contain a small portion of indistinguishable noncompliance expenditures.

The third category, totaling \$17,898.77, included direct mailing expenses and auto-pen costs. Fifty percent of these costs were allocated to Committee operations. At the time of the allocation, the Committee did not take into consideration 11 C.F.R. § 9003.3(a)(2)(D) which states:

Such contributions (to the compliance fund) may be used to defray the cost of soliciting contributions to the legal and accounting compliance fund.

Therefore, the Committee may wish at a later date to revise the above allocation.

In-kind Expenditures

The Compliance Fund reported \$25,621.08 in accounting services contributed by three "Big-Eight" accounting firms (Arthur Young & Co; Deloitte, Haskins & Sells; and Peat, Marwick, Mitchell & Co.) and the AICPA. These services were given and received pursuant to 2 U.S.C. § 431(8)(B)(ix)(II) and were allocated 100 percent to compliance.

The three consultants on loan from PMM & Co. (Rick Edick, Kevin Tan and John Willet) helped the Committee set-up and maintain an accounting system designed to meet the reporting and recordkeeping requirements of the Act. Arthur Young and Co. supplied the Committee with two staff accountants (Gene Preston and Cheri Kurland) who assisted in compiling and balancing the FEC disclosure reports. Mary Widner of the AICPA and Ian McKay of D,H&S were responsible for assisting the Treasurer in ensuring that disbursements were qualified campaign expenditures and proper support documentation existed. Ms. Widner and Mr. McKay also helped maintain a system designed to assure compliance with expenditure limitations.

Conclusion

The Committee allocated expenditures only after careful examination of the nature of the expenditure involved. The allocations were based on methodologies which were FEC approved or appropriate to the nature of the expenditure involved and

which resulted in rational and equitable allocations. As requested, worksheets are provided documenting these allocations. For these reasons, the Committee's allocation of \$137,883.67 to Committee operations should be accepted by the Commission.

FEC ALLOCATION METHODOLOGY

The basis of the General Counsel's determination that the Committee expended Fund assets for Committee purposes is the audit report. The audit report rejected the Committee's allocations and found that, aside from the \$137,883.67 allocated to Committee operations, an additional \$178,304.99 should be allocated to Committee operations.

Since the completion of the audit in March 1980, the Committee has disputed this audit conclusion for the following reasons:

- (1) the audit report rejects without reason an allocation ratio previously used by the FEC;
- (2) the auditors did not follow generally accepted auditing standards or accounting principles.

(See, the Committee's initial response dated July 20, 1981 and its supplemental response dated August 11, 1981 (pertinent portions are provided in Attachment 3).) The Committee believes that because these deficiencies exist, the audit finding provides no basis for the General Counsel's rejection of the Committee's allocations.

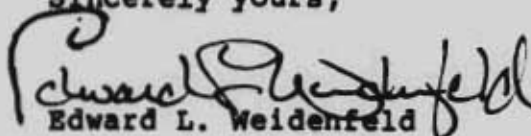
CONCLUSION

The Committee allocated Fund expenditures between the Fund and the Committee at the insistence of FEC auditors. The Committee allocated the expenses rationally, using FEC approved and other appropriate allocation methodologies. The audit report provides no basis to reject the Committee's allocations. Therefore, the General Counsel should find no probable cause and close this matter.

The Committee recognizes, as does the General Counsel, that following the auditor's allocation rationale, significant Committee costs may be allocable to the Fund. The Committee also recognizes that such an allocation may result in a complete offset to the audit report's finding. However, the Committee

believes that neither allocation is required by law, and, therefore, the issue of an offset is not addressed.

Sincerely yours,


Edward L. Weidenfeld

cc: Ms. B. Kramer

83040375178

8304035179

REAGAN BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

3884
4-3-81

[A]

COMPLIANCE EXPENDITURES PER BANCORP'S 6,386,576.34 (C-1)
LESS: NON-OPERATING EXPENDITURES:
INTERNAL TRANSFERS { 5,110,524.28 } (C-11)
LOANS TO GEC { 470,000.00 } (C-12)
SUNDAY EXPENDITURES:
GEC TRANSFERS 30,859.58 (Y-1)
CONTRIB REFUNDS 16,576.04 (Y-2) (47,399.62) (Y-12)
758,652.44 (A-1)
339,225.99 (D-1)
25,621.08 (D-2)
TOTAL OPERATING EXPENDITURES 1,123,499.57 (A-2)

OPERATING EXPENDITURES SUBJECT
TO ALLOCATION

1,123,499.57 (A-2)

83040375100

REAGAN Bush Compliance Fund
ALLOCATION TO GEC
3/31/81

288M
3-4-81

[6]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	COMPLIANCE PORTION	GENERAL PORTION
Payroll	(D-1) 339,225.99	(C-1) 288,342.09	50,883.90
Office Supplies	(C-2) 11,707.58	(C-2) 9,951.44	1,756.14
PRINTING & STATIONERY	(C-3) 16,225.25	(C-3) 13,791.46	2,433.79
TELEPHONE	(C-4) 1,608.34	(C-4) 1,367.09	241.25
FURNITURE & EQUIP	(C-5) 3,426.06	(C-5) 2,912.15	513.91
RENTALS & LEASES	(C-6) 35,774.37	(C-6) 30,408.21	5,366.16
POSTAGE & FREIGHT	(C-7) 35,851.89	(C-7) 30,474.11	5,377.78
Computer Costs	(C-8) 232,542.29	(C-8) 209,305.06	23,237.23
REIMBURSED EXPENSES	(C-10) 64,998.34	(C-10) 55,248.56	9,749.78
CONSULTANTS	(C-9) 298,680.91	(C-9) 273,681.70	24,999.21
SUNDRY EXPENDITURES	(C-0) 57,807.44	(C-1) 44,502.81	13,304.63
IN-KIND EXPENDITURES	(C-2) 25,621.05	(C-2) 25,621.05	-0-
	(A-2) 1,123,499.51	985,615.84	137,883.67

83040375131

RENTON BUSH COMPLIANCE FUND EXPENDITURE SPREAD SHEET 3/30/81

Prepared By: BGM
Approved By: 4/2/81
[C]

COLUMN WRITE	BANK	PERIOD	BANK	OFFICE	PRINTING	TELEPHONE	FURN & Equip.
				SUPPLIES	STATIONARY		
	UCB	6/1 - 6/30/80	222365.45	—	23.60	—	—
	2	7/1 - 7/31/80	192163.08	—	—	—	—
		8/1 - 8/31/80	203810.00	—	—	—	—
	Riggs	7/1 - 7/31/80	126243.67	34.67	170.00	—	—
		8/1 - 8/31/80	768337.02	4174.98	2094.30	59.24	1491.13
		9/1 - 9/15/80	76230.76	49.35	2448.62	—	465.70
		9/16 - 9/30/80	854731.04	13.20	700.80	—	—
		10/1 - 10/15/80	460192.32	1091.46	57.44	17	1079.60
		10/16 - 10/31/80	54942.03	115.00	—	—	122.13
		11/1 - 11/15/80	124366.52	963.47	—	—	—
		11/16 - 11/24/80	401096.30	—	—	—	—
		11/24 - 11/30/80	455,155.10	—	—	—	—
		12/1 - 12/15/80	27693.24	25.57	—	—	25.70
		12/16 - 12/31/80	617943.53	—	—	—	—
		1/1 - 1/31/81	616155.70	—	3435.01	80.00	—
		2/1 - 2/15/81	22503.78	—	773.11	—	241.60
		2/16 - 2/28/81	17621.70	—	1355.46	704.76	—
		3/1 - 3/15/81	8963.53	—	—	642.56	—
		3/16 - 3/30/81	12771.61	349.58	—	122.02	—
	TOTAL EXPENDITURES		6346576.34	11707.90	16225.25	1608.34	3426.46

(C-1) (C-2) (C-3) (C-4) (C-5)

83040375102

NTMS BASES	POSTAGE FREIGHT	COMPUTER COSTS	CONSULT. FEES	REIMB EXPENSES	INTERSTATE TRANSFERS	LOANS TO GEC	SUNDY	
13995.40	-	-	-	2009.84	-	205000.00	1266.61	1
500.00	-	-	-	2677.04	22332.04	165000.00	1652.40	2
-	-	-	-	2009.84	175961.03	-	27859.50	3
497.00	22946.75	4114.00	-	402.25	-	100000.00	-	4
6213.94	4766.82	767.12	23709.52	9076.09	699615.00	-	16367.21	5
1706.46	111.46	-	13530.00	990.99	33119.00	-	10915.30	6
-	1532.93	213977.10	5750.00	701.77	631963.74	-	222.85	7
1674.77	2050.94	-	14950.00	4167.75	4284601.94	-	1491.53	8
524.16	2363.18	916.87	5700.00	4125.00	33046.13	-	7760.57	9
2061.05	573.44	2610.45	5450.00	3646.34	1220452.76	-	141.76	10
460.40	322.70	-	-	313.20	400000.00	-	-	11
-	45.25	369.33	8339.12	20009.66	418461.82	-	-	12
234.00	397.16	135.13	-	2252.23	15093.72	-	9525.80	13
250.00	164.53	1095.00	192144.23	4070.00	414623.24	-	5094.20	14
1024.26	275.45	3555.52	17125.00	921.78	581760.54	-	8000.44	15
244.40	277.40	2674.57	5400.00	860.80	9625.16	-	1802.70	16
4174.80	94.00	-	2810.00	1573.07	7372.72	-	1577.17	17
1867.45	39.00	65.20	65.00	269.72	5094.25	-	6000.00	18
325.34	145.70	2157.20	3000.00	931.83	4949.04	-	750.52	19
35774.87	35851.07	232572.29	290680.41	64998.31	5110521.26	470000.00	10520.70	20
(C-6)	(C-7)	(C-8)	(C-9)	(C-10)	(C-11)	(C-12)	(C-13)	21
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83040373133

REAGAN Bush Compliance Fund
 ALLOCATION TO GEC
 3/31/81

~~3-4-81~~
 3-4-81

[D]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	PERCENTAGE COMPLIANCE	COMPLIANCE PORTION
OFFICE SUPPLIES	(C) 11,707.58	85%	(C) 9,951.44
PRINTING & STATIONERY	(C) 16,225.25	}	(C) 13,791.46
TELEPHONE	(C) 1,608.34		(C) 1,367.09
FURNITURE & EQUIP.	(C) 3,426.06		(C) 2,912.15
RENTALS & LEASES	(C) 35,774.37		(C) 30,406.21
POSTAGE & FREIGHT	(C) 35,851.69	90%	(C) 30,474.11
COMPUTER COSTS	(C) 232,572.29		(C) 209,315.06
REIMBURSED EXPENSES	(C) 64,998.31	85%	(C) 55,248.96
	402,164.09	—	353,468.06
Payroll EXPENDITURES	(C) 339,225.99	85%	(C) 288,342.09
IN-KIND EXPEND.	(C) 25,621.08	100%	(C) 25,621.08
	364,847.07	—	313,963.17

830403731B

REASON BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

~~2084~~
4-3-81

[E]

CONSULTANTS: FEE	TOTAL BILLED	PERCENTAGE COMPLIANCE	COMPLIANCE PORTION
TED WROBICKY - Computer sys.	4,186.00	90% (A)	3,767.40
TOM MORAN - BUDGETS	13,700.00	50% (B)	6,850.00
ARMY GILBERT - FEE REPORTS	32,900.00	100% (C)	32,900.00
LOREN SMITH - GENERAL COUNSEL	15,625.00	100% (D)	15,625.00
MARY GARFIELD - ASST. COUNSEL	20,590.00	100% (D)	20,590.00
JOHN PASQUALI - CAMPAIGN '80	2,810.00	100% (D)	2,810.00
JONES, DAY, REARIS & FOGUE	190,032.30	97% (E)	174,096.33
PEABODY, RIRLIN, LAMBERT & WHEELER	2,521.93	100% (F)	2,521.93
SEDAM & HERBE	2,661.56	100% (F)	2,661.56
GANG, TYRE & BROWN	15,839.12	50% (G)	7,919.56
DELOITTE, HASKINS & SELL	7,750.00	50% (G)	3,875.00
BIRLER, CARLTON, CPA'S	65.00	100% (H)	65.00
	298,680.91	—	273,681.70

- (A) THE SAME % WAS USED HERE, AS FOR THE COMPUTER COSTS.
(B) IT IS ESTIMATED THAT ONLY 50% OF BUDGETING IS COMPLIANCE.
(C) TOTAL COMPLIANCE - NO QUESTION.
(D) WRAP-UP WORK AT CAMPAIGN '80 - TOTAL COMPLIANCE.
(E) LEGAL WORK - SEE INVOICE ON HOW % WAS DERIVED.
(F) LEGAL WORK RE: FEC MATTERS.
(G) WORK ONLY CONSIDERED TO BE (1/2) COMPLIANCE.
(H) PUT TOGETHER DICK ANDREWS RPT ON CHINA TRIP, FOR FEC.

REASON CASH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

30th
4-3-81

[F]

CATEGORY	AMOUNT ALLOTTED	PERCENTAGE COMPLIANCE	COMPLIANCE PORTION
<u>Sundry expenditures:</u>			
GEC TRANSFERS (F-1)	30,859.58	— *	—
CONTRIBUTION REFUNDS (F-2)	16,540.04	— *	—
DIRECT MAIL AGEE (F-3)	17,786.27	50%	8,893.14
PAYROLL TAXES (F-4)	15,349.75	85%	13,047.29
INSURANCE (F-5)	5,147.29	85%	4,375.20
DEPOSITS (F-6)	3,315.03	100%	3,315.03
PETTY CASH (F-7)	1,101.45	85%	936.23
FEC A/C & MATERIALS (F-8)	561.77	100%	561.77
SECURITY (F-9)	6,723.50	100%	6,723.50
MOVING EXPENSES (F-10)	5,425.00	85%	4,611.25
OFFICE IMPROVEMENTS (F-11)	1,543.00	85%	1,311.55
EQUIPMENT MAINTENANCE (F-12)	315.62	85%	268.28
STORAGE (F-13)	260.00	100%	260.00
FREIGHT, PRINTING & MATERIALS (F-14)	152.96	85%	130.02
AUTO RENT EXPENSES (F-15)	112.50	50%	56.25
TELEGRAMS (F-16)	13.30	100%	13.30
(F-13)	105,207.06	—	105,207.06
(F-14)	105,207.06		
(F-15)	47,399.62		
(F-16)	57,807.44		

* - ITEMS HAVE NO EFFECT ON COMPLIANCE OR GENERAL ELECTION EXPENDITURES.

PERCENTAGES — 100% — REFLECTS A TOTAL COMPLIANCE EXP.
85% — GIVEN SAME TREATMENT AS P/R
50% — ONLY PARTIALLY COMPLIANCE ($\frac{1}{2}$)

83040375186

83040395187

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1011 OLD SPANISH LANE ROAD
MILFORD, VIRGINIA 22102

(703) 821-1000

GLENN SEDAM JR.
COURT REPORTER

EDWARD LABRECHT
A. MARK CHRISTOPHER
JOHN J. FLOOD, D.C. ONLY
MICHAEL D. HUGHES
ROBERT A. SPARKS JR.

THOMAS W. DEAN JR.
OF COUNSEL

July 2, 1980

RECEIVED

JUL 7 1980

1700 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20004

(202) 637-1000

TELETYPE: (202) 637-1000
FAX: (202) 637-1000

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During the Month of June, 1980:

Consideration of problems and examination of the law in connection with the organization and activities of Campaign '80, Inc. under the provisions of the Federal Election Campaign Act of 1971, as amended, the Communications Act of 1934, as amended, the Presidential Election Campaign Fund Act, the regulations and opinions issued thereunder by the Federal Election Commission and the Federal Communications Commission, including the preparation of a general summary of the applicable provisions of the relevant law; extensive research and analysis of the records of the Federal Election Commission relative to compliance by Presidential campaign committees; numerous conferences with representatives of Gang, Tyre & Brown relative to the application of the law; correspondence in connection with the foregoing-----

\$ 2,250.00

Miscellaneous Expenses:

Reproduction charges incurred at
the Federal Election Commission
Long distance telephone charges
Parking fees

\$33.90

3.95

4.00--

91.85

TOTAL-----\$ 2,341.85

SEDAN & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1701 22ND STREET, N.W.

MILAN, VIRGINIA 22102

1901 22ND STREET

August 12, 1980

D. FRED J. SEDAN, JR.
J. CLYDE HERGE

RONALD M. SPARKS, JR.
MICHAEL D. HUGHES
K. MARY CHRISTOPHER

1701 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20004
(202) 293-7100

TWO TELEPHONE 202-674-0000

CABLE SEDAN-HERGE

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During The Month of July, 1980:

Consideration of problems and examination
of the law in connection with the application
of the Federal Election Campaign Act of 1971,
as amended, and the Presidential Election,
Campaign Fund Act of Campaign '80, Inc.,
including the compilation of a report and
correspondence relative to the activities
of previous campaigns, issues relative to
disclaimers required by the Act; numerous
conferences relative to the application
of the Act to various factual circumstances;
correspondence in connection with the
foregoing----- \$ 270.00

Miscellaneous Expenses

Long distance telephone charges	\$ 7.20	
Federal Express charges	<u>40.51</u>	\$ 47.71
TOTAL DUE-----		<u>\$ 317.71</u>

83040375139

GANG, TYRE & BROWN, INC.
ATTORNEYS AT LAW

DAVID L. GANG
JAMES H. TYRE
HERMAN H. BROWN
LAWYERS
1815 W. PINE
CHICAGO, ILL. 60614
CHARLES H. BROWN
FRANK J. BROWN
EDWARD J. BROWN
EDWARD J. BROWN
EDWARD J. BROWN
EDWARD J. BROWN
EDWARD J. BROWN
EDWARD J. BROWN

RECEIVED OCT 16 1980

4400 SUNSET BLVD. NO.
HOLLYWOOD, CALIFORNIA 91604
TEL: 463-1400
CABLE: GANBRY
TWA 800-221-2282

October 15, 1980

Mr. Ray Buchanan
National Treasurer
Reagan/Bush Compliance Fund
901 South Highland
Arlington, Virginia 22204

Re: Reagan Campaign '80, Inc. --
Legal fees and expenses

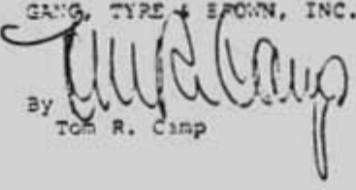
Dear Mr. Buchanan:

Enclosed is our statement for services on account
and for expenses incurred to date on behalf of Reagan
Campaign '80, Inc. We are sending the statement directly
to you as requested by Paul Muller, chief financial officer
of Reagan Campaign '80, Inc.

If you have any questions, please call me.

Very truly yours,

GANG, TYRE & BROWN, INC.

By 
Tom R. Camp

TRC:kl

Enclosure

Handwritten notes and signature

Handwritten "50"

83040373190

NO. 15410 ON 1508.11

Bureau Push Committee

August 26, 1980

MEMORANDUM TO: BILL CASEY
FROM: BAY BUCHANAN

I am attaching two bills representing expenses incurred by Campaign '80 for legal services. Paul Muller has approved them and they do not appear to be unreasonable considering Jim Lynn's bill - everything's relative. However, I would like you to review them and sign off.

I should point out that the \$7,500 figure is estimated to eventually be close to \$15,000.

BB:lp

Attachment

O.K.

I take it that
is compliance

Perhaps it would
be more clearly
so if billed to
the campaign -
I know that for
your records

83040375191

GANG, INE. & HEWNS

1405 SUNSET BLVD. S.W.
LOS ANGELES, CALIF. 90025
213-451-4913

to Reagan/Bush Compliance Fund
Ray Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

August 28, 1990

On account for services to Campaign '90, Inc. rendered
in connection with incorporation, qualification to do
business in foreign states, change to not-for-profit
status, union and guild relations, advertising submission
policies, review of contracts, and other matters relating
to compliance with Federal Election Law requirements.

\$7,500.00

SEP

1990

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LAW OFFICES
OF
GANG, TYRE, & BROWN, INC.

TO Reagan/Bush Compliance Fund
Ray Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

3400 PLINY BUILDING
LOS ANGELES, CALIF. 90028
213-452-4888

October 14, 1980

an account for services to Campaign '80, Inc. rendered
in connection with qualification to do business in
foreign states, change to not-for-profit status, union and
guild relations, advertising submission policies, review
of contracts, and other matters relating to compliance with
Federal Election Law requirements \$ 7,500.00

Costs advanced per statement dated October 9, 1980 (attached) 789.49

Additional costs:
Telephone - Virginia in August (31 calls) 49.63

\$ 8,339.12

G. RIGGS NATIONAL BANK

For *Reagan/Bush Compliance Fund*

⑆00⑆333⑆ ⑆054000030⑆ 01-08358344⑆

[Signature]

33040375193

LAW OFFICES
OF
GANG, TYRE, & BROWN, INC.

