



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2064

Date Filmed 2/8/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

routing slips, interior positions
on Classification, internal documents

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 | ☐ (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

date

[Signature]
January 31 1984

FEC 9-21-77

86040564661

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Al Swift for Congress Committee)
Betty Bagley, as treasurer)

MUR 2064

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 24, 1985, the Commission decided by a vote of 5-1 to take the followings actions in MUR 2064:

1. Accept the conciliation agreement attached to the General Counsel's Report signed December 17, 1985.
2. Approve the letter to the Respondents attached to the General Counsel's Report signed December 17, 1985.
3. Close the file.

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

Attest:

Dec. 24, 1985

Date

Cheryl D. Fleming
for Marjorie W. Emmons
Secretary of the Commission

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

Tues.,	12-17-85,	2:41
Wed.,	12-18-85,	11:00
Fri.,	12-20-85,	11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1985

Draw D. Pettus
1502 Longworth HOB
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 2064
Al Swift for Congress Committee
Betty Bagley, as treasurer

Dear Mr. Pettus:

On December 24, 1985, the Commission accepted the conciliation agreement signed by Betty Bagley and a civil penalty in settlement of a violation of 2 U.S.C. § 432(b)(1) and § 432(h), as implemented by 11 C.F.R. § 103.3(a), of the Federal Election Campaign Act of 1971, as amended.

Accordingly, the file has been closed in this matter and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

86040564663

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Al Swift for Congress Committee
Betty Bagley, as treasurer

MUR 2064

DEC 17 1985 2:41

SECRET

GENERAL COUNSEL'S REPORT

BACKGROUND

Attached is a conciliation agreement which has been signed by Betty Bagley, as treasurer of the Al Swift for Congress Committee.

Enclosed with

the Agreement was the attached cover letter and a check for the civil penalty of Three Hundred and Fifty Dollars (\$350.00).

RECOMMENDATIONS

☐ The Office of General Counsel recommends that the Commission accept the Conciliation Agreement, approve the attached letter to the Respondents, and close the file.

Charles N. Steele
General Counsel

Date

BY:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

Conciliation Agreement
Cover Letter
Check for Civil Penalty
Letter to Respondents

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Al Swift for Congress Committee
Betty Bagley, as treasurer

)
) MUR 2064
)
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Al Swift for Congress Committee and Betty Bagley, as its treasurer (hereinafter "Respondents"), violated 2 U.S.C. S. 432 (b) (1) and 2 U.S.C. S. 432 (h), as implemented by 11 C.F.R. S. 103.3(a).

NOW, THEREFORE, the Commission and Respondents, prior to a finding of probable cause to believe, having duly entered into conciliation pursuant to 2 U.S.C. S. 437g(a)(4)(A)(i) do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceedings, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. S. 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

A. The Al Swift for Congress Committee is the principal campaign committee of the Hon. Allan Byron Swift. Betty Bagley is the treasurer of that committee.

B. On May 17, 1985, a Final Audit Report of the Al Swift for Congress Committee indicated that the Committee had not timely received and deposited a series of contribution checks. A sampling of 45 contribution checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of the check.

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C. 2 U.S.C. S. 432(b) (1) states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50.00 the name and address of the person making the contribution and the date of receipt.

D. 2 U.S.C. S. 432(h) states, in part, that all receipts received by a political committee must be deposited in designated accounts. 11 C.F.R. 103.3(a) states that all deposits shall be made within 10 days of the treasurer's receipt.

E. The Respondents contend that because the Swift Committee used the dates on its contributors' checks as the dates the Committee received the checks, the Committee is unable to demonstrate whether it complied with the provision of 2 U.S.C. S. 432(b) (1) and 2 U.S.C. S. 432(h), as implemented by 11 C.F.R. 103.3(a).

V. Respondents violated 2 U.S.C. S. 432