1400 SUNSET BUILDING
LOS ANGELES CALIF. 90028
213-482-4822

Reagan/Bush Compliance Fund
to Bay Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

October 9, 1980

Notes advanced:	
Postage 7/24/80	\$ 2.53
Postmaster - special handling mail 7/13 and 7/24	15.90
Secretary of State 8/5/80	15.00
Air Freight to Arlington, Va.	50.00
Postage 8/26 and 8/29	10.51
Secretary of State - Amendment to Articles	18.00
J.T. Corp. Systems - N.Y. & Virginia qualification of corporation	619.00
Telephone McLean, Va. 6/2/80, New York, Conn., Washington, D.C. (15 calls in June) and Arlington, Va. and Sacramento, Ca. July 8, 7/22 and 7/28/80	50.55
Postmaster - special handling mail 9/15	8.00
	\$ 789.49

W. RIGGS NATIONAL BANK

For deposit only - *Bay Buchanan, Inc.*

⑆0001337⑆ ⑆054000030⑆ 01⑆08368344⑆

[Signature]

83040375194

NOV 04 1980

PEARBODY, RIVLIN, LAMBERT & MEYER
ATTORNEYS AT LAW
CONVENT BUILDING TWELFTH FLOOR
NEW CONVENT BUILDING N.W.
WASHINGTON D.C. 20004

11/4 - Lead
to Dean Burch

Reagan Bush Committee
c/o James A. Baker, III
901 South Highland Street
Arlington VA 22204

October 31, 1980

TO PROFESSIONAL SERVICES

Professional services rendered through
September 30, 1980, in connection with
various Federal Election Commission
matters, including Advisory Opinion
Request re Dean Burch, including tele-
phone and office conferences with legal
staff of Commission \$2,515.00

Disbursements

Duplicating & Printing \$5.60
Postage 1.33
Total Disbursements. 6.93

TOTAL: \$2,521.93

<K. 1379

100%

83040375193

JONES, DAY, REAVIS & POGUE

1932 EYE STREET, N.W.

WASHINGTON, D.C. 20000

TEL: (202) 686-3839

CABLE: ATTORNEYS WASHINGTON

TELEX: DOMESTIC 84140

TELEX: INTERNATIONAL 84393

TELETYPE: 272-466 8848

December 30, 1980

IN CLEVELAND
1900 UNION COMMERCE BUILDING #4-5
(216) 688-3839

IN COLUMBUS
80 WEST BROAD STREET #225
(614) 482-3839

IN LOS ANGELES
2010 CENTURY PARK EAST #2001
(213) 822-3839

PERSONAL & CONFIDENTIAL

Mr. William J. Casey
Campaign Director
Reagan Bush Committee
c/o Capitol Hill Club
301 First Street, S.E.
Washington, D.C. 20003

Dear Bill:

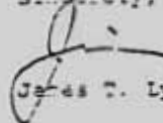
Enclosed is our firm's statement to the Reagan Bush Committee for services and expenses through October 1980.

As you know, there were certain services where we also represented the Republican National Committee. As to these, the enclosed statements reflect a 75% allocation to the Reagan Bush Committee, and we have billed the balance to the RNC.

I trust you will find the enclosed statements to be in order, but if you have any questions, please call. I would much appreciate payment in the current calendar year.

Best regards.

Sincerely,


James T. Lynn

Enclosures

83040375176

JONES, DAY, REAVIS & POGUE

1735 EYE STREET, N.W.

WASHINGTON, D.C. 20006

TEL 202 637-3919

CABLE-ATTORNEYS WASHINGTON

TELEX-DOMESTIC 89142

TELEX-INTERNATIONAL 84143

December 30, 1980

Reagan Bush Committee
Finance Division
c/o Capitol Hill Club
301 First Street, S.E.
Washington, D.C.

STATEMENT OF ACCOUNT

For all legal services rendered through October 1980
as follows:

Services rendered in connection with
various counseling matters regarding
compliance with Federal Election laws \$9,800.00

Services rendered in connection with
analysis of and possible responses to the
investigation of an administrative complaint
filed with the Federal Election Commission
by the Carter-Mondale Committee and Democratic
National Committee 28,700.00

Services rendered in connection with the
defense of a suit brought in the U.S. Court
of Appeals by the Carter-Mondale Committee
and the Democratic National Committee seeking
to block payment of \$30 million in federal
campaign funds to the Committee 75,200.00

Services rendered in connection with
representation of the Committee in a suit
filed by Common Cause in which extensive
discovery was sought from the Committee 7,900.00

Services rendered in connection with
analysis of potential liability of
Committee personnel for campaign activities 9,400.00

Services rendered in connection with
research and analysis of potential claims
regarding misuse of incumbency (A) 4,600.00

Total Services (B) \$135,500.00

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Expenses Incurred for Your Account:

In connection with the rendition of the above-described legal services, expenses were incurred in the amounts indicated:

Expenses of printing briefs \$ 12,768.99

Other expenses including copying, messenger services, telephone, staff overtime, computerized legal and factual research facilities 31,743.31

Total Expenses (P) . \$ 44,532.30

TOTAL SERVICES AND EXPENSES \$180,032.30

(B)
(A)
(C)

(E) 114,000.00

(D)
(A)
(E)
(C)
(E)

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SECTION B

ISSUE

In its Audit Report of June 19, 1981, the Federal Election Commission (FEC) concluded that \$316,188.16 of Compliance Fund expenses were not incurred to ensure compliance with the Federal Election Campaign Act of 1971, as amended, and must be shown by the Reagan Bush Committee (RBC) as expenditures subject to the limitation prescribed by 2 U.S.C. 441a(b)(1)(B).

BACKGROUND

The FEC audit report states that the audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the committees at the time of the audit. The report points out that the Compliance Fund reported total expenditures during the period of \$1,512,152.36. However, the FEC auditors' working papers deal only with expenditures of \$919,991.29 (D 1/3). Although the reasons were not specifically stated in the working papers the auditors apparently concluded that expenditures of \$919,991.29 were not solely for compliance and therefore should be subject to further analysis.

A summary of that analysis follows:

<u>Cost Category</u>	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Computer	\$ 96,356.41	\$128,751.50	\$225,107.91
Payroll	175,668.81	98,813.71	274,482.52
Consultants	251,434.98	54,025.12	305,460.10
Overhead	27,746.69	15,607.52	43,354.21
Miscellaneous	--	8,360.58	8,360.58
Additional Overhead	--	10,629.73	10,629.73
Direct costs	52,596.24	--	52,596.24
	<u>\$603,803.13</u>	<u>\$316,188.16</u>	<u>\$919,991.29</u>

The following sections discuss our review of the FEC working papers and the approaches and methodologies used by the FEC auditors and illustrate the effects of the deficiencies, in general, and on each of the major categories of cost discussed in the audit report.

We reviewed in detail the 84 individual working papers supporting the FEC auditors' findings regarding the Compliance Fund. Forty-six of the working papers consisted of invoices for services received and copies of checks as evidence of payment by the Compliance Fund. The remaining working papers consisted of:

- schedules showing the allocation of individual categories of cost such as payroll expenses to compliance related and not compliance related categories.

- summaries which describe work performed and conclusions reached for the categories of expenses.

ABSENCE OF CRITERIA

The Act and the implementing regulations provide only very basic guidance with regard to expenses to be borne by the Compliance Fund. The regulations (9003.3(a)(2)(ii)) state that:

3 3 0 4 0 3 7 5 2 0 2
All legal and accounting costs related to compliance with Title 2 and Chapter 95 of Title 26, United States Code may be paid from the compliance fund. Such costs may include payments for personnel, computer services, reproduction, mailing expenses, and independent audits to assure compliance with Title 2 or Chapter 95 of Title 26, United States Code. A committee may pay from its compliance fund costs incurred for establishing that portion of its financial accounting system which is allocable to the legal and accounting aspects of compliance. In addition, a committee may pay from its compliance fund an amount equal to 10% of all other legal and accounting compliance costs to cover overhead costs allocable to such compliance services. If the amount of overhead so allocated exceeds 10% of all other legal and accounting compliance costs, the committee shall provide proof to the Commission that the entire amount so allocated represents overhead costs relating to legal and accounting compliance services.

Further, the regulations (11 C.F.R. 9003.3(c)) state that:

Payments may not be made under 11 CFR 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. 431 et seq. and 26 U.S.C. 9001 et seq.

This guidance is by no means specific enough to provide practical criteria against which to measure whether functions performed,

represented by items of expense, were solely for compliance. What is needed under these circumstances is the development by the auditors of clear, specific statements as to what legal and accounting functions must be performed to achieve compliance, supported by explanations as to why these functions had to be performed. Only then would there be a sound basis for (1) evaluating a specific function that was actually performed and (2) reaching a logical, supported conclusion as to whether the function and its associated cost was or was not for compliance purposes.

Professional knowledge, experience, background, and personal skills of the audit staff play a major role in selecting the criteria to be used to evaluate events that have occurred. It is important to recognize that auditors bear the burden and obligation to ensure the validity and wisdom of the criteria used. In reviewing the working papers, we could not assess the validity of the criteria used by the auditors, because neither the criteria nor the application of the criteria to specific situations was documented. Rather, it appears that the auditors applied individual judgment as to the criteria against which individual items of expense were evaluated and documented the conclusions reached, but not the process by which they arrived at these conclusions.

METHODOLOGICAL DEFICIENCIES

In certain instances, particularly payroll expenses, the problems we noted in the FEC auditors' working papers due to the absence of stated evaluation criteria were compounded by deficiencies in gathering data. Allocation of costs were based, in several instances, on interviews of employees but the working papers did not contain written memoranda discussing interview results. In the absence of interview memoranda, it appears that structured interview questionnaires were not used.

Standardized interview questionnaires are frequently-used audit tools which, when properly designed and properly administered, considerably enhance the validity of data obtained through interviews. Properly designed, a structured interview questionnaire ensures that questions were developed to avoid ambiguity and bias and that answers elicited were based on a clear understanding of the questions offered. For example, a question such as "What percentage of your time was devoted to compliance activities?" would likely result in a meaningless answer unless the interviewee were provided with a clear definition of what functions are or are not considered to be compliance in nature. In the absence of this definition, the judgment as to whether an activity was compliance or not is left solely to the interviewee. The working papers contain no indication that (1) interview results were based on written structured interview questionnaires; (2) clear, unbiased questions were asked; (3) definitions were provided to

interviewees; and (4) interviewees were knowledgeable to answer the questions.

The following sections illustrate the effect of the deficiencies discussed above on each of the major elements of cost presented in the audit report.

COMPUTER COSTS

The auditors determined that total computer costs were \$225,107.91 (D 1/10). Of this amount, costs of \$16,567.91 associated with the use of three computer systems were considered to be compliance related by the auditors because the systems were used to support solicitations of contributions for the Compliance Fund (D 1/11). With regard to the remaining \$208,540 in computer costs which were for computer services furnished by the Republican National Committee, the auditors determined that costs of \$128,751.50 were not related to compliance (D 1/10).

Computer costs were divided by the auditors into the following categories for analysis and allocation:

- payroll support which included maintenance of a payroll check register and total employee earnings records
- compliance accounting support which included maintenance of the general ledger and the accounts payable system
- staff support which consisted of Republican National Committee computer personnel costs.

The following illustrates the results of the FEC auditors' allocations (D 1/10) of each of the above elements of computer costs:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Payroll Support	\$ 6,344.00	\$ 6,344.00	\$ 12,688.00
Compliance Accounting Support	59,367.00	98,945.00	158,312.00
Staff Support	<u>14,077.50</u>	<u>23,462.50</u>	<u>37,540.00</u>
	<u>\$ 79,788.50</u>	<u>\$ 128,751.50</u>	<u>\$208,540.00</u>

Payroll support costs of \$12,688 were evaluated by the auditors (D 1/13) based on the number and type of computer printouts produced. The auditors determined that two of the four printouts were prepared for compliance purposes, and therefore allocated 50% (\$6,344) of payroll support costs to compliance. The auditors determined one printout, the payroll check register, was compliance related because it produced a list of the names and addresses to whom disbursements were made. A second printout, referred to in the working papers only as "FEC Report" was also considered compliance related because it supported the filing of reports on receipts and disbursements. The remaining two printouts, a report on year-to-date employee earnings and a report on employee changes, were considered to be not related to compliance. The working papers contain no evidence of the criteria by which the auditors reached this conclusion.

Compliance accounting support costs of \$158,312 were allocated based on the number, as well as frequency, of reports produced. The auditors determined that \$98,945 of compliance accounting support costs were not compliance related. The auditors first determined the cost per report by the following method:

- divided the compliance accounting cost of \$158,312 by 22 weeks to arrive at a weekly cost of \$7,196.
- divided the weekly cost by the number of reports (8) produced in a week. Because six accounts payable reports and two general ledger reports were produced each week, 75% of weekly costs or \$5,397 was allocated to accounts payable activity and 25% of weekly costs or \$1,799 were allocated to general ledger activity.

The auditors then determined that 50% of the cost of the weekly accounts payable activity (\$2,698.50) was related to compliance because two of the four printouts in the report provided data on disbursements and supported filings on receipts and disbursements. By multiplying \$2,698.50 by 22 weeks, the auditors determined the \$59,367 related to compliance. The remaining \$59,367 associated with the accounts payable reports and all of the \$39,578 associated with general ledger reports were considered to be not related to compliance.

The working papers contain no evidence of the criteria by which the auditors determined that 50% of the accounts payable reports and all of the general ledger reports were not related to compliance.

With regard to the staff support costs, the allocation method was strictly mathematical (C 1/15, D 1/16). The working papers do not contain an analysis of the nature or purpose of support services provided. The auditors determined, based on RNC invoices, that support costs totalled \$37,540. The costs were allocated using the percentages calculated for compliance accounting support costs. The auditors apparently assumed that because 62.5% of compliance accounting support costs were not related to compliance, then 62.5% or \$23,462.50 of staff support costs were also not related to compliance.

The absence of evidence in the working papers of the criteria by which computer costs were judged to be either related or not related to compliance is a major audit deficiency. Further, allocations based on the number of printouts is a questionable allocation technique; it assumes that all printouts require the same level of computer usage and personnel costs -- an assumption which does not recognize volumes of data processed and the fact that some reports such as the preparation of year-to-date employee earnings statements are merely a small part of the more complex activity of payroll preparation.

PAYROLL COSTS

9 3 9 4 0 3 7 5 2 0 9

The auditors determined that payroll costs totalled \$274,482.52. Of this amount, the auditors concluded that \$175,668.81 (64%) was related to compliance (D 3/3). The auditors calculated the gross salary for each individual whose salary was paid by the Compliance Fund, estimated the percentage of time the individual spent on compliance activities, and multiplied the percentage and the gross salary to arrive at payroll costs that were related to compliance.

The principal weakness in this approach is the methodology by which the percentage of time devoted to compliance was determined. Based on our review of the working papers we found no evidence of interviews with individual employees. Rather, it appears that the auditors obtained a job description and list of functions for each employee by interviewing, according to the FEC working papers, Mr. Haas. As discussed earlier, obtaining data through interviews requires an approach which must ensure that the data obtained is unbiased and accurate.

The following examples illustrate the problems resulting from the approach used by the FEC auditors:

- for one employee (V. Shields), the working papers show that the individual performed "all payroll." The auditors determined that 20% of the individual's time was related to compliance (D 3/2).

- for another employee (J. Pate), the working papers show that the individual "monitored budget." The auditors determined that 50% of the individual's time was related to compliance (D 3/2). In these two examples, as for all Compliance Fund employees, the working papers contain no evidence as to the method the auditor used to arrive at the percentage of time devoted to compliance.

We also noted inconsistencies among conclusions reached by the auditors. To illustrate, the auditors concluded that the time of an employee (L. DeGrandi) who was responsible for "travel expense file maintenance" was 80% compliance related. In contrast, the auditors concluded that the time of another employee (L. Wood) who "supervised travel expenses" was only 50% compliance related (D 3/1, D 3/3).

The working papers (D 3/3) also contained the following:

Auditor's note:

The Treasurer agreed with the percentages as calculated above but felt that the payroll after the 11/4/80 election should be entirely compliance related because after that date it would not be possible to further the candidate's election.

The working papers contain no evidence as to how the auditors dealt with the comment regarding post election expenses. Also, the Treasurer told us that notwithstanding the auditor's note, he

had not agreed with the calculations of the percentages of time that individual employees devoted to compliance.

CONSULTANT COSTS

The auditors determined that \$54,025.12 out of a total of \$305,460.10 in consultant costs were not related to compliance (D 1/6). As in the case of payroll costs, there is no evidence of the use of structured interview questionnaires and written interview notes. Also, the basis for the auditors' judgment as to the percentage of time devoted to compliance is not documented in the working papers. Further, the working papers contain inconsistencies in the conclusions reached. For example, fees of \$8,514 paid to a consultant to modify the Republican National Committee computer system to meet Compliance Fund requirements were allocated to compliance activities based on a percentage derived for certain computer costs (D 3/9, D 3/10). However, the fees of an individual who had responsibility for the actual operations of the computer system were allocated in total to compliance (D 3/9, D 3/10).

OVERHEAD COSTS

Overhead costs were allocated based on the percentages calculated for payroll costs -- 64% to Compliance Fund and 36% to non-compliance (D 1/3, D 1/5). Therefore, the deficiencies

discussed regarding payroll allocations similarly apply to overhead costs.

MISCELLANEOUS COSTS AND ADDITIONAL OVERHEAD

3 2 0 4 0 3 7 5 3 1 2
The FEC auditors determined that miscellaneous costs of \$8,360.58 and additional overhead of \$10,629.73 were not related to compliance. According to the working papers (D 1/17), miscellaneous expenses consisted of expenses for certain consultants, payments to individuals, and "Checks for GEC (General Election Campaign) Payroll." However, we could not determine how the auditors arrived at the conclusion that these expenses were not related to compliance because the working paper (D1/23) which was referenced in the auditors' summary was not a part of the working papers provided by the FEC.

The additional overhead expenses, rent (D 1/18) and security service (D 1/20), were both allocated as follows:

- the auditors determined that the Compliance Fund payroll was 9.5% of the combined payroll of RBC and the Compliance Fund.
- 9.5% of total rent and security service, was multiplied by 64% (see discussion of overhead) to determine the amount of rent and security service that should be allocated to the Compliance Fund.

The results of the auditors' calculations (D 1/18, D 1/20) were as follows:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Rent	\$ 6,987.93	\$ 6,273.57	\$ 13,261.50
Security Service	<u>794.84</u> <u>\$7,782.77</u>	<u>4,356.16</u> <u>\$10,629.73</u>	<u>5,151.00</u> <u>\$18,412.50</u>

The validity of these allocations rest on two assumptions:

- payroll cost is an appropriate basis for allocating rent and security service.
- the original overhead calculation is valid.

Customarily, rent and related services are allocated based on a measure such as square footage of space used. This method avoids problems that arise using payroll costs which can be affected by factors such as salary levels and occupancy by volunteers. Therefore the use of payroll costs for allocation of rent and security services seems inappropriate.

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82 MAR 5 P2:00

FROM

McKINNA, CONNER & CUNEO
1575 EYE STREET, NORTHWEST
WASHINGTON, D. C. 20005

Charles Steele, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D. C.

BY HAND



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: GENERAL COUNSEL STEELE

FROM: MARJORIE W. ~~WILSON~~ ^{STAFFORD} / LENA STAFFORD

DATE: APRIL 30, 1982

SUBJECT: MUR 1401 - COMPREHENSIVE INVESTIGATIVE REPORT
SIGNED 4-28-82

The Comprehensive Investigative Report signed April 28, 1982, by Mr. Kenneth Gross with regard to MUR 1401 (81) Reagan Bush Committee, Reagan Bush Compliance Fund was circulated to the Commission on April 29, 1982, at 4:00 p.m. on a 24-hour no objection basis.

At the time of the deadline at 4:00 p.m. on this date, there were no objections on the record.

83040375216

April 29, 1982

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Kayson
SUBJECT: MUR 1401

Please have the attached Comprehensive Investigative
Report distributed to the Commission on a 24 hour no-
objection basis. Thank you.

Attachment

cc: Kramer

83040375217

SENSITIVE
BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

82 APR 29 11:07

In the Matter of)
) MUR 1401 (81)
Reagan Bush Committee)
Reagan Bush Compliance Fund)

COMPREHENSIVE INVESTIGATIVE REPORT #3

On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee (the "Committee") and the Reagan Bush Compliance Fund (the "Compliance Fund") violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Compliance Fund for purposes other than those enumerated in this provision. By letter dated February 2, 1982, the Commission notified the respondents of its determination in this matter. The Committee and the Compliance Fund have responded through counsel to the allegations involved.

As indicated in our last report to the Commission, the Office of General Counsel must await the completion of follow-up audit fieldwork in order to complete our review of this matter. The additional audit fieldwork was scheduled to commence on April 12, 1982. Since that date, there have been numerous reschedulings due to the Treasurer's illness and inability to meet with the auditors.

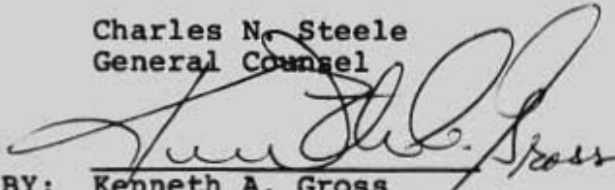
On April 26, 1982, the auditors finally met with former Committee Treasurer, Scott Mackenzie, in order to commence the

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audit fieldwork. At that time the auditors learned that much of the documentation necessary to complete their fieldwork was in storage. Hence, the fieldwork has been rescheduled to commence on May 4, 1982 at the warehouse where the documents are now located.

April 28, 1982
Date

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

93040675219



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: APRIL 12, 1982
SUBJECT: MUR 1401 - Comprehensive Investigative
Report #2 dated April 6, 1982

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 4:00, April 8, 1982.

There were no objections to the Comprehensive Investigative Report at the time of the deadline.

33040375210

April 8, 1982

MEMORANDUM TO: Marjorie W. Emmons ,
FROM: Phyllis A. Kayson
SUBJECT: MUR 1401

Please have the attached Comprehensive Investigative
Report #2 distributed to the Commission on a 24 hour no-
objection basis. Thank you.

Attachment

cc: Kramer

33040675221

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

82 APR 8 P12: 44

MUR 1401 (81)

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The Office of General Counsel is reviewing the respondent's reply. Part of this review entails the reconciliation of discrepancies noted between the Audit staff's and the Committee's allocation of costs to compliance activities. The most notable cause for this discrepancy results from the fact that the Committee allocated expenditures through March 31, 1981 while the auditor's coverage only involves expenditures made through December 31, 1980.

Additional audit fieldwork is scheduled to commence on April 12, 1982 and should be completed within one week. The fieldwork will bring us up to date on the expenditure activity of the Compliance Fund and should therefore provide the information needed to complete our review of auditor and Committee allocations.

Charles N. Steele
General Counsel

April 6, 1982
date

BY:

Kenneth A. Gross
Associate General Counsel

83040375223



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWE*
FROM: MARJORIE W. EMMONS/JODY CUSTER *Jc*
DATE: MARCH 18, 1982
SUBJECT: MUR 1401 - Comprehensive Investigative
Report #1, signed March 15, 1982; Received
in OCS, 3-16-82, 2:03

The above-named document was circulated to the
Commission on a 24 hour no-objection basis at 11:00,
March 17, 1982.

There were no objections to the Investigative Report
at the time of the deadline.

83040375224

March 16, 1982

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Kayson
SUBJECT: MUR 1401

Please have the attached Comprehensive Investigative Report circulated to the Commission on a 24 hour no-objection basis. Thank you.

Attachment

-c: Kramer

33040375211

SENSITIVE

IN THE MATTER OF)

82 MAR 16 P 2: 03

Reagan Bush Committee)

MUR 1401 (81)

Reagan Bush Compliance Fund)

COMPREHENSIVE INVESTIGATIVE REPORT #1

On January 26, 1982, the Commission found reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Compliance Fund for purposes other than those enumerated in this provision. By letter dated February 2, 1982, the Commission notified respondents of its finding and requested that they reply within ten days.

On February 12, 1982, the respondents notified the Commission that their counsel, Mr. Edward Weidenfeld, would be out of the office until February 22, 1982. For this reason, they requested an extension until March 1, 1982 in which to submit a response to the Commission's notification of findings in MUR 1401. The Office of General Counsel determined to grant the requested extension and so notified the respondents.

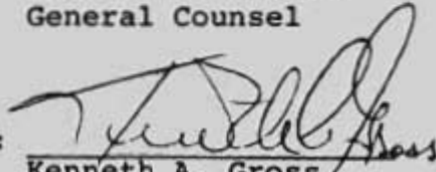
On March 1, 1982, the respondents' counsel informed this Office that their reply would not be submitted until March 5, 1982, due to problems they were experiencing in the gathering of data.

On March 5, the Office of General Counsel received the respondents' reply dated March 4, 1982. Three days later, this Office received a revised response dated March 5, 1982.

The Office of General Counsel is in the process of reviewing these responses and has requested the Audit Division to assist in the review of computational schedules, workpapers and other exhibits appended to respondents' reply.

Charles N. Steele
General Counsel

BY:


Kenneth A. Gross
Associate General Counsel

March 18, 1982
Date

83040375227

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LOUISE P. WISE
RENIE YOSHIDA
DEAN J. ZIPPER

*NOT ADMITTED IN CALIFORNIA
*NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER
(202) 789-7640

March 5, 1982

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1305 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

The Reagan Bush Committee and the Reagan Bush Compliance Fund submitted a response to the Commission's reason to believe finding involving MUR 1401 on March 4, 1982. This letter forwards an amended response, which corrects certain typographical errors. Please properly dispose of the response submitted on March 4, 1982.

I apologize for any inconvenience.

Sincerely yours,

Edward L. Weidenfeld
Edward L. Weidenfeld

Enclosure
/dac

cc: Ms. B. Kramer

33940373248

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OWEN J. ELLIS
T. MARK FLANAGAN, JR.
THOMAS R. FLETCHER
RONALD H. GRIFFITH
BRUCE A. HIRONAKA
ROBERT J. HORN
STEVEN P. HOWARTH
THOMAS W. HUSSEY
ALLAN H. ICKOWITZ
JESSE S. ISHIGAWA
MICHAEL T. JAKUB
ROBERT J. KALERS
MICHAEL T. KAVANAUGH
STEPHEN D. KNIGHT
KENNETH E. KOHLER
DOROTHY S. LAMBERT
MICHAEL T. LAMBERT
CHRISTINE W. LANGENFELD
MICHELLE L. LAMSON
DARRYL J. LEE
JOHN F. LEHR, JR.
THOMAS A. LEHNER
ADELE D. LEVITT
FREDERIC W. LEVY
ROBERT M. LINDQUIST
JOSEPH T. LYNNA, DE
STANLEY D. MABITT
JUDITH E. MCCAFFREY
C. STEVEN MURPHY
NORMA D. MILLER
SUSAN A. MITCHELL
STEVEN C. ROCK
RICHARD S. OLIVER
ANTHONY H. PALLADINO
THOMAS C. PARRON
BARBARA A. POTASHNICK
ARTHUR BISH
ARTHUR F. SILVERSELD
SARA J. SMITH
SABRINA A. STANLEY
MARTIN E. STEERE
DEL STILWELL
JERRY STOUCK
BONNIE A. SULLIVAN
JEFFREY A. TISDALE
STEPHANIE TRACOUNIS
CURTIS ULLMAN
CHRISTIAN VOLZ
CHARLES E. WASHBURN, JR.
ROBERT W. WALKER
BRYAN S. WHITE
LOUISE P. WISER
KIMIE YOSHIDA
DEAN J. ZIPPER

*NOT ADMITTED IN CALIFORNIA
*NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER
(202) 789-

March 5, 1982

REVISED

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1305 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Steele:

In accordance with Federal Election Commission procedures, the Reagan Bush Committee (the "Committee") and the Reagan Bush Compliance Fund (the "Fund") hereby responds to the General Counsel's brief attached to the Commission's letter dated February 1, 1982. In the brief, the Committee is alleged to have violated 11 C.F.R. § 9003.3(a)(2)(i) by expending private contributions to the Fund to defray expenses incurred by the Committee. The Committee's response clearly establishes that no violation of 11 C.F.R. § 9003.3(a)(2)(i) occurred.

INTRODUCTION

The Fund was formed on May 29, 1980. The Fund's purpose was to raise contributions to offset legal and accounting costs incurred by the Committee in complying with the requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. § 431 et

seq.) and the Presidential Election Campaign Financing Act (2 U.S.C. § 9001 et seq.). Although the Committee contended at the time of the audit (and still contends) that all legal and accounting costs were compliance expenditures, the Committee agreed to allocate those fund expenditures which may have benefited Committee operations.

Allocations were made using FEC allocation methods and other allocation methods rationally related to the expenditure involved. As a result, the Committee allocated \$137,883.67 to Committee operations and reported this amount as Committee operating expenses. The General Counsel disputes the results of this allocation, maintaining that an additional \$178,304.99 benefited the Committee and should be reported as Committee operating expenses.

The Committee contends that the General Counsel's conclusion is incorrect because: (1) as explained below, the Committee's allocations are based on FEC and other appropriate allocation methods; and (2) as explained previously, the audit provides no basis to dispute these methods. Moreover, the Committee notes that the General Counsel in reaching his conclusion ignored the fact that after November 4, 1980 (the date of the presidential election) all expenditures incurred, by definition, either were not campaign expenditures (see 2 U.S.C. § 431(9) or were compliance expenditures. However, because of a lack of guidance in both the law and regulations on this matter, the Committee, while reserving its right to pursue this issue, allocated fund expenditures incurred through March 31, 1981.

COMMITTEE ALLOCATION METHODOLOGY

The Committee allocated the following twelve expenditure categories between Fund and Committee activities:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Computer Costs
- (9) Reimbursed expenses
- (10) Consultants
- (11) Sundry expenditures
- (12) In-kind accounting expenditures

These expenditures were allocated as discussed below. (Worksheets describing the allocations are provided in Attachment 1.)

General

During the primary audit, the Reagan for President Committee contended that the Treasurer's office payroll and related expenses were exempt accounting and legal expenditures, because they were incurred in complying with federal election laws. During the audit the FEC disagreed, stating that 15 percent of these expenditures were not exempt. The FEC derived the 15 percent allocation from activity studies of other campaigns. The auditors believed "that the percentage (85%) represents a reasonable allocation of costs to exempt legal and accounting." (Report of the Audit Division on Reagan for President, p. 7, attached to a letter from Robert J. Costa to Scott Mackenzie dated January 30, 1981.) Although, the RFPC disagreed that any allocation was required, it acquiesced to the FEC's position.

During the audit of the general election campaign, the FEC again concluded that the Treasurer's office payroll and related expenses should be allocated to noncompliance activities. The Committee disputed this conclusion, but again acquiesced, under protest, to the FEC's insistence that an allocation be made.

The law and regulations provide little, if any, guidance to determine how costs should be allocated. Therefore, the Committee decided that the most appropriate allocation method was the 85/15 ratio used by the FEC auditors to allocate primary expenses. This method was believed to be the most appropriate because it was developed and used by the FEC to allocate identical costs in similar circumstances.

The Committee allocated the following expenditure categories using the 85/15 ratio:

- (1) Payroll
- (2) Office supplies
- (3) Printing & stationary
- (4) Telephone
- (5) Furniture & equipment
- (6) Rentals & leases
- (7) Postage & freight
- (8) Reimbursed expenses

This resulted in an allocation of \$76,322.68 to noncompliance activities. The Committee reclassified this amount as operating expenditures subject to the spending limitations of 2 U.S.C. § 441(b)(1)(B).

Computer

Prior to the nomination of the 1980 Republican candidate, the Campaign Manager and Treasurer of the Committee met with a computer expert from Arthur Young and Co. The following concerns were addressed in determining the feasibility and desirability of using a computerized accounting system for the general election.

1. If the computer route were to be chosen, a complete computer system had to be designed, set up and placed in working order within 60 days.
2. Since current accurate reports were required every 48 hours, on-line capability and immediate turn around were essential to the system.
3. The system would be needed only for a four month period.

It was determined that under normal business circumstances a computer system would not be justified, because the expense of the computer far exceeded its benefits. However, one factor, in the opinion of the Treasurer, did warrant the substantial expense of a computerized accounting system - the Federal Election Campaign Act. Therefore, the legal spending limit and the demanding accounting and reporting requirements placed on a general election campaign committee by the Act were the sole reasons for the decision to expend over \$230,000 for a payroll computer system.

However, at the insistence of FEC auditors that an allocation be made and after an analysis of the services provided by this computer, the Committee allocated 10 percent of computer costs to Committee operations.

Consultants

The Fund employed numerous consultants to perform specific tasks. The proper method for allocating such costs is to analyze the services provided by each consultant and allocate the costs accordingly. The Committee followed this method in making its

allocations. The results of the allocation of accounting consultants were:

- 23040375233
- (a) Ted Woblicky - Served as a Systems Consultant. Mr. Woblicky developed the computer software needed to produce the reports required by the Act. The Committee believed that 100 percent of Mr. Woblicky's fees were compliance related. However, consistent with the allocation of computer costs, the Committee allocated 10 percent of Mr. Woblicky's total fees to Committee operations.
 - (b) Tom Moran - Served as a consultant to the Controller. Mr. Moran assisted the Controller, monitoring the expenditure limitations through use of detailed budgets. The FEC auditors argued that only 50 percent of Mr. Moran's functions were compliance related. While disagreeing with this position, the Committee acquiesced and allocated 50 percent of these expenses to Committee operations.
 - (c) DeLoitte, Haskins & Sells - This CPA firm prepared a report to the Controller relating to implementation of a monitoring system used to ensure that the expenditure limitations were not exceeded. Fifty percent of these costs were allocated to the Committee for the reasons discussed in (b) above.
 - (d) Amy Gilbert - Served as a consultant to the Treasurer. Miss Gilbert had extensive experience in FEC matters. Consequently, she assisted in balancing FEC disclosure reports and worked closely with necessary parties to assure that a computer system was established that would produce reports essential for compliance with election law. For these reasons, 100 percent of Miss Gilbert's fees were allocated to compliance.
 - (e) John Pasquali - Served as Controller for Campaign '80, Inc. The Committee allocated to compliance only those fees paid Mr. Pasquali in 1981 relating to the final audit of Campaign '80 records.

The Fund also employed two legal experts for compliance matters: Loren Smith and Mary Lee Garfield. Mr. Smith was chief counsel to the campaign and Ms. Garfield was his assistant. These individuals were responsible for all campaign legal matters. Because all campaign legal matters ultimately had campaign finance law consequences, 100 percent of their fees were allocated to compliance.

On occasion the Fund required the services of outside legal consultants for assistance on matters relating to compliance. The consultants employed and the percentage of their fees allocated to Committee operations are as follows:

- (1) Jones, Day, Reavis & Pogue (3%)
- (2) Peabody, Rivlin, Lambert & Meyers (0%)
- (3) Sedam & Herge (0%)
- (4) Gang, Tyre & Brown (50%)

The percentage allocated to Committee operations was determined by an analysis of the services provided to the Committee. (See Attachment 2 for a copy of the bills sent to the Committee.)

Sundry Expenditures

The Committee classified \$57,807.44 of allocable expenditures as "sundry". These expenditures were broken down into three categories. The first, totalling \$10,873.60, included: refundable deposits; FEC account expenses; office security; storage expenditures; and telegrams.

The Committee allocated 100 percent of these expenditures to compliance activities because:

- (1) 2 U.S.C. § 432(d) states:

The Treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Therefore, the costs involved in storing the records and in protecting them were considered to be compliance related.

- (2) The telegrams were used to contact contributors to the Fund who recently had been contacted by the FEC.

- (3) Refundable deposits and FEC account expenses supported compliance activities and, therefore, were compliance related.

The second category, totalling \$29,035.07, included: taxes, insurance, petty cash, moving expenses, office improvements, equipment maintenance, freight, printing and materials. This category was allocated 85 percent to compliance activities and 15 percent to Committee operations using the FEC approved allocation

ratio. Use of the FEC approved allocation ratio was considered to be appropriate because each category was thought to contain a small portion of indistinguishable noncompliance expenditures.

The third category, totaling \$17,898.77, included direct mailing expenses and auto-pen costs. Fifty percent of these costs were allocated to Committee operations. At the time of the allocation, the Committee did not take into consideration 11 C.F.R. § 9003.3(a)(2)(D) which states:

Such contributions (to the compliance fund) may be used to defray the cost of soliciting contributions to the legal and accounting compliance fund.

Therefore, the Committee may wish at a later date to revise the above allocation.

In-kind Expenditures

The Compliance Fund reported \$25,621.08 in accounting services contributed by three "Big-Eight" accounting firms (Arthur Young & Co; Deloitte, Haskins & Sells; and Peat, Marwick, Mitchell & Co.) and the AICPA. These services were given and received pursuant to 2 U.S.C. § 431(8)(B)(ix)(II) and were allocated 100 percent to compliance.

The three consultants on loan from PMM & Co. (Rick Edick, Kevin Tan and John Willet) helped the Committee set-up and maintain an accounting system designed to meet the reporting and recordkeeping requirements of the Act. Arthur Young and Co. supplied the Committee with two staff accountants (Gene Preston and Cheri Kurland) who assisted in compiling and balancing the FEC disclosure reports. Mary Widner of the AICPA and Ian McKay of D,H&S were responsible for assisting the Treasurer in ensuring that disbursements were qualified campaign expenditures and proper support documentation existed. Ms. Widner and Mr. McKay also helped maintain a system designed to assure compliance with expenditure limitations.

Conclusion

The Committee allocated expenditures only after careful examination of the nature of the expenditure involved. The allocations were based on methodologies which were FEC approved or appropriate to the nature of the expenditure involved and

which resulted in rational and equitable allocations. As requested, worksheets are provided documenting these allocations. For these reasons, the Committee's allocation of \$137,883.67 to Committee operations should be accepted by the Commission.

FEC ALLOCATION METHODOLOGY

The General Counsel bases his finding that the Committee expended private contributions to the Fund to defray Committee expenses on the audit determination that \$178,304.99 should be allocated to Committee operations. Since the completion of the audit in March 1980, the Committee has disputed this audit determination because the auditors did not follow generally accepted auditing standards or accounting principles. (See, the Committee's initial response dated July 20, 1981 and its supplemental response dated August 11, 1981 (pertinent portions are provided in Attachment 3).) The Committee believes that because these deficiencies exist, the audit determination provides no basis for the General Counsel's finding of reason to believe.

CONCLUSION

The Committee allocated Fund expenditures between the Fund and the Committee at the insistence of FEC auditors. The Committee allocated the expenses rationally, using FEC approved and other appropriate allocation methodologies. The audit report provides no basis to dispute the Committee's allocations. Therefore, the General Counsel should find no probable cause and close this matter.

The Committee recognizes, as does the General Counsel, that following the auditor's allocation rationale, significant Committee costs may be allocable to the Fund. The Committee also recognizes that such an allocation may result in a complete offset to the audit report's finding. However, the Committee believes that neither allocation is required by law, and, therefore, the issue of an offset is not addressed.

Sincerely yours,

Edward L. Weidenfeld

cc: Ms. B. Kramer

REMAIN BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

BBM
4-3-81

[A]

COMPLIANCE EXPENDITURES PER BAWREC'S	6,386,576.34 (C-1)
<u>LESS:</u> NON-OPERATING EXPENDITURES:	
INTERNAL TRANSFERS	{ 5,110,524.28 } (C-11)
LOANS TO GEC	{ 470,000.00 } (C-12)
SUNDRY EXPENDITURES:	
GEC TRANSFERS 30,859.58 (Y-1)	
CARRIES REFUNDS 16,570.04 (Y-2)	(47,399.62) (Y-12)
	758,652.44 (A-1)
<u>ADD:</u> PAYROLL EXPENDITURES	339,225.99 (D-1)
IN-KIND EXPENDITURES	25,621.06 (D-2)
<u>TOTAL OPERATING EXPENDITURES</u>	<u>1,123,499.57 (A-2)</u>

OPERATING EXPENDITURES SUBJECT
TO ALLOCATION

1,123,499.57 (A-2)

33040375237

RENTON CRIM COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

CEM
3-4-81

[6]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	COMPLIANCE PORTION	GENERAL PORTION
Payroll	(C-1) 339,225.99	(C-1) 288,342.09	50,883.90
Office Supplies	(C-2) 11,707.58	(C-2) 9,951.44	1,756.14
Printing & Stationery	(C-3) 16,225.25	(C-3) 13,791.46	2,433.79
Telephone	(C-4) 1,608.34	(C-4) 1,367.89	241.25
Furniture & Equip	(C-5) 3,426.06	(C-5) 2,912.15	513.91
Rentals & Leases	(C-6) 35,774.37	(C-6) 30,408.21	5,366.16
Postage & Freight	(C-7) 35,851.89	(C-7) 30,474.11	5,377.78
Computer Costs	(C-8) 232,572.29	(C-8) 209,315.06	23,257.23
Reimbursed Expenses	(C-10) 64,998.34	(C-10) 55,248.56	9,749.78
Consultants	(C-11) 298,680.91	(C-11) 273,681.70	24,999.13
Sundry Expenditures	(C-12) 57,807.44	(C-12) 44,502.81	13,304.63
In-kind Expenditures	(C-13) 25,621.04	(C-13) 25,621.04	—
(A-2)	1,123,499.51	985,615.84	137,883.67

83040375238

REARMS BUSH COMPLIANCE FUND
EXPENDITURE SPREAD SHEET
3/30/81

Project No: 8001
Approved By: 4/2/81
[C]

BANK	PERIOD	BANK	OFFICE SUPPLIES	PRINTING STATIONERY	TELEPHONE	FURN & EQUIP.
UCB	6/1 - 6/30/80	22236545	-	2360	-	-
2	7/1 - 7/31/80	19216208	-	-	-	-
	8/1 - 8/31/80	20381077	-	-	-	-
RIGGS	7/1 - 7/31/80	12524367	3467	17000	-	-
	8/1 - 8/31/80	76233702	417498	209635	5924	149115
	9/1 - 9/15/80	7623076	493548	244862	-	46570
	9/16 - 9/30/80	85473104	1820	70000	-	-
	10/1 - 10/15/80	46019234	109146	577417	-	10996
	10/16 - 10/31/80	5194208	11500	-	-	12213
	11/1 - 11/15/80	124366523	96377	-	-	-
	11/16 - 11/30/80	40107630	-	-	-	-
	12/1 - 12/15/80	4515518	-	-	-	-
	12/16 - 12/31/80	2769321	2557	-	-	2570
	1/1 - 1/31/81	61794953	-	-	-	-
	2/1 - 2/15/81	61613570	-	343507	8000	-
	2/16 - 2/28/81	2250378	-	77311	-	24160
	3/1 - 3/15/81	1962170	-	135546	70470	-
	3/16 - 3/30/81	896453	-	-	64256	-
		1277161	34950	-	12202	-
TOTAL EXPENDITURES		63457639	1170750	1622525	160834	34210

(C-1) (C-2) (C-3) (C-4) (C-5)

33040375239

NTALS BASES	POSTAGE FREIGHT	COMPUTER COSTS	CONSULT. FEES	REIMB EXPENSES	INTERNO TRANSFERS	LOANS TO GEC	SUMMARY
139956	-	-	-	200984	-	205000	126661
500	-	-	-	267784	2233284	165000	165276
-	-	-	-	200984	17596123	-	2985150
49700	2294875	414000	-	40225	-	100000	-
621394	476642	76712	2370922	907647	699615005	-	1636722
170666	11166	-	1353000	99047	3311900	-	1891530
-	132695	21397710	575000	70177	63196374	-	22257
167474	205094	-	1495000	416770	42860194	-	140153
52416	236318	94887	570000	412500	3304013	-	796057
206105	57344	261045	525000	364030	122045270	-	14170
4606	32270	-	-	31320	400000	-	-
-	4520	36923	833912	2000960	41040102	-	-
23400	39216	13513	-	225223	509342	-	952500
250600	16453	108500	19214423	40707	41462327	-	509460
102420	23545	355550	1712500	22170	50170037	-	800044
24440	27740	267487	500000	80000	902518	-	180270
417400	94000	-	281000	157307	737270	-	157717
126745	30000	65200	65000	269700	509420	-	60000
32034	14570	215720	300000	93103	494904	-	750520
2577437	2585187	2325727	29868071	6499834	51105420	470000	1052070
(C-6)	(C-7)	(C-8)	(C-9)	(C-10)	(C-11)	(C-12)	(C-13)

33040675240

83040375241

83040375242

REAGAN BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

~~3-4-81~~
3-4-81

[D]

CATEGORY OF EXPENDITURES	AMOUNT ALLOCATED	PERCENTAGE COMPLIANCE	COMPLIANCE PORTION
OFFICE SUPPLIES	(C) 11,707.58	85%	(C) 9,951.44
PRINTING & STATIONERY	(C) 16,225.25	}	(C) 13,791.46
TELEPHONE	(C) 1,608.34		(C) 1,367.09
FURNITURE & EQUIP.	(C) 3,426.06		(C) 2,912.15
RENTALS & LEASES	(C) 35,774.37		(C) 30,408.21
POSTAGE & FREIGHT	(C) 35,851.89		(C) 30,474.11
COMPUTER COSTS	(C) 232,572.29	90%	(C) 209,315.06
REIMBURSED EXPENSES	(C) 64,998.31	85%	(C) 55,248.26
	402,164.09	—	353,468.06
Payroll expenditures	(C) 339,225.99	85%	(C) 288,342.09
IN-KIND EXPEND.	(C) 25,621.08	100%	(C) 25,621.08
	364,847.07	—	313,963.17

33040375243

REGAN Bush Compliance Fund
Allocation to GEC
3/31/81

2000
4-3-81

[E]

Consultants: Fees	TOTAL BILLED	PERCENTAGE Compliance	Compliance Portion
TED WROBICKY - Computer sys.	4,186. ⁰⁰	90% (A)	3,767. ⁴⁰
TOM MORAN - BUDGETS	13,700. ⁰⁰	50% (B)	6,850. ⁰⁰
ARMY GILBERT - FEC Reports	32,900. ⁰⁰	100% (C)	32,900. ⁰⁰
WREN SMITH - GENERAL COUNSEL	15,625. ⁰⁰	100% (D)	15,625. ⁰⁰
MARY GARFIELD - ASST. COUNSEL	20,590. ⁰⁰	100% (D)	20,590. ⁰⁰
JOHN PASQUALI - Campaign '80	2,810. ⁰⁰	100% (D)	2,810. ⁰⁰
JONES, DAY, REARIS & POORE	180,032. ³⁰	97% (E)	174,096. ³³
PEABODY, RIALIN, LAMBERT & WHEELS	2,521. ⁹³	100% (F)	2,521. ⁹³
SEDAM & HERSE	2,661. ⁵⁶	100% (F)	2,661. ⁵⁶
GANG, TYRE & BROWN	15,839. ¹²	50% (G)	7,919. ⁵⁶
DELOITTE, HASKINS & SELL	7,750. ⁰⁰	50% (G)	3,875. ⁰⁰
BICKLER, CARLTON, CPA'S	65. ⁰⁰	100% (H)	65. ⁰⁰
	<u>298,680.⁹¹</u>	—	<u>273,661.⁷⁴</u>

- (A) THE SAME % WAS USED HERE, AS FOR THE COMPUTER COSTS.
 (B) IT IS ESTIMATED THAT ONLY 50% OF BUDGETING IS COMPLIANCE.
 (C) TOTAL COMPLIANCE - NO QUESTION.
 (D) WRAP-UP WORK AT CAMPAIGN '80 - TOTAL COMPLIANCE.
 (E) LEGAL WORK - SEE INVOICE ON HOW % WAS DERIVED.
 (F) LEGAL WORK RE: FEC MATTERS.
 (G) WORK ONLY CONSIDERED TO BE (1/2) COMPLIANCE.
 (H) PUT TOGETHER DICK ANDREWS RPT ON CONNA TRIP, FOR FEC.

83040375244

REASON BUSH COMPLIANCE FUND
ALLOCATION TO GEC
3/31/81

4-3-81

[F]

CATEGORY	AMOUNT ALLOTTED	PERCENTAGE COMPLIANCE	COMPLIANCE ACTION
<u>Sundry EXPENDITURES:</u>			
GEC TRANSFERS (F-1)	30,857.58	— *	—
CONTRIBUTION REFUNDS (F-2)	16,540.04	— *	—
DIRECT MAIL PACE (F-3)	17,786.27	50%	8,893.14
PAYROLL TAXES (F-4)	15,349.75	85%	13,047.29
INSURANCE (F-5)	6,147.29	85%	4,375.20
DEPOSITS (F-6)	3,315.03	100%	3,315.03
PETTY CASH (F-7)	1,101.45	85%	936.23
FEC H/C & MATERIALS (F-8)	561.77	100%	561.77
SECURITY (F-9)	6,723.50	100%	6,723.50
MOVING EXPENSES (F-10)	5,425.10	85%	4,611.25
OFFICE IMPROVEMENTS (F-11)	1,543.00	85%	1,311.55
EQUIPMENT MAINTENANCE (F-12)	315.65	85% —	268.28
STORAGE (F-13)	260.00	100%	260.00
FREIGHT, PRINTING & MATERIALS (F-14)	152.92	85%	130.02
AUTO FEE EXPENSES (F-15)	112.50	50%	56.25
TELEGRAMS (F-16)	13.30	100%	13.30
(F-17)	105,207.06	—	(F-17) 44,502.81
(F-18)	105,207.06		
(F-19)	< 47,399.62 >		
(F-20)	57,807.44		

* — ITEMS HAVE NO EFFECT ON COMPLIANCE OR GENERAL ELECTION EXPENDITURES.

PERCENTAGES — 100% — REFLECTS A TOTAL COMPLIANCE EXP.
85% — GIVEN SAME TREATMENT AS P/R
50% — ONLY PARTIALLY COMPLIANCE (2 1/2)

53040375245

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1700 PENNSYLVANIA AVENUE, N.W.

MILAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CLAYTON HERGE

EDWARD L. ABERNETHY
A. MARK CHRISTOPHER
JOHN L. FLOOD, JR.
MICHAEL D. HUGHES
ROBERT A. SPANGLER

TWO THIRTY DAYS IN
OF COUNSEL

July 2, 1980

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

(202) 821-1000

TELETYPE: (202) 821-1000
FAX: (202) 821-1000

RECEIVED

JUL 7 1980

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During the Month of June, 1980:

Consideration of problems and examination of the law in connection with the organization and activities of Campaign '80, Inc. under the provisions of the Federal Election Campaign Act of 1971, as amended, the Communications Act of 1934, as amended, the Presidential Election Campaign Fund Act, the regulations and opinions issued thereunder by the Federal Election Commission and the Federal Communications Commission, including the preparation of a general summary of the applicable provisions of the relevant law; extensive research and analysis of the records of the Federal Election Commission relative to compliance by Presidential campaign committees, numerous conferences with representatives of Gang, Tyre & Brown relative to the application of the law; correspondence in connection with the foregoing-----

\$ 2,250.00

Miscellaneous Expenses:

Reproduction charges incurred at
the Federal Election Commission
Long distance telephone charges
Parking fees

\$33.90

3.95

4.00--

91.85

TOTAL----- \$ 2,341.85

83040375246

SEDAN & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1903 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20004

CLYDE J. SEDAN, JR.
J. EDWIN HERGE

ROBERT M. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTENSEN

1903 PENNSYLVANIA AVENUE, N.W.

August 12, 1980

1903 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004
(202) 331-7100

TELETYPE: (202) 331-0894
CABLE: SEDANHERGE

Campaign '80, Inc.
c/o Gang, Tyre & Brown
6400 Sunset Building
Hollywood, California 90010

For Legal Services Rendered During The Month of July, 1980:

Consideration of problems and examination
of the law in connection with the application
of the Federal Election Campaign Act of 1971,
as amended, and the Presidential Election,
Campaign Fund Act of Campaign '80, Inc.,
including the compilation of a report and
correspondence relative to the activities
so previous campaigns, issues relative to
disclaimers required by the Act; numerous
conferences relative to the application
of the Act to various factual circumstances;
correspondence in connection with the
foregoing----- \$ 270.00

Miscellaneous Expenses

Long distance telephone charges	\$ 7.20	
Federal Express charges	<u>40.51</u>	\$ 47.71
TOTAL DUE-----		<u>\$ 317.71</u>

83040373247

GANG, TYRE & BROWN, INC.
ATTORNEYS AT LAW

HARRY T. GANG
EDWARD A. TYRE
WILLIAM B. BROWN
JAMES H. ADAMS
R. D. W. TAYLOR
CHARLES A. HESTY
DAVID E. GILES
ARVID E. BLOOM
EDWARD E. FARRMAN
WILLIAM T. GOS
WILLIAM E. FARRMAN
WILLIAM E. FARRMAN

RECEIVED OCT 15 1980

FROM: PUBLIST, P. 12, 15
HOLLYWOOD, CA. 90048 & 90028
TEL: 462-4462
CABLE: GANBRO
TWA 810-381-8388

October 15, 1980

Ms. Ray Buchanan
National Treasurer
Reagan/Bush Compliance Fund
301 South Highland
Arlington, Virginia 22204

Re: Reagan Campaign '80, Inc. --
Local fees and expenses

Dear Ms. Buchanan:

Enclosed is our statement for services on account
and for expenses incurred to date on behalf of Reagan
Campaign '80, Inc. We are sending the statement directly
to you as requested by Paul Muller, chief financial officer
of Reagan Campaign '80, Inc.

If you have any questions, please call me.

Very truly yours,

GANG, TYRE & BROWN, INC.

By *Tom R. Camp*
Tom R. Camp

TRC:kl

Enclosure

83040375218

NO. 1211: OCTOBER 1950

Bureau Post Committee

Handwritten notes:
10/10/50
10/10/50

August 26, 1950

MEMORANDUM TO: BILL CASEY
FROM: BAY BUCHANAN

I am attaching two bills representing expenses incurred by Campaign '50 for legal services. Paul Muller has approved them and they do not appear to be unreasonable considering Jim Lynn's bill - everything's relative. However, I would like you to review them and sign off.

I should point out that the \$7,500 figure is estimated to actually be close to \$15,000.

BB:lp

Attachment

O.K.

Handwritten notes:
I take it that
is compliance
Perhaps it is not
as clear
as if billed to
the campaign -
I leave that to
your discretion

33040375218

CAN. INE. NTCWS

RECEIVED
LOS ANGELES CALIF. 11-18
21-11-11-11-11

to Reagan/Bush Compliance Fund
Ray Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

August 28, 1980

On account for services to Campaign '80, Inc. rendered
in connection with incorporation, qualification to do
business in foreign states, change to not-for-profit
status, union and guild relations, advertising submission
policies, review of contracts, and other matters relating
to compliance with Federal Election Law requirements.

\$7,810.00

SEP 1 1980

23040375250

LAW OFFICES
OF
GANG, TYRE, & BROWN, INC.

Pragan/Bush Compliance Fund
Ray Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

RECEIVED BUILDING
LOS ANGELES CALIF 90000
212-467-4899

October 14, 1980

On account for services to Campaign '80, Inc. rendered
in connection with qualification to do business in
foreign states, change to not-for-profit status, union and
guild relations, advertising submission policies, review
of contracts, and other matters relating to compliance with
Federal Election Law requirements \$ 7,500.00

Amount advanced per statement dated October 9, 1980 (attached) 789.49

Additional costs:
Telephone - Virginia in August (31 calls) 49.53

\$ 8,339.02

G. RIGGS NATIONAL BANK

Pragan/Bush Compliance Fund

⑈001337⑈ ⑈054000030⑈ 01-03358344⑈

83040375251

LAW OFFICES
OF
GANG, TYRE, & BROWN, INC.

Payson/Push Compliance Fund
to Bay Buchanan, National Treasurer
901 So. Highland
Arlington, Va. 22204

4400 SUNSET BLVD. #2
LOS ANGELES, CALIF. 90048
813-483-4883

October 9, 1980

Items advanced:

Traveler 7/24/80	\$ 2.53
Postmaster - special handling mail 7/19 and 7/24	15.90
Secretary of State 8/5/80	15.00
Air Freight to Arlington, Va.	50.00
Postmaster 8/26 and 9/29	10.51
Secretary of State - Amendment to Articles	18.00
J.T. Corp. Systems - N.Y. & Virginia qualification of corporation	619.00
Shophone McLean, Va. 8/2/80, New York, Conn., Washington, D.C. (15 calls in June) and Arlington, Va. and Sacramento, Ca. July 8, 7/22 and 7/28/80	50.55
Postmaster - special handling mail 9/15	8.00
	\$ 799.49

W. RIGGS NATIONAL BANK
ATLANTA, GA.

Pay to the order of *Bay Buchanan, Inc.*

⑈001337⑈ ⑈054000030⑈ 01⑈08368344⑈

[Signature]

33040375252

NOV 04 1980

PEARSON, RIVLIN, LAMBERT & MEYER
ATTORNEYS AT LAW
CONVENT BUILDING 10TH FLOOR
1000 CONNECTICUT AVENUE N.W.
WASHINGTON, D.C. 20004

11/4 - Sent
to Dean Burch

Reagan Bush Committee
c/o James A. Baker, III
901 South Highland Street
Arlington VA 22204

October 31, 1980

TO PROFESSIONAL SERVICES

Professional services rendered through
September 30, 1980, in connection with
various Federal Election Commission
matters, including Advisory Opinion
Request to Dean Burch, including tele-
phone and office conferences with legal
staff of Commission \$2,515.00

Disbursements

Duplicating & Printing \$5.60
Postage 1.33

Total Disbursements. 6.93

TOTAL: \$2,521.93

26,1377

105%

83040675253

JONES, DAY, REAVIS & POGUE

1932 EYE STREET N.W.

WASHINGTON, D.C. 20000

TEL: (202) 68-3839

CABLE ADDRESS: JDRP WASH-DC

TELETYPE: JDRP WASH-DC

TELETYPE: JDRP WASH-DC

TELETYPE: JDRP WASH-DC

December 30, 1980

IN CLEVELAND

1900 UNION COMMERCE BUILDING 44 E

1201 688-3839

IN COLUMBUS

80 WEST BROAD STREET 432 1

1201 468-3839

IN LOS ANGELES

2014 CENTURY PARK EAST 90067

1201 583-3839

PERSONAL & CONFIDENTIAL

Mr. William J. Casey
Campaign Director
Reagan Bush Committee
c/o Capitol Hill Club
301 First Street, S.E.
Washington, D.C. 20003

Dear Bill:

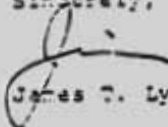
Enclosed is our firm's statement to the Reagan Bush Committee for services and expenses through October 1980.

As you know, there were certain services where we also represented the Republican National Committee. As to these, the enclosed statements reflect a 75% allocation to the Reagan Bush Committee, and we have billed the balance to the RNC.

I trust you will find the enclosed statements to be in order, but if you have any questions, please call. I would much appreciate payment in the current calendar year.

Best regards.

Sincerely,


James T. Lynn

Enclosures

93040375254

JONES, DAY, REAVIS & POGUE

1725 EYE STREET, N.W.

WASHINGTON, D.C. 20006

TEL. 802 82-3010

CABLE-ATTORNEYS WASHINGTON

TELEX-DOHESHC 87141

TELEX-INTERNATIONAL 84243

December 30, 1980

Reagan Bush Committee
Finance Division
c/o Capitol Hill Club
101 First Street, S.E.
Washington, D.C.

STATEMENT OF ACCOUNT

For all legal services rendered through October 1980
as follows:

Services rendered in connection with
various counseling matters regarding
compliance with Federal Election laws \$9,800.00

Services rendered in connection with
analysis of and possible responses to the
investigation of an administrative complaint
filed with the Federal Election Commission
by the Carter-Mondale Committee and Democratic
National Committee 28,700.00

Services rendered in connection with the
defense of a suit brought in the U.S. Court
of Appeals by the Carter-Mondale Committee
and the Democratic National Committee seeking
a block payment of \$30 million in federal
campaign funds to the Committee 75,200.00

Services rendered in connection with
representation of the Committee in a suit
filed by Common Cause in which extensive
discovery was sought from the Committee 7,800.00

Services rendered in connection with
an analysis of potential liability of
Committee personnel for campaign activities 9,400.00

Services rendered in connection with
research and analysis of potential claims
regarding misuse of incumbency (A) 4,600.00

Total Services (B) \$135,500.00

83040375255

Expenses Incurred for Your Account:

In connection with the rendition of the above-described legal services, expenses were incurred in the amounts indicated:

Expenses of printing briefs \$ 12,788.99

Other expenses including copying,
messenger services, telephone, staff
overtime, computerized legal and factual
research facilities 31,743.31

Total Expenses (D) . \$ 44,532.30

TOTAL SERVICES AND EXPENSES \$130,032.30

(B)

(A)

(C)

(E)

124,032.30

(D)

(A)

(C)

(E)

(E)

83040375256

SECTION B

ISSUE

In its Audit Report of June 19, 1981, the Federal Election Commission (FEC) concluded that \$316,188.16 of Compliance Fund expenses were not incurred to ensure compliance with the Federal Election Campaign Act of 1971, as amended, and must be shown by the Reagan Bush Committee (RBC) as expenditures subject to the limitation prescribed by 2 U.S.C. 441a(b)(1)(B).

BACKGROUND

The FEC audit report states that the audit covered the period May 29, 1980 through December 31, 1980, the final coverage date of the most recent reports filed by the committees at the time of the audit. The report points out that the Compliance Fund reported total expenditures during the period of \$1,512,152.36. However, the FEC auditors' working papers deal only with expenditures of \$919,991.29 (D 1/3). Although the reasons were not specifically stated in the working papers the auditors apparently concluded that expenditures of \$919,991.29 were not solely for compliance and therefore should be subject to further analysis.

A summary of that analysis follows:

<u>Cost Category</u>	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Computer	\$ 96,356.41	\$128,751.50	\$225,107.91
Payroll	175,668.81	98,813.71	274,482.52
Consultants	251,434.98	54,025.12	305,460.10
Overhead	27,746.69	15,607.52	43,354.21
Miscellaneous	--	8,360.58	8,360.58
Additional Overhead	--	10,629.73	10,629.73
Direct costs	<u>52,596.24</u>	<u>--</u>	<u>52,596.24</u>
	<u>\$603,803.13</u>	<u>\$316,188.16</u>	<u>\$919,991.29</u>

The following sections discuss our review of the FEC working papers and the approaches and methodologies used by the FEC auditors and illustrate the effects of the deficiencies, in general, and on each of the major categories of cost discussed in the audit report.

We reviewed in detail the 84 individual working papers supporting the FEC auditors' findings regarding the Compliance Fund. Forty-six of the working papers consisted of invoices for services received and copies of checks as evidence of payment by the Compliance Fund. The remaining working papers consisted of:

- schedules showing the allocation of individual categories of cost such as payroll expenses to compliance related and not compliance related categories.

- summaries which describe work performed and conclusions reached for the categories of expenses.

ABSENCE OF CRITERIA

The Act and the implementing regulations provide only very basic guidance with regard to expenses to be borne by the Compliance Fund. The regulations (9003.3(a)(2)(ii)) state that:

All legal and accounting costs related to compliance with Title 2 and Chapter 95 of Title 26, United States Code may be paid from the compliance fund. Such costs may include payments for personnel, computer services, reproduction, mailing expenses, and independent audits to assure compliance with Title 2 or Chapter 95 of Title 26, United States Code. A committee may pay from its compliance fund costs incurred for establishing that portion of its financial accounting system which is allocable to the legal and accounting aspects of compliance. In addition, a committee may pay from its compliance fund an amount equal to 10% of all other legal and accounting compliance costs to cover overhead costs allocable to such compliance services. If the amount of overhead so allocated exceeds 10% of all other legal and accounting compliance costs, the committee shall provide proof to the Commission that the entire amount so allocated represents overhead costs relating to legal and accounting compliance services.

Further, the regulations (11 C.F.R. 9003.3(c)) state that:

Payments may not be made under 11 CFR 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. 431 et seq. and 26 U.S.C. 9001 et seq.

This guidance is by no means specific enough to provide practical criteria against which to measure whether functions performed,

represented by items of expense, were solely for compliance. What is needed under these circumstances is the development by the auditors of clear, specific statements as to what legal and accounting functions must be performed to achieve compliance, supported by explanations as to why these functions had to be performed. Only then would there be a sound basis for (1) evaluating a specific function that was actually performed and (2) reaching a logical, supported conclusion as to whether the function and its associated cost was or was not for compliance purposes.

Professional knowledge, experience, background, and personal skills of the audit staff play a major role in selecting the criteria to be used to evaluate events that have occurred. It is important to recognize that auditors bear the burden and obligation to ensure the validity and wisdom of the criteria used. In reviewing the working papers, we could not assess the validity of the criteria used by the auditors, because neither the criteria nor the application of the criteria to specific situations was documented. Rather, it appears that the auditors applied individual judgment as to the criteria against which individual items of expense were evaluated and documented the conclusions reached, but not the process by which they arrived at these conclusions.

METHODOLOGICAL DEFICIENCIES

In certain instances, particularly payroll expenses, the problems we noted in the FEC auditors' working papers due to the absence of stated evaluation criteria were compounded by deficiencies in gathering data. Allocation of costs were based, in several instances, on interviews of employees but the working papers did not contain written memoranda discussing interview results. In the absence of interview memoranda, it appears that structured interview questionnaires were not used.

Standardized interview questionnaires are frequently-used audit tools which, when properly designed and properly administered, considerably enhance the validity of data obtained through interviews. Properly designed, a structured interview questionnaire ensures that questions were developed to avoid ambiguity and bias and that answers elicited were based on a clear understanding of the questions offered. For example, a question such as "What percentage of your time was devoted to compliance activities?" would likely result in a meaningless answer unless the interviewee were provided with a clear definition of what functions are or are not considered to be compliance in nature. In the absence of this definition, the judgment as to whether an activity was compliance or not is left solely to the interviewee. The working papers contain no indication that (1) interview results were based on written structured interview questionnaires; (2) clear, unbiased questions were asked; (3) definitions were provided to

interviewees; and (4) interviewees were knowledgeable to answer the questions.

The following sections illustrate the effect of the deficiencies discussed above on each of the major elements of cost presented in the audit report.

COMPUTER COSTS

The auditors determined that total computer costs were \$225,107.91 (D 1/10). Of this amount, costs of \$16,567.91 associated with the use of three computer systems were considered to be compliance related by the auditors because the systems were used to support solicitations of contributions for the Compliance Fund (D 1/11). With regard to the remaining \$208,540 in computer costs which were for computer services furnished by the Republican National Committee, the auditors determined that costs of \$128,751.50 were not related to compliance (D 1/10).

Computer costs were divided by the auditors into the following categories for analysis and allocation:

- payroll support which included maintenance of a payroll check register and total employee earnings records
- compliance accounting support which included maintenance of the general ledger and the accounts payable system
- staff support which consisted of Republican National Committee computer personnel costs.

The following illustrates the results of the FEC auditors' allocations (D 1/10) of each of the above elements of computer costs:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Payroll Support	\$ 6,344.00	\$ 6,344.00	\$ 12,688.00
Compliance Accounting Support	59,367.00	98,945.00	158,312.00
Staff Support	<u>14,077.50</u>	<u>23,462.50</u>	<u>37,540.00</u>
	<u>\$ 79,788.50</u>	<u>\$ 128,751.50</u>	<u>\$208,540.00</u>

Payroll support costs of \$12,688 were evaluated by the auditors (D 1/13) based on the number and type of computer printouts produced. The auditors determined that two of the four printouts were prepared for compliance purposes, and therefore allocated 50% (\$6,344) of payroll support costs to compliance. The auditors determined one printout, the payroll check register, was compliance related because it produced a list of the names and addresses to whom disbursements were made. A second printout, referred to in the working papers only as "FEC Report" was also considered compliance related because it supported the filing of reports on receipts and disbursements. The remaining two printouts, a report on year-to-date employee earnings and a report on employee changes, were considered to be not related to compliance. The working papers contain no evidence of the criteria by which the auditors reached this conclusion.

Compliance accounting support costs of \$158,312 were allocated based on the number, as well as frequency, of reports produced. The auditors determined that \$98,945 of compliance accounting support costs were not compliance related. The auditors first determined the cost per report by the following method:

- divided the compliance accounting cost of \$158,312 by 22 weeks to arrive at a weekly cost of \$7,196.
- divided the weekly cost by the number of reports (8) produced in a week. Because six accounts payable reports and two general ledger reports were produced each week, 75% of weekly costs or \$5,397 was allocated to accounts payable activity and 25% of weekly costs or \$1,799 were allocated to general ledger activity.

The auditors then determined that 50% of the cost of the weekly accounts payable activity (\$2,698.50) was related to compliance because two of the four printouts in the report provided data on disbursements and supported filings on receipts and disbursements. By multiplying \$2,698.50 by 22 weeks, the auditors determined the \$59,367 related to compliance. The remaining \$59,367 associated with the accounts payable reports and all of the \$39,578 associated with general ledger reports were considered to be not related to compliance.

The working papers contain no evidence of the criteria by which the auditors determined that 50% of the accounts payable reports and all of the general ledger reports were not related to compliance.

With regard to the staff support costs, the allocation method was strictly mathematical (C 1/15, D 1/16). The working papers do not contain an analysis of the nature or purpose of support services provided. The auditors determined, based on RNC invoices, that support costs totalled \$37,540. The costs were allocated using the percentages calculated for compliance accounting support costs. The auditors apparently assumed that because 62.5% of compliance accounting support costs were not related to compliance, then 62.5% or \$23,462.50 of staff support costs were also not related to compliance.

The absence of evidence in the working papers of the criteria by which computer costs were judged to be either related or not related to compliance is a major audit deficiency. Further, allocations based on the number of printouts is a questionable allocation technique; it assumes that all printouts require the same level of computer usage and personnel costs -- an assumption which does not recognize volumes of data processed and the fact that some reports such as the preparation of year-to-date employee earnings statements are merely a small part of the more complex activity of payroll preparation.

PAYROLL COSTS

The auditors determined that payroll costs totalled \$274,482.52. Of this amount, the auditors concluded that \$175,668.81 (64%) was related to compliance (D 3/3). The auditors calculated the gross salary for each individual whose salary was paid by the Compliance Fund, estimated the percentage of time the individual spent on compliance activities, and multiplied the percentage and the gross salary to arrive at payroll costs that were related to compliance.

The principal weakness in this approach is the methodology by which the percentage of time devoted to compliance was determined. Based on our review of the working papers we found no evidence of interviews with individual employees. Rather, it appears that the auditors obtained a job description and list of functions for each employee by interviewing, according to the FEC working papers, Mr. Haas. As discussed earlier, obtaining data through interviews requires an approach which must ensure that the data obtained is unbiased and accurate.

The following examples illustrate the problems resulting from the approach used by the FEC auditors:

- for one employee (V. Shields), the working papers show that the individual performed "all payroll." The auditors determined that 20% of the individual's time was related to compliance (D 3/2).

— for another employee (J. Pate), the working papers show that the individual "monitored budget." The auditors determined that 50% of the individual's time was related to compliance (D 3/2). In these two examples, as for all Compliance Fund employees, the working papers contain no evidence as to the method the auditor used to arrive at the percentage of time devoted to compliance.

We also noted inconsistencies among conclusions reached by the auditors. To illustrate, the auditors concluded that the time of an employee (L. DeGrandi) who was responsible for "travel expense file maintenance" was 80% compliance related. In contrast, the auditors concluded that the time of another employee (L. Wood) who "supervised travel expenses" was only 50% compliance related (D 3/1, D 3/3).

The working papers (D 3/3) also contained the following:

Auditor's note:

The Treasurer agreed with the percentages as calculated above but felt that the payroll after the 11/4/80 election should be entirely compliance related because after that date it would not be possible to further the candidate's election.

The working papers contain no evidence as to how the auditors dealt with the comment regarding post election expenses. Also, the Treasurer told us that notwithstanding the auditor's note, he

had not agreed with the calculations of the percentages of time that individual employees devoted to compliance.

CONSULTANT COSTS

The auditors determined that \$54,025.12 out of a total of \$305,460.10 in consultant costs were not related to compliance (D 1/6). As in the case of payroll costs, there is no evidence of the use of structured interview questionnaires and written interview notes. Also, the basis for the auditors' judgment as to the percentage of time devoted to compliance is not documented in the working papers. Further, the working papers contain inconsistencies in the conclusions reached. For example, fees of \$8,514 paid to a consultant to modify the Republican National Committee computer system to meet Compliance Fund requirements were allocated to compliance activities based on a percentage derived for certain computer costs (D 3/9, D 3/10). However, the fees of an individual who had responsibility for the actual operations of the computer system were allocated in total to compliance (D 3/9, D 3/10).

OVERHEAD COSTS

Overhead costs were allocated based on the percentages calculated for payroll costs -- 64% to Compliance Fund and 36% to non-compliance (D 1/3, D 1/5). Therefore, the deficiencies

discussed regarding payroll allocations similarly apply to overhead costs.

MISCELLANEOUS COSTS AND ADDITIONAL OVERHEAD

The FEC auditors determined that miscellaneous costs of \$8,360.58 and additional overhead of \$10,629.73 were not related to compliance. According to the working papers (D 1/17), miscellaneous expenses consisted of expenses for certain consultants, payments to individuals, and "Checks for GEC (General Election Campaign) Payroll." However, we could not determine how the auditors arrived at the conclusion that these expenses were not related to compliance because the working paper (D1/23) which was referenced in the auditors' summary was not a part of the working papers provided by the FEC.

The additional overhead expenses, rent (D 1/18) and security service (D 1/20), were both allocated as follows:

- the auditors determined that the Compliance Fund payroll was 9.5% of the combined payroll of RBC and the Compliance Fund.
- 9.5% of total rent and security service, was multiplied by 64% (see discussion of overhead) to determine the amount of rent and security service that should be allocated to the Compliance Fund.

The results of the auditors' calculations (D 1/18, D 1/20) were as follows:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Rent	\$ 6,987.93	\$ 6,273.57	\$ 13,261.50
Security Service	<u>794.84</u> <u>\$7,782.77</u>	<u>4,356.16</u> <u>\$10,629.73</u>	<u>5,151.00</u> <u>\$18,412.50</u>

The validity of these allocations rest on two assumptions:

- payroll cost is an appropriate basis for allocating rent and security service.
- the original overhead calculation is valid.

Customarily, rent and related services are allocated based on a measure such as square footage of space used. This method avoids problems that arise using payroll costs which can be affected by factors such as salary levels and occupancy by volunteers. Therefore the use of payroll costs for allocation of rent and security services seems inappropriate.

83040375271

FROM

McKENNA, CONNER & CUNEO
1575 EYE STREET, NORTHWEST
WASHINGTON, D. C. 20005

Charles Steele, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D. C.

BY HAND



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 16, 1982

Thomas A. Lemmer, Esquire
McKenna, Conner & Cuneo
1575 Eye Street, N.W.
Washington, D.C. 20005

Re: MUR 1401

Dear Mr. Lemmer:

This is to inform you that the Office of General Counsel has determined to grant you your requested extension until March 1, 1982 in which to submit a response in the above-referenced matter.

If you have any questions, please direct them to Beverly Kramer, the staff member assigned to this matter, at (202) 523-4060.

Sincerely,

Charles N. Steele
General Counsel

A handwritten signature in dark ink, appearing to read "Kenneth A. Gross", is written over the typed name of the Associate General Counsel.

By: Kenneth A. Gross
Associate General Counsel

33040375272

LOS ANGELES
TWENTY-EIGHTH FLOOR
3435 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90010
(213) 384-3600 • 388-9321

LAW OFFICES
MCKENNA, CONNER & CUNEO

1875 EYE STREET, N.W.
WASHINGTON, D.C. 20008
(202) 789-7500

CABLE ADDRESS: MCKENCONN WASHDC
TELEX (TWX) 710-822-0148
TELECOMER (202) 789-7584

SAN FRANCISCO
1820 MILLS TOWER
220 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
(415) 433-0840

WRITER'S DIRECT DIAL NUMBER

(202) 789- 7651

BY HAND

THOMAS A. LEMMER

February 12, 1982

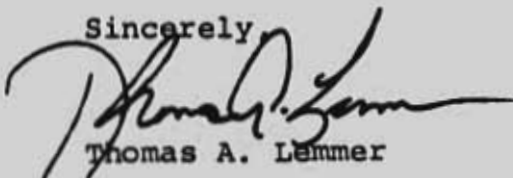
Ms. Beverly Kramer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1401

Dear Ms. Kramer:

This letter restates the request made during our conversation this morning that the Reagan Bush Committee be granted an extension to submit a response in the above-referenced matter. The response would be due March 1. This request is made because Mr. Weidenfeld will be out of the office until February 22, 1982. Should you have any questions, please call me at the number indicated above.

Sincerely,


Thomas A. Lemmer

TAL:dac

cc: Charles N. Steele, Esq.

2 FEB 12 P 3:12

33040375273

LAW OFFICES
MCKENNA, CONNER & CUNEO
1575 EYE STREET, N. W.
WASHINGTON, D. C. 20005

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

40675274

Ccc# 7159

LAW OFFICES
MCKENNA, CONNER & CUNEO

1575 EYE STREET, N.W.
WASHINGTON, D.C. 20005
(202) 789-7500

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BY HAND

February 12, 1982

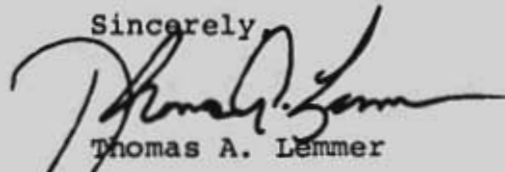
Ms. Beverly Kramer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1401

Dear Ms. Kramer:

This letter restates the request made during our conversation this morning that the Reagan Bush Committee be granted an extension to submit a response in the above-referenced matter. The response would be due March 1. This request is made because Mr. Weidenfeld will be out of the office until February 22, 1982. Should you have any questions, please call me at the number indicated above.

Sincerely,


Thomas A. Lemmer

TAL:dac

cc: Charles N. Steele, Esq.

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2 FEB 12 P 3:12

LAW OFFICES

MCKENNA, CONNER & CUNEO

1575 EYE STREET, N.W.

WASHINGTON, D.C. 20005

Ms. Beverly Kramer
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reagan Bush Committee) MUR 1401
Reagan Bush Compliance Fund)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on January 26, 1982, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1401:

1. Find reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. §9003.3(a)(2)(i).
2. Approve the letter attached to the General Counsel's January 15, 1982 report in this matter.

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

Attest:

1-28-82

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *mwe*
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: JANUARY 20, 1982
SUBJECT: ADDITIONAL OBJECTION - MUR 1401
First General Counsel's Report
dated 1-15-82

You were previously notified of an objection to the above-named matter by Commissioner Aikens.

Commissioner Elliott submitted an additional objection at 2:57, January 19, 1982.

This matter will be discussed in the Executive Session Meeting of Tuesday, January 26, 1982.

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL
FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*
DATE: JANUARY 19, 1982
SUBJECT: OBJECTION - MUR 1401 - First General
Counsel's Report dated 1-15-82, Received
in OCS, 1-15-82, 11:53

The above-named document was circulated to the Commission on
January 15, 1982 at 2:00.

Commissioner Aikens submitted an objection at 4:57, January 18,
1982.

This matter will be placed on the agenda for the Executive
Session of Tuesday, January 26, 1982.

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January 15, 1982

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1401

Please have the attached First GC Report distributed to the Commission on a 48hour tally basis. Thank you.

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SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 15, 1982

MEMORANDUM TO: Marjorie W. Emmons
FROM: Elissa T. Garr *EG*
SUBJECT: MUR 1401

Please have the attached First GC Report distributed to the Commission on a 48 hour tally basis. Thank you.

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JAN 15 11:53

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 1-15-82

MUR NO. 1401(81)
STAFF MEMBER:
Beverly Kramer

SOURCE OF MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENT'S NAME: Reagan Bush Committee
Reagan Bush Compliance Fund

RELEVANT STATUTE/REGULATION: 11 C.F.R. § 9003.3(a)(2)(i)

INTERNAL REPORTS CHECKED: Revised Final Audit Report On the Reagan
Bush Committee, Reagan Bush Compliance
Fund and Democrats For Reagan - Agenda
Document #81-064
MUR 1389

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

The Commission conducted an audit of the Reagan Bush Committee
(the "Committee")^{1/}, pursuant to its authority under 26 U.S.C.
§ 9007(a) and 11 C.F.R. § 9007.1. The audit covered the period
from May 29, 1980 through December 31, 1980 and included a review
of two reporting entities, the Reagan Bush Committee which operated
with funds received under 26 U.S.C. § 9006(b) and the Reagan Bush
Compliance Fund (the "Compliance Fund")^{2/} established in accordance

^{1/} The Reagan Bush Committee registered with the Federal Election
Commission on May 29, 1980 under the name Reagan For President
General Election Committee and served as the principal campaign
committee of the Honorable Ronald Reagan.

^{2/} On July 7, 1980, President Ronald Reagan, then Republican
candidate for President of the United States, designated the Reagan
Bush Compliance Fund as an authorized committee.

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ALL:

with 11 C.F.R. § 9003.3. During the course of the audit, the Commission's Audit Division referred this matter to the Office of General Counsel. See Attachment I.

SUMMARY OF ALLEGATIONS

Information gathered in the audit process indicates that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i). The issue involved herein is whether these entities violated section 9003.3(a)(2)(i) by using private contributions of the compliance fund to defray expenses incurred by the Reagan Bush Committee after its receipt of public matching funds.

FACTUAL BASIS

11 C.F.R. § 9003.3 permits a candidate to establish a separate account known as a legal and accounting compliance fund. This provision was added as an exemption to the public financing scheme, thereby allowing presidential candidates receiving full funding for their general election campaigns to solicit private contributions to pay the costs of services necessary to comply with the requirements of the Federal Election Campaign Act of 1971 ("the Act") and Chapter 95 of Title 26 United States Code. The Regulations narrowly restrict the use of these private funds in order to preserve the integrity of the public financing scheme. The permissible uses of such funds parallel those described in 11 C.F.R. § 100.8(b)(15) and are set forth in Section 9003.3 (a)(2)(i) as follows:

- A) to defray the cost of legal and accounting services provided solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq.;

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- B) to defray any civil or criminal penalties imposed pursuant to 2 U.S.C. § 437g or 26 U.S.C. § 9012;
- C) to make repayments under 11 C.F.R. § 9007.2;
- D) to defray the cost of soliciting contributions to the legal and accounting compliance fund; and
- E) to make a loan to an account established pursuant to 11 C.F.R. § 9003.4 to defray qualified campaign expenses incurred prior to the expenditure report period or prior to receipt of federal funds.

Pursuant to 11 C.F.R. § 9003.3(a)(2)(ii)(C), payments may not be made under 11 C.F.R. § 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq.

11 C.F.R. § 9003.3(a)(2)(ii)(A) further details the permissible use of compliance funds as including payments for personnel, computer services, reproduction, mailing expenses and independent audits to assure compliance with Title 2 or Chapter 95 of Title 26 United States Code. In accordance with this section, a candidate may pay from his compliance fund costs incurred for establishing that portion of his financial accounting system which is allocable to the legal and accounting aspects of compliance.

Pursuant to 11 C.F.R. § 9003.3(a)(2)(ii)(B), reimbursements from the compliance fund may be made to the separate account maintained for federal funds under 11 C.F.R. § 9005.3(c) if costs for legal and accounting compliance services are initially paid from such account.

Information gathered in the audit process revealed that the Compliance Fund made initial payments for services which also benefitted the Reagan Bush Committee. The Compliance Fund assumed

payment of all payroll, overhead and computer costs relating to the functions of the Treasurer's Office. In addition, the Compliance Fund assumed payment for all computer costs of the Reagan Bush Committee. Through its failure to allocate these costs, the Audit Division calculates that the Compliance Fund paid \$316,188.16 to defray the cost of services which benefitted the Reagan Bush Committee. A summary of the Audit Staff's analysis follows:

<u>Cost Category</u>	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Computer	\$ 96,356.41	\$128,751.50	\$225,107.91
Payroll/ Overhead	\$203,414.79	125,050.96	328,466.46
Consultants Fees/Reimburse- ments	251,434.98	54,025.12	305,460.10
Miscellaneous	--	8,360.58	8,360.58
Direct costs	52,596.24 <u>\$603,803.13</u>	-- <u>\$316,188.16</u>	52,596.24 <u>\$919,991.29</u> 3/

Throughout the audit process, the Compliance Fund maintained that none of the expenditures were made for any other purposes than to ensure compliance with the Act. Notwithstanding that assertion, on March 31, 1981, the Committee reported in its first

3/ During the period covered by the audit, the Compliance Fund reported expenditures of \$1,512,152.36. Out of these expenditures, the Audit Staff identified expenditures of \$919,991.29 which appeared attributable in part to both compliance and operating (campaign related) activities. Based on a review of the allocable areas of expenses, the Audit staff calculated that \$316,188.16 of Compliance Fund expenses were not incurred for purposes of ensuring compliance with the Act. Remaining disbursements (\$1,512,152.36 less \$919,991.29) were for contribution refunds, loan repayments and fundraising expenses. The audit staff classified these expenses as attributable in total to compliance and therefore permissible pursuant to 11 C.F.R. § 9003.3(a)(2)(i).

quarterly report, a reimbursement to the Compliance Fund of \$137,883.67. The reimbursement apparently acknowledged that certain functions of the Treasurer's Office were allocable. Subsequent to the reporting of this reimbursement, what has remained in issue is whether additional expenditures of \$178,304.99 (\$316,188.16 less \$137,883.67) benefitted the Reagan Bush Committee and should be shown as operating expenditures subject to the limitations prescribed in 2 U.S.C. § 441a(b)(1)(B).

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The Committee maintains that aside from the aforementioned expenditures of \$137,883.67, all other costs were incurred for purposes of ensuring compliance with the Act. The Committee's computational and analysis schedules and working papers have not been provided in support of this claim. Instead, its claim is posed as an alternative to auditor calculations which the Committee avers "are based on what appear to be faulty investigative techniques, (e.g., informal interviewing of employees), ad hoc classifications of expenses, and improper allocation bases."^{4/}

Given the views of the Committee, it is appropriate that we review in some detail the basis of the auditor calculations as it applies to each allocable area in question.

Payroll/Overhead Costs

Based on a review of the functions of the Treasurer's Office,

^{4/} On June 19, 1981 the Commission issued to the Committee an interim audit report which set forth the audit findings in regard to the instant matter. By letters dated July 20, and August 11, 1981, the Committee replied to the findings of the Audit staff. Copies of the Committee's responses are found in Agenda Document #81-064 which was circulated to the Commission on September 10, 1981.

the Audit staff determined that \$125,050,96 of payroll and overhead costs associated with the Treasurer's Office should have been paid by the Reagan Bush Committee (instead of the Compliance Fund) as these expenditures were not made solely for the purpose of ensuring compliance with the Act.

In deriving this figure, the Audit staff and Compliance Fund officials reviewed the duties and responsibilities of 50 individuals in the Treasurer's office.^{5/} A percentage was determined for each individual based on an estimate of the amount of time he or she spent solely to ensure compliance with the Act. The Audit staff multiplied this percentage and the gross salary to arrive at payroll costs allocable to the Compliance Fund (64%) and the Reagan Bush Committee (36%). Overhead costs were allocated based on the percentage calculated for payroll costs -- 64% to

^{5/} The audit began approximately three months after the election. The Compliance Fund's staff complement during the audit was merely a skeleton of that which was involved in the operation during the active stage of the campaign. As a result, the Audit staff, in the absence of written job descriptions, obtained a description of the employees' job functions from the two remaining supervisors or the Treasurer as the most knowledgeable persons then available. Had the audit been conducted during a time when the full staff complement was accessible, standardized interview questionnaires may have been appropriate. However, the preliminary results were discussed with the Treasurer prior to making a determination as to the allocable ratio (campaign vs. compliance). The Treasurer signed off on the working paper displaying the various allocation ratios.

Compliance and 36% to non-compliance.^{6/}

Computer Costs

The Audit staff determined that computer costs paid by the Compliance Fund totalled \$225,107.97. Of that amount, costs of \$16,567.91 were associated with the services provided by three computer systems: Automated Correspondence Systems, United Data Systems and Vought Corporation Systems. The services related to fundraising and the solicitation of contributions to the Compliance Fund. The auditors identified the related expenses as exempt legal and accounting costs under 11 C.F.R. § 9003.3(a)(2)(i)(D) and therefore allocated 100% of the costs to compliance.

The remaining costs of \$208,540 were for computer services provided by the Republican National Committee (RNC). Based on a review of the services performed, the auditors calculated that expenses of \$128,751.50 were not made for the purposes enumerated in 11 C.F.R. § 9003.3 (i.e., were not made solely to ensure

^{6/} The Audit staff has recognized that rent and related services are frequently allocated based on the square footage of space used. However, in actuality, the Compliance Fund's functions were not performed in a discrete section of the office separate from various other campaign operations. This made it difficult to determine what square footage was used by each department. In addition, as previously noted, the campaign was over and the office organization used during the campaign no longer existed, leaving no record from which to perform such allocation. An allocation based on payroll dollars could be done utilizing existing records. Finally, this technique was included in the Financial Control and Compliance Manual For Presidential Candidates Receiving Public Financing (Primary Election Financing) and (General Election Financing), the former being circulated for comment to the 1976 and 1980 primary candidates and other interested parties and professional organizations, the latter being provided to the general election candidates for guidance. This technique was considered by the Commission as a reasonable method for allocating indirect overhead costs and applied by other presidential committees.

compliance with the Act and Chapter 95 of Title 26).

The auditors arrived at this calculation by dividing RNC computer costs into the following categories for analysis and allocation:

- Payroll Support - including the maintenance of a payroll check register and total employee earnings
- Accounting Support - including the maintenance of the general ledger and the accounts payable system.
- Staff Support - consisting of the RNC computer personnel costs.

The following illustrates the results of the auditors' analysis of each of the above elements of RNC computer costs:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>TOTAL</u>
Payroll Support	\$ 6,344.00	\$ 6,344.00	\$ 12,688.00
Accounting Support	59,367.00	98,945.00	158,312.00
Staff Support	<u>14,077.50</u>	<u>23,462.50</u>	<u>37,540.00</u>
	<u>\$ 79,788.50</u>	<u>\$128,751.50</u>	<u>\$208,540.00</u>

The auditors evaluated payroll support costs of \$12,688.00 based on the number and the nature of information provided in the computer printouts produced by the system.^{7/} The auditors

^{7/} The audit staff recognized that allocation based on the number of printouts is not the preferred method of allocation because it does not recognize possible variations in computer usage and personnel costs attendant to the production of the various reports. The auditors requested from the Treasurer a more detailed accounting concerning computer processing costs for use in their analysis. No such accounting was made available, therefore, the method chosen utilized the best information available at the time.

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determined that two of the four printouts produced were necessary to ensure compliance with the Act. Hence, the auditors allocated 50% (\$6,344.00) of payroll costs to compliance.

One of the printouts, a payroll check register, produced a list of names and addresses to whom disbursements were made. The auditors evaluated this printout as necessary to ensure compliance with the recordkeeping requirements of 2 U.S.C. § 432(c)(5). A second printout, which supported the filing of FEC reports on receipts and disbursements was considered necessary to ensure compliance with the general disclosure requirements of 2 U.S.C. § 434(a). The remaining two printouts, a report on employee earnings and a report on employee changes, were evaluated as unnecessary to ensure compliance with the Act. The information provided in these reports, (i.e., gross earnings, taxes withheld, change in employee status e.g., marital, number of exemptions, change in address) was not required to be disclosed nor maintained for purposes of ensuring compliance with the Act. Rather, such information appeared to serve the primary purpose of ensuring compliance with the requirements of the Internal Revenue Service.

Accounting support costs of \$158,312 were similarly allocated based on the number, as well as, the frequency and nature of the reports produced. The auditors determined that there were two sections of the printouts produced: a general ledger and an accounts payable package. The general ledger disclosed the overall financial status of the Reagan Bush Committee and the Compliance Fund. The accounts payable package consisted of five separate

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printouts: 1) a check register; 2) a report on receipts and disbursements; 3) a listing of vendor by invoice; 4) an alphabetical listing of vendors; and 5) a cost center report (containing information on the level of financial activity for each operational unit).

The audit staff evaluated the general ledger and the accounts payable package as to their relation with ensuring compliance with the Act. The following illustrates the audit staff's evaluation:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>
General Ledger	--	100%
Accounts Payable Package:		
Check Register	--	100% ^{8/}
Report on Receipts and Disbursements	100%	-0-
Vendor By Invoice	50%	50%
Vendor By Alpha	100%	-0-
Cost Center Report	--	100%

Three of the five printouts in the accounts payable package were allocated either in whole or in part to compliance because they contained information necessary to ensure compliance with 2 U.S.C. § 432(c)(5) and § 434(a). The vendor printouts contained duplicate information, therefore, 50% was allocated to one. The general ledger, check register, and cost center report were classified by the auditors as internal management reports. The evaluation concluded that the information in these reports would have to be maintained for operational purposes, regardless of whether the Committee was subject to the Act.

^{8/} Unlike the payroll check register evaluated for the allocation of payroll support costs, the check register contained in the accounts payable package duplicated the information provided in the vendor printouts. The vendor printouts were allocated in whole or in part to compliance.

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The auditors then determined the cost per report by the following method:

- divided the accounting cost of \$158,312 by 22 weeks to arrive at a weekly cost of \$7,196.
- divided the weekly cost by the number of reports (8) produced in a week. Because six accounts payable reports and two general ledger reports were produced each week, 75% of weekly costs or \$5,397 was allocated to accounts payable activity and 25% of weekly costs or \$1,799 were allocated to general ledger activity.

Applying the previously determined percentage of accounts payable activity (related to compliance) to the costs per report, the auditors determined that expenditures of \$59,367 were necessary to ensure compliance with the Act. The remaining \$98,945 in computer costs (\$59,367 associated with the accounts payable reports and all of the \$39,578 associated with general ledger reports) were considered to be not related to compliance.

With regard to staff support costs, the allocation method was strictly mathematical. The auditors determined, based on a review of invoices, that support costs totalled \$37,540. The costs were allocated using the percentages calculated for accounting support costs. Because 62.5% of accounting support costs were not related to compliance, the auditors determined that 62.5% or \$23,462.50 of staff support costs were also not related to compliance.

Consultant Fees Reimbursed Expenses

The audit staff determined that \$54,025.12 out of a total of \$305,460.10 in consultant costs were not related to ensuring compliance with the Act. In deriving this figure, the auditors analyzed Compliance Fund records and interviewed with two remaining supervisors and the treasurer. For each consultant, the auditors determined a percentage of time devoted to compliance. The percentage was then applied to each consultant fee

and any related reimbursable expenses.^{9/} The time devoted to, or costs associated with, compliance related legal matters were determined by the auditors' review of invoices prepared by law firms engaged in handling various services for the Committee. See Attachment II for example.

Miscellaneous Charges

The auditors determined that miscellaneous costs of \$8,360.58 were not related to compliance. Specifically, the auditors found that the following expenditures were not related to ensuring compliance with the Act:

- \$2,171.08 - printing of checks for the Reagan Bush Committee - Operating Account (federal fund account)
- \$5,838.00 - United Airline Consultant Services in conjunction with campaign tours.
- \$ 147.50 - Travel costs associated with consultants trip to New York to discuss legal matters concerning the purchase of radio and television broadcast time for Campaign 80.
- \$ 204.00 - Reimbursed expenses to consultant Steven Thayer for flight to New Hampshire.^{10/}

LEGAL ANALYSIS

The Presidential Election Campaign Fund Act of 1971, established the Presidential Campaign Fund (the Fund), financed by the voluntary taxpayer check-off system, to serve as an alternative means of financing presidential general election campaigns. Major

^{9/} For example, the percentage developed in the aforementioned computer allocation was assigned to computer consultants. A 50% ratio was assigned to budget consultants because these consultants' services had an equal influence on both the Reagan Bush Committee and the Reagan Bush Compliance Fund.

^{10/} The Committee Supervisors and Treasurer could provide no information concerning the services provided by this consultant.

party candidates who satisfy the eligibility requirements outlined in 26 U.S.C. § 9003 are entitled to equal payments from the Fund to defray all of their "qualified campaign expenses", i.e., expenses incurred by a presidential candidate and running mate, or any of their authorized committees, to further their election. 26 U.S.C. § 9002(11). Once a candidate has chosen a publicly financed campaign, he or she may accept private contributions only as they are necessary to make up for any deficiency in the Fund. 26 U.S.C. § 9006, 26 U.S.C. § 9012(a).

Despite these restrictions, the Commission's Regulations at 11 C.F.R. § 9003.3 allow a candidate to establish a legal and accounting compliance fund. The compliance fund may solicit private contributions to cover costs of services necessary to ensure compliance with the Act and Chapter 95 of Title 26. Payments made from the private contribution account for exempted legal and accounting costs are not counted against the candidate's overall expenditure limits under 2 U.S.C. § 441a(b) and 11 C.F.R. § 110.8. In permitting this exempted activity, the Commission was cognizant of the need to protect the integrity of the public financing scheme against the threat of possible abuse were committees to attempt to subsidize federal funding with private contributions to the compliance fund. Hence, the Commission introduced regulations at 11 C.F.R. § 9003.3(a)(2)(i)(A-E) and § 9003.3(a)(2)(ii)(A-C). These provisions established and limited the permissible uses of contributions to the compliance fund, authorizing expenditures made "solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq."

This matter raises questions as to whether the Reagan Bush Committee, a committee which received full funding for the 1980 general election campaign of the Honorable Ronald Reagan, expended private contributions to the Compliance Fund for purposes other than those enumerated in 11 C.F.R. § 9003.3(a)(2)(i). The auditors' analysis of the Compliance Fund activity has cast doubt on the Committee's attribution method in designating expenditures purportedly made for the sole purpose of ensuring compliance with the Act and Chapter 95 of Title 26.

The audit revealed that the Compliance Fund assumed payment for all legal and accounting costs of the Treasurer's office (i.e., computer costs, payroll costs, overhead costs, consultants fees and miscellaneous expenses). The claim to a 100% exemption is not supported by the information ascertained by the Audit Division and in light of the various functions which must be performed without respect to the requirements of the Act and implementing regulations. Such functions include, but are not limited to, the following:^{11/}

- 1) maintaining cash receipt records;
- 2) writing checks, transmitting funds (advances) to field workers, recording disbursements;
- 3) reconciling bank statements;
- 4) preparing cash flow reports;
- 5) budget preparation and budget performance reports;
- 6) keeping payroll records, paying employees, filing quarterly payroll returns and making state and federal payroll deposits; and

^{11/} These non-compliance functions were identified in the final audit report on the Reagan For President Committee (Primary Election Campaign) which was publicly released on February 2, 1981.

- 7) filing an exempt organization return (1120 POL) with the IRS (Section 527 of the Internal Revenue Service Code requires that all unrelated business income be reported. Consequently the Committee must maintain records sufficient to comply with IRS reporting and recordkeeping requirements).

Based on a review of the functions of the Treasurer's Office, the auditors found that the above-described functions should have been considered in determining a reasonable allocation of costs to compliance and operating (campaign-related) activities. The result of the auditor's consideration of such functions showed that expenditures of \$316,188.16 benefitted the Reagan Bush Committee and should have been treated as operating expenditures subject to the limitations prescribed in 2 U.S.C. § 441a(b)(1)(B).^{12/}

During the audit process, the Commission called upon the Committee to submit documentation to demonstrate that expenditures paid from the Compliance Fund were, in fact, made solely for the purpose of ensuring compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq. This inquiry was limited to expenditures of \$316,188.16, the amount determined by the auditors to have benefitted the Reagan Bush Committee.

To date, the Committee has not submitted documentation to demonstrate that the expenditures of \$316,188.16 fall within the categories of exemptions afforded in 11 C.F.R. § 9003.3. In lieu thereof, the Committee submitted an affidavit from former Committee Treasurer Bay Buchanan which included the following statement:

^{12/} It should be noted that there may be significant costs of the Reagan Bush Committee which, if reallocated to compliance, could result in an offset to the amount of costs (\$316,188.16) paid from the compliance fund which allegedly benefitted the Reagan Bush Committee. Such costs include a percentage of media expenses for recordkeeping and state expenses for office rental, utilities, equipment rentals, office supplies etc. During the audit process, the audit staff recommended to the Committee that they reallocate costs to compliance. To date, the Reagan Bush Committee has not reallocated such expenditures.

"During the general election, the benefits that RBC [the Reagan Bush Committee] received from the Compliance Fund were monitored. After the election a detailed analyses was performed and it was determined that \$137,883.67 should be paid by RBC to the Compliance Fund."

In view of the questions raised by the audit of Compliance Fund expenses, and by the Committee's reimbursement of \$137,883.67 to the Compliance Fund, the Office of General Counsel recommends that the Commission find reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i). Accordingly, we recommend that the Commission approve the attached letter. The letter includes a request for supporting documentation to the detailed analysis performed by the Reagan Bush Committee.

Recommendation

1. Find reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i).
2. Approve the attached letter.

Jan 16, 1982
Date

Charles N. Steele
General Counsel

BY:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

- Attachment I - Audit Referral (11 pages)
- Attachment II - Sample Invoice (1 page)
- Proposed Letter (2 pages)
- General Counsel's Factual & Legal Analysis (16 pages)

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4. Operating Expenditures Paid From
Reagan Bush Compliance Fund

Section 9003.3(a)(2)(ii)(A) of Title 11 of the Code of Federal Regulations states, in part, that all legal and accounting costs related to compliance with Title 2 and Chapter 95 of Title 26 of the United States Code, may be paid from a legal and accounting compliance fund. Such costs may include payments for personnel, computer services, reproduction, and mailing expenses to ensure compliance with Title 2 and Chapter 95 of Title 26. In addition, a committee may pay from its compliance fund costs incurred for establishing that portion of its financial accounting system that is allocable to the legal and accounting aspects of compliance along with an amount to cover overhead costs allocable for such compliance services.

In addition, 11 C.F.R. 9003.3(a)(2)(ii)(C) states, in part, that payments may not be made from the compliance fund for any legal and accounting services or related costs which are not performed solely to ensure compliance with Title 2 and Chapter 95 of Title 26 of the United States Code.

Introduction

The Audit staff reviewed the expenditures and supporting documentation of the Reagan Bush Compliance Fund to determine the nature of the expenditures that were made. Expenditures were classified as being (1) attributable in total to compliance, (2) attributable in total to operating (campaign activities), or (3) attributable in part to both activities.

Based on this analysis the Audit staff believes that the Reagan Bush Compliance Fund has made expenditures totaling \$316,188.16 which were not solely for the purpose of ensuring compliance with the Act. During the audit fieldwork, the Treasurer stated that it is his belief that 100% of legal and accounting costs can be paid from the Compliance Fund. It should be noted, however, that on March 31, 1981, the RBC reported a reimbursement to the Compliance Fund totaling \$137,883.67, which, according to the Treasurer, represented the benefits the RBC may have received from Compliance Fund expenditures.

On June 16, 1981, the Commission approved the Audit staff's recommendation that within 30 days of receipt of the interim report the Reagan Bush Committee reimburse the Reagan Bush Compliance Fund the balance of \$178,304.49 (\$316,188.16 - \$137,883.67), or submit documentation which demonstrates that the expenditures were, in fact, made solely for the purpose of ensuring compliance with the Act.

Furthermore, it should be noted that certain operating expenditures made by the Reagan Bush Committee from its Federal funds account(s) may have benefited the Reagan Bush Compliance Fund which, if identified and documented would result in a downward adjustment to expenditures charged to the limitation.

Analysis of Committee Response

The response contained a number of comments which address this finding in general as well as specific comments directed at the four categories of expenses addressed in the finding (i.e., Payroll/Overhead Costs, Computer Costs, Consultant Fees/Reimbursed Expenses, and Miscellaneous Charges).

The general comments are presented in part below, whereas comments directed to the four categories of expenses have been incorporated within the discussion of each category.

General Comments

(a) as of November 4, 1980, the Presidential campaign was completed and the only remaining tasks were those relating to the filing of final (disclosure) reports. Therefore, only the pre-November 4 costs should be allocated between the RBC and the Compliance Fund.

(b) the Act and the implementing regulations provide only very basic guidance with regard to expenses to be borne by the Compliance Fund.

(c) while the Compliance Fund reported total expenditures of \$1,512,152.36 during the period audited, FEC audit working papers deal only with expenditures of \$919,991.29. The response further states that

"Although the reasons were not specifically stated in the working papers the auditors apparently concluded that expenditures of \$919,991.29 were not solely for compliance and therefore should be subject to further analysis."

(d) after the post-audit conference the RBC and the Compliance Fund performed a study of the benefits the RBC may have received from Compliance Fund expenditures and determined that \$137,883.67 should have been paid from the RBC operating account(s).

With respect to the response in (a) above, the Audit staff notes that 26 U.S.C. 9002(12)(A) provides that the end of the reporting period for general election expenditures is 30 days after the election (December 4, 1980), not November 4, 1980. Furthermore, the Audit staff's review of the expenditures made from the Compliance Fund extended through December 31, 1980, since employees were still on payroll and the Compliance Fund was actively engaged in operations such as payment of bills, etc., which should be considered, at least in part, as operating costs rather than solely compliance costs.

Concerning the assertion noted in (b) above, the Audit staff believes that there is some merit to this statement. However, the implementing regulations provide examples of some of the expenses. Further, the Regulations state that payments for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. 431 et seq. and 26 U.S.C. 9001 et seq. may not be made from the compliance fund (emphasis added). In addition, the Financial Control and Compliance Manual for Presidential Candidates Receiving Public Financing (General Election Financing) was provided to the Committees for additional guidance in this area.

With respect to the response noted in (c) above, the Audit staff acknowledges that the reasons were not specifically stated in the working papers reviewed by the Counsel for the Committees. However, inspection of the photocopies of the Compliance Fund's disclosure schedules, (FEC Form 3P and supporting expenditure schedules) provided pursuant to the FOIA request and used by the FEC Audit staff in reviewing the Compliance Fund activity, would have revealed the Audit staff's notations classifying each expenditure made from the Compliance Fund. Disbursements for contribution refunds and loan repayments made (FEC Form 3P, Detailed Summary Page, Line 27), fundraising expenses (Line 25), and certain other categories were not in question. Payment of these expenses from the Compliance Fund was clearly permissible, as evidenced by the underlying documentation which was reviewed with respect to the applicable regulations.

With respect to the response in (d) above, it should be noted that computational and analysis schedules and working papers in support of the amount contained in the response have not been provided to the Audit staff for review. However, if only pre-November 4, 1980 costs were included in the aforementioned study, the Audit staff believes that the total amount benefiting the RBC campaign activities as derived from the study is understated.

Background

(a) Payroll/Overhead Costs

The audit disclosed that private contributions made to the Compliance Fund were used to pay certain expenditures allocable, in whole or in part, to the campaign activities. The Compliance Fund initially paid for 100% of the payroll and overhead costs relating to the functions of the Treasurer's office, even though a percentage of its functions were not solely to ensure compliance with 2 U.S.C. Section 431 et. seq. and 26 U.S.C. Section 9001 et. seq.

Based on a review of the functions of the Treasurer's office, the Audit staff determined that \$125,050.96 of payroll and overhead costs associated with the Treasurer's office should have been paid by the Reagan Bush Committee (instead of the Compliance Fund) as these expenditures were not made solely for the purpose of ensuring compliance with the Act.

In deriving this figure, the Audit staff and Compliance Fund officials reviewed the duties and responsibilities of each individual in the Treasurer's office. A percentage was determined for each individual based on an estimate of the amount of time he or she spent solely to ensure compliance with the Act. The Audit staff then applied this percentage to the individuals' gross earnings to determine the amount of payroll expenditures allocable to the Compliance Fund and the Reagan Bush Committee. A composite average of the percentage of the individuals' time allocated to ensuring compliance with the Act was then applied to the overhead charges paid from the Compliance Fund to derive the amount of overhead allocable to the Compliance Fund and to the Reagan Bush Committee. Copies of the Audit staff's computational schedules were provided to the Treasurer at the audit exit conference.

The response contends that there is a significant problem in the Audit staff's determination since the finding appears to rest solely upon interviews, that were not carefully structured, with officials lacking intimate knowledge of duties of the employees assigned to the Treasurer's office. The response also states that the unreliability of this approach is further demonstrated by the fact that the result varies from the result of the (FEC) audit of the Treasurer's office conducted following the primaries (Reagan For President - Post-Primary Audit). Further, the response attempts to strike a parallel between the Reagan Bush Committee Treasurer's office and the Finance office of the Carter/Mondale Presidential Committee, Inc., (President Carter's principal campaign committee for the Primary election cycle).

The Audit staff offers the following:

- The audit began approximately three months after the election. The Compliance Fund's staff complement during the audit was merely a skeleton of that which was involved in the operation during the active stage of the campaign. As a result, the Audit staff, in the absence of written job descriptions, obtained a description of the employees' job functions from the two remaining supervisors or the Treasurer as the most knowledgeable persons then available. Had the audit been conducted during a time when the full

staff complement was accessible, standardized interview questionnaires may have been appropriate (as suggested in the response). However, under the circumstances, the approach taken by the Audit staff is felt reasonable, especially since the preliminary results were discussed with the Treasurer prior to making a determination as to the allocable ratio (campaign vs. compliance) and agreed to by the Treasurer as evidenced by his signing off on the working paper displaying the various allocation ratios.

- Since job descriptions were not available during the primary audit and the Treasurer was unable to determine in what area many of the personnel were assigned, the Audit staff was forced to rely on independent studies performed on other primary campaigns of relatively similar size in assigning the percentage (85%) used in the primary audit for the purpose of payroll allocation. Further, the Audit staff is of the opinion that there is no direct correlation between the functions of a primary campaign and a general election campaign, since the primary campaign must provide a staff to handle private contributions, matching fund submissions, state by state allocations, and fundraising expense allocations all of which are functions not associated with a publicly financed general election campaign.

- Furthermore, to attempt to draw a parallel between one committee (RBC) operating in the general election vs. another committee (Carter/Mondale Presidential Committee, Inc.) which operated during the primary cycle under a totally different set of circumstances is tenuous.

(b) Computer Costs

The Audit staff reviewed all expenditures related to computer services to determine the nature of each expense. The Compliance Fund made expenditures for computerized contribution solicitations, contribution maintenance, general ledger, and an expenditure processing and maintenance system. Discussions were then conducted with Compliance Fund personnel to determine the usage and frequencies of all computer generated reports. From the review of each of these expenditures and discussions with Compliance Fund personnel, the Audit staff calculated \$128,751.50 in computer costs that should have been paid by the Reagan Bush Committee instead of the Compliance Fund. These computer costs were related to the general ledger and a portion of the expenditure maintenance system.

In the response, it was stated that the Committees' expenses could have been controlled by using a manual system, but because of the compliance requirements of the Act, the computer was necessary to solely ensure such compliance.

The Audit staff disagrees with this position in that computer costs related to printing certain reports such as the general ledger, vendor ledgers (both alphabetically and by invoice), employees' earnings records, etc., are not solely to ensure compliance with the Act. Any entity with the volume of expenditures that were made by the RBC in such a short period of time would most likely be computerized, whether or not it was subject to the provisions of the Act.

The response also discusses the absence of evidence in the working papers reviewed detailing the criteria by which the auditors determined the various allocation percentages regarding the reports produced by the computer.

In general, the reports produced by the Committees' computer system fall into two categories:

- reports related to recordkeeping and reporting requirements of the Act, such as production of FEC disclosure report schedules and listings of disbursements and receipts, and
- internal management reports which provided information concerning levels of activity for operational units (cost center reports); payments to the various persons and firms providing goods and services; employee earnings reports showing gross earnings, taxes withheld etc.; and the overall financial status of the Committee (general ledger reports).

Admittedly, in a few cases, such as reports on employees' earnings and the report on employee information changes, specific criteria were not documented in the working papers reviewed by the Committees' Counsel. However, the criteria present in the implementing Regulations and available guidance, when applied to the employees' earnings reports, the primary purpose of which is to comply with Internal Revenue Service requirements, clearly support the Audit staff's position that these are not solely for the purpose of ensuring compliance with the Federal Election Campaign Act. This employee information would have to be maintained regardless of whether the Committees were subject to the requirements of the Act.

Finally, the response questions the technique used by the auditors to calculate the costs associated with each type of report produced by the computer, in that the technique did not recognize possible variations in computer usage and personnel costs attendant to the production of the various reports.

The Audit staff also recognized this factor and requested from the Treasurer a more detailed accounting concerning computer processing costs for use in our analysis. No such accounting was made available, therefore, the method chosen utilized the best information available at the time. Should the Compliance Fund, at this time, choose to make available the detailed accounting of computer processing costs and/or an analysis of same (including the appropriate underlying documentation), the Audit staff would consider this information and adjust our present computation, if appropriate. In the alternative, should the Compliance Fund wish to provide a different approach to the review, given the records made available, the Audit staff is receptive to reviewing such approach.

(c) Consultant Fees/Reimbursed Expenses

The Audit staff reviewed the services rendered by each consultant paid from the Compliance Fund. The review consisted of analyzing Compliance Fund records and interviewing the Treasurer. A percentage was determined for each consultant based on the amount of time devoted to compliance related matters. The percentage was then applied to each consultant fee and any related reimbursable expenses. The Audit staff calculated a total of \$54,025.12 in consultant fees and/or reimbursed expenses that were not compliance related and should have been paid by the Reagan Bush Committee.

The response noted that as in the case of payroll costs there is no evidence of the use of structured interview questionnaires and written interview notes. Also, the basis for the auditors' judgment as to the percentage of time devoted to compliance is not documented in the working papers. The Audit staff's comments included in the payroll section are responsive to these points and are not repeated here (see pages 26-27, section (a)).

The response also indicated that the review apparently was based upon an auditor's determination of the reasons for seeking the expert's assistance, and that the Audit staff's evidence supporting these allocable costs is not credible.

As stated in section (a) above, a percentage was developed based on an analysis of Compliance Fund records and by interviewing the two remaining supervisors and the Treasurer. For example, the percentage developed in the aforementioned computer allocation was assigned to computer consultants. A 50% ratio was assigned to budget consultants because these consultants' services had an equal influence on both the Reagan Bush Committee and Reagan Bush Compliance Fund. Certain law firms were engaged in handling various services for the Committees. The time devoted

to, or costs associated with, compliance related legal matters were determined by reviewing invoices provided by these law firms.

The reimbursed expenses were allocated based upon the percentage developed for each of the individuals receiving reimbursements, unless we were able to determine, based on the available documentation, that the reimbursements were solely related to compliance or to operations, in which case the expenses were directly applied to the appropriate category.

The response further points out what the Compliance Fund believes to be an inconsistency in the conclusions reached on the percentage allocation regarding two consultants.

The example cited involved fees paid to a consultant to modify the RNC computer system to meet the system needs of the Committees. The Audit staff allocated the cost of the consultant's services based on the percentage derived for allocating certain computer costs. This approach was felt to be reasonable since it appeared that the modifications performed were directly related to the output produced by the computer, hence the use of the same allocation percentage. With respect to the other consultant, the response states

"However, the fees of an individual who had responsibility for the actual operations of the computer system were allocated in total to compliance."

The major distinction between the services performed by the two consultants was that the sole function of one of them was to modify the RNC computer system, whereas, the other consultant's functions were (1) to provide guidance to RBC personnel to ensure that the Act's requirements were met, and (2) to review the information contained in RBC disclosure reports (portions of which were computer generated) to ensure that the reporting requirements of the Act were met.

In light of the significant differences regarding the services performed by the two consultants, the Audit staff believes the allocation is reasonable.

(d) Miscellaneous Charges

The Audit staff's review of other Compliance Fund expenditures revealed that the Compliance Fund had made four expenditures, totaling \$8,360.58 which were for tour consulting, reimbursements and general election payroll checks. The expenses clearly benefited the general election campaign effort and should have been paid by the Reagan Bush Committee.

The central issue raised in the response regarding the Audit staff's allocation of overhead paid by the Compliance Fund concerns the FEC auditors' use of payroll costs as a basis for allocation of rent and security services. The response notes that customarily, rent and related services are allocated based on a measure such as square footage of space used. This method avoids problems that arise using payroll costs which can be affected by factors such as salary levels and occupancy by volunteers.

The Audit staff recognizes that rent and related services are frequently allocated based on the square footage space used. However, in actuality, the Compliance Fund's functions were not performed in a discrete section of the office separate from various other campaign operations, which made it difficult to determine what square footage was used by each department. In addition, as previously noted, the campaign was over and the office organization used during the campaign no longer existed, leaving no record from which to perform such allocation. An allocation based on payroll dollars could be done utilizing existing records. Finally, this technique was included in the Financial Control and Compliance Manual For Presidential Candidates Receiving Public Financing (Primary Election Financing) and (General Election Financing), the former being circulated for comment to the 1976 and 1980 primary candidates and other interested parties and professional organizations, the latter being provided to the general election candidates for guidance. This technique was considered by the Commission as a reasonable method for allocating indirect overhead costs and applied by other presidential committees.

Conclusion

The response concludes that the finding relating to allocable costs as determined by the Audit staff should be rejected because standard auditing procedures were not used, faulty investigative techniques were used and an ad hoc classification of expenses was performed. Further, the response states that generally accepted accounting principles were used in determining the \$137,883.67 cited as allocable to the Reagan Bush Committee.

However, it is the Audit staff's opinion that the review and analysis as outlined in each of the allocable areas is reasonable based upon the available records reviewed and the "intimately knowledgeable" employees (Treasurer and supervisors) interviewed. Further, each allocable area was discussed at great length with the Treasurer. Additionally, it was suggested that the Treasurer may wish to review overhead costs paid by the Reagan Bush Committee and allocate, on a reasonable basis, an amount applicable to the Compliance Fund and obtain reimbursement for same which would result in a downward adjustment to expenditures subject to the limitation. This statement was again asserted within the Interim Audit Report. However, the Treasurer has apparently chosen not to allocate these costs at this time. We have encouraged the Treasurer to consult with us if any further clarification is desired.

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ATTACHMENT II

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JONES, DAY, REAVIS & POGUE

1735 EYE STREET, N.W.

WASHINGTON, D.C. 20006

TEL (202) 681-3939

CABLE-ATTORNEYS WASHINGTON

TELEX-DOMESTIC 882410

TELEX-INTERNATIONAL 84363

December 30, 1980

paid 12/31/80 #135-344
#135-344
#135-344
\$180,032.00
mk

Reagan Bush Committee
 Finance Division
 c/o Capitol Hill Club
 301 First Street, S.E.
 Washington, D.C.

STATEMENT OF ACCOUNT

For all legal services rendered through October 1980
 as follows:

Services rendered in connection with
 various counseling matters regarding
 compliance with Federal Election laws \$9,800.00 *100% LAC*

Services rendered in connection with
 analysis of and possible responses to the
 investigation of an administrative complaint
 filed with the Federal Election Commission
 by the Carter-Mondale Committee and Democratic
 National Committee 28,700.00 *100% LAC*
Per 4376

Services rendered in connection with the
 defense of a suit brought in the U.S. Court
 of Appeals by the Carter-Mondale Committee
 and the Democratic National Committee seeking
 to block payment of \$30 million in federal
 campaign funds to the Committee 75,200.00 *100% LAC*
Per 20543

Services rendered in connection with
 representation of the Committee in a suit
 filed by Common Cause in which extensive
 discovery was sought from the Committee 7,800.00 *100% LAC*
Per 20543

Services rendered in connection with
 an analysis of potential liability of
 Committee personnel for campaign activities 9,400.00 *100% operating*

Services rendered in connection with
 research and analysis of potential claims
 regarding misuse of incumbency 4,600.00 *100% operating*

Total Services \$135,500.00

(Cont.)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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

RE: MUR 1401 (81)

Dear Mr. Weidenfeld:

On , 1982, the Federal Election determined that there is reason to believe that your clients, the Reagan Bush Committee and the Reagan Bush Compliance Fund, violated section 9003.3(a)(2)(i) of Title 11 of the Code of Federal Regulations by expending private contributions to the Compliance Fund for purposes other than those enumerated in this section. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Additionally, please submit documentation to support the assertion that a detailed analysis was performed and it was determined that \$137,883.67 should have been paid by the Reagan Bush Committee to the Compliance Fund.

In the absence of any additional information which demonstrates that no further action should be taken against your clients, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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

Letter to Edward L. Weidenfeld
Page 2
MUR 1401

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at 202/523-4060.

Sincerely,

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Enclosures
General Counsel's Factual and Legal Analysis
Procedures

cc: Mr. Arthur J. Dellinger, Treasurer
Reagan Bush Committee

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1401 (81)
STAFF MEMBER & TEL. NO.
Beverly Kramer
(202) 523-4060

RESPONDENTS: Reagan Bush Committee
Reagan Bush Compliance Fund

SOURCE OF MUR: INTERNALLY GENERATED

GENERATION OF MATTER

The Commission conducted an audit of the Reagan Bush Committee (the "Committee")^{1/}, pursuant to its authority under 26 U.S.C. § 9007(a) and 11 C.F.R. § 9007.1. The audit covered the period from May 29, 1980 through December 31, 1980 and included a review of two reporting entities, the Reagan Bush Committee which operated with funds received under 26 U.S.C. § 9006(b) and the Reagan Bush Compliance Fund (the "Compliance Fund")^{2/} established in accordance

^{1/} The Reagan Bush Committee registered with the Federal Election Commission on May 29, 1980 under the name Reagan For President General Election Committee and served as the principal campaign committee of the Honorable Ronald Reagan.

^{2/} On July 7, 1980, President Ronald Reagan, then Republican candidate for President of the United States, designated the Reagan Bush Compliance Fund as an authorized committee.

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with 11 C.F.R. § 9003.3. During the course of the audit, the Commission's Audit Division referred this matter to the Office of General Counsel.

SUMMARY OF ALLEGATIONS

Information gathered in the audit process indicates that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i). The issue involved herein is whether these entities violated section 9003.3(a)(2)(i) by using private contributions of the compliance fund to defray expenses incurred by the Reagan Bush Committee after its receipt of public matching funds.

FACTUAL BASIS

11 C.F.R. § 9003.3 permits a candidate to establish a separate account known as a legal and accounting compliance fund. This provision was added as an exemption to the public financing scheme, thereby allowing presidential candidates receiving full funding for their general election campaigns to solicit private contributions to pay the costs of services necessary to comply with the requirements of the Federal Election Campaign Act of 1971 ("the Act") and Chapter 95 of Title 26 United States Code. The Regulations narrowly restrict the use of these private funds in order to preserve the integrity of the public financing scheme. The permissible uses of such funds parallel those described in 11 C.F.R. § 100.8(b)(15) and are set forth in Section 9003.3 (a)(2)(i) as follows:

- A) to defray the cost of legal and accounting services provided solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq.;

- B) to defray any civil or criminal penalties imposed pursuant to 2 U.S.C. § 437g or 26 U.S.C. § 9012;
- C) to make repayments under 11 C.F.R. § 9007.2;
- D) to defray the cost of soliciting contributions to the legal and accounting compliance fund; and
- E) to make a loan to an account established pursuant to 11 C.F.R. § 9003.4 to defray qualified campaign expenses incurred prior to the expenditure report period or prior to receipt of federal funds.

Pursuant to 11 C.F.R. § 9003.3(a)(2)(ii)(C), payments may not be made under 11 C.F.R. § 9003.3(a)(2)(i) for any legal and accounting services or related costs which are not performed solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq.

11 C.F.R. § 9003.3(a)(2)(ii)(A) further details the permissible use of compliance funds as including payments for personnel, computer services, reproduction, mailing expenses and independent audits to assure compliance with Title 2 or Chapter 95 of Title 26 United States Code. In accordance with this section, a candidate may pay from his compliance fund costs incurred for establishing that portion of his financial accounting system which is allocable to the legal and accounting aspects of compliance.

Pursuant to 11 C.F.R. § 9003.3(a)(2)(ii)(B), reimbursements from the compliance fund may be made to the separate account maintained for federal funds under 11 C.F.R. § 9005.3(c) if costs for legal and accounting compliance services are initially paid from such account.

Information gathered in the audit process revealed that the Compliance Fund made initial payments for services which also benefitted the Reagan Bush Committee. The Compliance Fund assumed

payment of all payroll, overhead and computer costs relating to the functions of the Treasurer's Office. In addition, the Compliance Fund assumed payment for all computer costs of the Reagan Bush Committee. Through its failure to allocate these costs, the Audit Division calculates that the Compliance Fund paid \$316,188.16 to defray the cost of services which benefitted the Reagan Bush Committee. A summary of the Audit Staff's analysis follows:

<u>Cost Category</u>	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>Total</u>
Computer	\$ 96,356.41	\$128,751.50	\$225,107.91
Payroll/ Overhead	\$203,414.79	125,050.96	328,466.46
Consultants Fees/Reimburse- ments	251,434.98	54,025.12	305,460.10
Miscellaneous	--	8,360.58	8,360.58
Direct costs	<u>52,596.24</u>	<u>--</u>	<u>52,596.24</u>
	<u>\$603,803.13</u>	<u>\$316,188.16</u>	<u>\$919,991.29</u> 3/

Throughout the audit process, the Compliance Fund maintained that none of the expenditures were made for any other purposes than to ensure compliance with the Act. Notwithstanding that assertion, on March 31, 1981, the Committee reported in its first

3/ During the period covered by the audit, the Compliance Fund reported expenditures of \$1,512,152.36. Out of these expenditures, the Audit Staff identified expenditures of \$919,991.29 which appeared attributable in part to both compliance and operating (campaign related) activities. Based on a review of the allocable areas of expenses, the Audit staff calculated that \$316,188.16 of Compliance Fund expenses were not incurred for purposes of ensuring compliance with the Act. Remaining disbursements (\$1,512,152.36 less \$919,991.29) were for contribution refunds, loan repayments and fundraising expenses. The audit staff classified these expenses as attributable in total to compliance and therefore permissible pursuant to 11 C.F.R. § 9003.3(a)(2)(i).

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quarterly report, a reimbursement to the Compliance Fund of \$137,883.67. The reimbursement apparently acknowledged that certain functions of the Treasurer's Office were allocable. Subsequent to the reporting of this reimbursement, what has remained in issue is whether additional expenditures of \$178,304.99 (\$316,188.16 less \$137,883.67) benefitted the Reagan Bush Committee and should be shown as operating expenditures subject to the limitations prescribed in 2 U.S.C. § 441a(b)(1)(B).

The Committee maintains that aside from the aforementioned expenditures of \$137,883.67, all other costs were incurred for purposes of ensuring compliance with the Act. The Committee's computational and analysis schedules and working papers have not been provided in support of this claim. Instead, its claim is posed as an alternative to auditor calculations which the Committee avers "are based on what appear to be faulty investigative techniques, (e.g., informal interviewing of employees), ad hoc classifications of expenses, and improper allocation bases."^{4/}

Given the views of the Committee, it is appropriate that we review in some detail the basis of the auditor calculations as it applies to each allocable area in question.

Payroll/Overhead Costs

Based on a review of the functions of the Treasurer's Office,

^{4/} On June 19, 1981 the Commission issued to the Committee an interim audit report which set forth the audit findings in regard to the instant matter. By letters dated July 20, and August 11, 1981, the Committee replied to the findings of the Audit staff. Copies of the Committee's responses were circulated to the Commission on September 10, 1981.

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the Audit staff determined that \$125,050,96 of payroll and overhead costs associated with the Treasurer's Office should have been paid by the Reagan Bush Committee (instead of the Compliance Fund) as these expenditures were not made solely for the purpose of ensuring compliance with the Act.

In deriving this figure, the Audit staff and Compliance Fund officials reviewed the duties and responsibilities of 50 individuals in the Treasurer's office.^{5/} A percentage was determined for each individual based on an estimate of the amount of time he or she spent solely to ensure compliance with the Act. The Audit staff multiplied this percentage and the gross salary to arrive at payroll costs allocable to the Compliance Fund (64%) and the Reagan Bush Committee (36%). Overhead costs were allocated based on the percentage calculated for payroll costs -- 64% to

^{5/} The audit began approximately three months after the election. The Compliance Fund's staff complement during the audit was merely a skeleton of that which was involved in the operation during the active stage of the campaign. As a result, the Audit staff, in the absence of written job descriptions, obtained a description of the employees' job functions from the two remaining supervisors or the Treasurer as the most knowledgeable persons then available. Had the audit been conducted during a time when the full staff complement was accessible, standardized interview questionnaires may have been appropriate. However, the preliminary results were discussed with the Treasurer prior to making a determination as to the allocable ratio (campaign vs. compliance). The Treasurer signed off on the working paper displaying the various allocation ratios.

Compliance and 36% to non-compliance.^{6/}

Computer Costs

The Audit staff determined that computer costs paid by the Compliance Fund totalled \$225,107.97. Of that amount, costs of \$16,567.91 were associated with the services provided by three computer systems: Automated Correspondence Systems, United Data Systems and Vought Corporation Systems. The services related to fundraising and the solicitation of contributions to the Compliance Fund. The auditors identified the related expenses as exempt legal and accounting costs under 11 C.F.R. § 9003.3(a)(2)(i)(D) and therefore allocated 100% of the costs to compliance.

The remaining costs of \$208,540 were for computer services provided by the Republican National Committee (RNC). Based on a review of the services performed, the auditors calculated that expenses of \$128,751.50 were not made for the purposes enumerated in 11 C.F.R. § 9003.3 (i.e., were not made solely to ensure

^{6/} The Audit staff has recognized that rent and related services are frequently allocated based on the square footage of space used. However, in actuality, the Compliance Fund's functions were not performed in a discrete section of the office separate from various other campaign operations. This made it difficult to determine what square footage was used by each department. In addition, as previously noted, the campaign was over and the office organization used during the campaign no longer existed, leaving no record from which to perform such allocation. An allocation based on payroll dollars could be done utilizing existing records. Finally, this technique was included in the Financial Control and Compliance Manual For Presidential Candidates Receiving Public Financing (Primary Election Financing) and (General Election Financing), the former being circulated for comment to the 1976 and 1980 primary candidates and other interested parties and professional organizations, the latter being provided to the general election candidates for guidance. This technique was considered by the Commission as a reasonable method for allocating indirect overhead costs and applied by other presidential committees.

compliance with the Act and Chapter 95 of Title 26).

The auditors arrived at this calculation by dividing RNC computer costs into the following categories for analysis and allocation:

- Payroll Support - including the maintenance of a payroll check register and total employee earnings
- Accounting Support - including the maintenance of the general ledger and the accounts payable system.
- Staff Support - consisting of the RNC computer personnel costs.

The following illustrates the results of the auditors' analysis of each of the above elements of RNC computer costs:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>	<u>TOTAL</u>
Payroll Support	\$ 6,344.00	\$ 6,344.00	\$ 12,688.00
Accounting Support	59,367.00	98,945.00	158,312.00
Staff Support	<u>14,077.50</u>	<u>23,462.50</u>	<u>37,540.00</u>
	<u>\$ 79,788.50</u>	<u>\$128,751.50</u>	<u>\$208,540.00</u>

The auditors evaluated payroll support costs of \$12,688.00 based on the number and the nature of information provided in the computer printouts produced by the system.^{7/} The auditors

^{7/} The audit staff recognized that allocation based on the number of printouts is not the preferred method of allocation because it does not recognize possible variations in computer usage and personnel costs attendant to the production of the various reports. The auditors requested from the Treasurer a more detailed accounting concerning computer processing costs for use in their analysis. No such accounting was made available, therefore, the method chosen utilized the best information available at the time.

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determined that two of the four printouts produced were necessary to ensure compliance with the Act. Hence, the auditors allocated 50% (\$6,344.00) of payroll costs to compliance.

One of the printouts, a payroll check register, produced a list of names and addresses to whom disbursements were made. The auditors evaluated this printout as necessary to ensure compliance with the recordkeeping requirements of 2 U.S.C. § 432(c)(5). A second printout, which supported the filing of FEC reports on receipts and disbursements was considered necessary to ensure compliance with the general disclosure requirements of 2 U.S.C. § 434(a). The remaining two printouts, a report on employee earnings and a report on employee changes, were evaluated as unnecessary to ensure compliance with the Act. The information provided in these reports, (i.e., gross earnings, taxes withheld, change in employee status e.g., marital, number of exemptions, change in address) was not required to be disclosed nor maintained for purposes of ensuring compliance with the Act. Rather, such information appeared to serve the primary purpose of ensuring compliance with the requirements of the Internal Revenue Service.

Accounting support costs of \$158,312 were similarly allocated based on the number, as well as, the frequency and nature of the reports produced. The auditors determined that there were two sections of the printouts produced: a general ledger and an accounts payable package. The general ledger disclosed the overall financial status of the Reagan Bush Committee and the Compliance Fund. The accounts payable package consisted of five separate

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printouts: 1) a check register; 2) a report on receipts and disbursements; 3) a listing of vendor by invoice; 4) an alphabetical listing of vendors; and 5) a cost center report (containing information on the level of financial activity for each operational unit).

The audit staff evaluated the general ledger and the accounts payable package as to their relation with ensuring compliance with the Act. The following illustrates the audit staff's evaluation:

	<u>Compliance Related</u>	<u>Not Compliance Related</u>
General Ledger	--	100%
Accounts Payable Package:		
Check Register	--	100% ^{8/}
Report on Receipts and Disbursements	100%	-0-
Vendor By Invoice	50%	50%
Vendor By Alpha	100%	-0-
Cost Center Report	--	100%

Three of the five printouts in the accounts payable package were allocated either in whole or in part to compliance because they contained information necessary to ensure compliance with 2 U.S.C. § 432(c)(5) and § 434(a). The vendor printouts contained duplicate information, therefore, 50% was allocated to one. The general ledger, check register, and cost center report were classified by the auditors as internal management reports. The evaluation concluded that the information in these reports would have to be maintained for operational purposes, regardless of whether the Committee was subject to the Act.

^{8/} Unlike the payroll check register evaluated for the allocation of payroll support costs, the check register contained in the accounts payable package duplicated the information provided in the vendor printouts. The vendor printouts were allocated in whole or in part to compliance.

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The auditors then determined the cost per report by the following method:

- divided the accounting cost of \$158,312 by 22 weeks to arrive at a weekly cost of \$7,196.
- divided the weekly cost by the number of reports (8) produced in a week. Because six accounts payable reports and two general ledger reports were produced each week, 75% of weekly costs or \$5,397 was allocated to accounts payable activity and 25% of weekly costs or \$1,799 were allocated to general ledger activity.

Applying the previously determined percentage of accounts payable activity (related to compliance) to the costs per report, the auditors determined that expenditures of \$59,367 were necessary to ensure compliance with the Act. The remaining \$98,945 in computer costs (\$59,367 associated with the accounts payable reports and all of the \$39,578 associated with general ledger reports) were considered to be not related to compliance.

With regard to staff support costs, the allocation method was strictly mathematical. The auditors determined, based on a review of invoices, that support costs totalled \$37,540. The costs were allocated using the percentages calculated for accounting support costs. Because 62.5% of accounting support costs were not related to compliance, the auditors determined that 62.5% or \$23,462.50 of staff support costs were also not related to compliance.

Consultant Fees Reimbursed Expenses

The audit staff determined that \$54,025.12 out of a total of \$305,460.10 in consultant costs were not related to ensuring compliance with the Act. In deriving this figure, the auditors analyzed Compliance Fund records and interviewed with two remaining supervisors and the treasurer. For each consultant, the auditors determined a percentage of time devoted to compliance. The

percentage was then applied to each consultant fee and any related reimbursable expenses.^{9/} The time devoted to, or costs associated with, compliance related legal matters were determined by the auditors' review of invoices prepared by law firms engaged in handling various services for the Committee.

Miscellaneous Charges

The auditors determined that miscellaneous costs of \$8,360.58 were not related to compliance. Specifically, the auditors found that the following expenditures were not related to ensuring compliance with the Act:

- \$2,171.08 - printing of checks for the Reagan Bush Committee - Operating Account (federal fund account)
- \$5,838.00 - United Airline Consultant Services in conjunction with campaign tours.
- \$ 147.50 - Travel costs associated with consultants trip to New York to discuss legal matters concerning the purchase of radio and television broadcast time for Campaign 80.
- \$ 204.00 - Reimbursed expenses to consultant Steven Thayer for flight to New Hampshire.^{10/}

LEGAL ANALYSIS

The Presidential Election Campaign Fund Act of 1971, established the Presidential Campaign Fund (the Fund), financed by the voluntary taxpayer check-off system, to serve as an alternative means of financing presidential general election campaigns. Major

^{9/} For example, the percentage developed in the aforementioned computer allocation was assigned to computer consultants. A 50% ratio was assigned to budget consultants because these consultants' services had an equal influence on both the Reagan Bush Committee and the Reagan Bush Compliance Fund.

^{10/} The Committee Supervisors and Treasurer could provide no information concerning the services provided by this consultant.

party candidates who satisfy the eligibility requirements outlined in 26 U.S.C. § 9003 are entitled to equal payments from the Fund to defray all of their "qualified campaign expenses", i.e., expenses incurred by a presidential candidate and running mate, or any of their authorized committees, to further their election. 26 U.S.C. § 9002(11). Once a candidate has chosen a publicly financed campaign, he or she may accept private contributions only as they are necessary to make up for any deficiency in the Fund. 26 U.S.C. § 9006, 26 U.S.C. § 9012(a).

Despite these restrictions, the Commission's Regulations at 11 C.F.R. § 9003.3 allow a candidate to establish a legal and accounting compliance fund. The compliance fund may solicit private contributions to cover costs of services necessary to ensure compliance with the Act and Chapter 95 of Title 26. Payments made from the private contribution account for exempted legal and accounting costs are not counted against the candidate's overall expenditure limits under 2 U.S.C. § 441a(b) and 11 C.F.R. § 110.8. In permitting this exempted activity, the Commission was cognizant of the need to protect the integrity of the public financing scheme against the threat of possible abuse were committees to attempt to subsidize federal funding with private contributions to the compliance fund. Hence, the Commission introduced regulations at 11 C.F.R. § 9003.3(a)(2)(i)(A-E) and § 9003.3(a)(2)(ii)(A-C). These provisions established and limited the permissible uses of contributions to the compliance fund, authorizing expenditures made "solely to ensure compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq."

This matter raises questions as to whether the Reagan Bush Committee, a committee which received full funding for the 1980 general election campaign of the Honorable Ronald Reagan, expended private contributions to the Compliance Fund for purposes other than those enumerated in 11 C.F.R. § 9003.3(a)(2)(i). The auditors' analysis of the Compliance Fund activity has cast doubt on the Committee's attribution method in designating expenditures purportedly made for the sole purpose of ensuring compliance with the Act and Chapter 95 of Title 26.

The audit revealed that the Compliance Fund assumed payment for all legal and accounting costs of the Treasurer's office (i.e., computer costs, payroll costs, overhead costs, consultants fees and miscellaneous expenses). The claim to a 100% exemption is not supported by the information ascertained by the Audit Division and in light of the various functions which must be performed without respect to the requirements of the Act and implementing regulations. Such functions include, but are not limited to, the following:^{11/}

- 1) maintaining cash receipt records;
- 2) writing checks, transmitting funds (advances) to field workers, recording disbursements;
- 3) reconciling bank statements;
- 4) preparing cash flow reports;
- 5) budget preparation and budget performance reports;
- 6) keeping payroll records, paying employees, filing quarterly payroll returns and making state and federal payroll deposits; and

^{11/} These non-compliance functions were identified in the final audit report on the Reagan For President Committee (Primary Election Campaign) which was publicly released on February 2, 1981.

- 7) filing an exempt organization return (1120 POL) with the IRS (Section 527 of the Internal Revenue Service Code requires that all unrelated business income be reported. Consequently the Committee must maintain records sufficient to comply with IRS reporting and recordkeeping requirements).

Based on a review of the functions of the Treasurer's Office, the auditors found that the above-described functions should have been considered in determining a reasonable allocation of costs to compliance and operating (campaign-related) activities. The result of the auditor's consideration of such functions showed that expenditures of \$316,188.16 benefitted the Reagan Bush Committee and should have been treated as operating expenditures subject to the limitations prescribed in 2 U.S.C. § 441a(b)(1)(B).^{12/}

During the audit process, the Commission called upon the Committee to submit documentation to demonstrate that expenditures paid from the Compliance Fund were, in fact, made solely for the purpose of ensuring compliance with 2 U.S.C. § 431 et seq. and 26 U.S.C. § 9001 et seq. This inquiry was limited to expenditures of \$316,188.16, the amount determined by the auditors to have benefitted the Reagan Bush Committee.

To date, the Committee has not submitted documentation to demonstrate that the expenditures of \$316,188.16 fall within the categories of exemptions afforded in 11 C.F.R. § 9003.3. In lieu

^{12/} It should be noted that there may be significant costs of the Reagan Bush Committee which, if reallocated to compliance, could result in an offset to the amount of costs (\$316,188.16) paid from the compliance fund which allegedly benefitted the Reagan Bush Committee. Such costs include a percentage of media expenses for recordkeeping and state expenses for office rental, utilities, equipment rentals, office supplies etc. During the audit process, the audit staff recommended to the Committee that they reallocate costs to compliance. To date, the Reagan Bush Committee has not reallocated such expenditures.

thereof, the Committee submitted an affidavit from former Committee Treasurer Bay Buchanan which included the following statement:

"During the general election, the benefits that RBC [the Reagan Bush Committee] received from the Compliance Fund were monitored. After the election a detailed analysis was performed and it was determined that \$137,883.67 should be paid by RBC to the Compliance Fund."

In view of the questions raised by the audit of Compliance Fund expenses, and by the Committee's reimbursement of \$137,883.67 to the Compliance Fund, the Office of General Counsel recommends that the Commission find reason to believe that the Reagan Bush Committee and the Reagan Bush Compliance Fund violated 11 C.F.R. § 9003.3(a)(2)(i). Accordingly, we recommend that the Commission approve the attached letter. The letter includes a request for supporting documentation to the detailed analysis performed by the Reagan Bush Committee.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1982

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

RE: MUR 1401 (81)

Dear Mr. Weidenfeld:

On January 26, 1982, the Federal Election determined that there is reason to believe that your clients, the Reagan Bush Committee and the Reagan Bush Compliance Fund, violated section 9003.3(a)(2)(i) of Title 11 of the Code of Federal Regulations by expending private contributions to the Compliance Fund for purposes other than those enumerated in this section. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Additionally, please submit documentation to support the assertion that a detailed analysis was performed and it was determined that \$137,883.67 should have been paid by the Reagan Bush Committee to the Compliance Fund.

In the absence of any additional information which demonstrates that no further action should be taken against your clients, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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

Letter to Edward L. Weidenfeld
Page 2
MUR 1401

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at 202/523-4060.

Sincerely,

Frank P. Reiche

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosures
General Counsel's Factual and Legal Analysis
Procedures

cc: Mr. Arthur J. Dellinger, Treasurer
Reagan Bush Committee

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1982

Mr. Arthur J. Dellinger, Treasurer
Reagan Bush Committee
P.O. Box 4207
Arlington, VA 22204

RE: MUR 1401

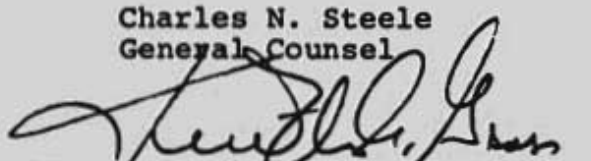
Dear Mr. Dellinger:

Enclosed is a copy of a notification which we are forwarding at this time to Mr. Edward L. Weidenfeld. We understand that Mr. Weidenfeld has been designated as counsel for the Reagan Bush Committee and is authorized to receive notifications and other communications from the Commission on behalf of the Committee.

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 523-4060.

Sincerely,

Charles N. Steele
General Counsel


BY: Kenneth A. Gross
Associate General Counsel

Enclosure

Letter to Mr. Edward L. Weidenfeld
with attached General Counsel's
Factual and Legal Analysis in
MUR 1401

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR #

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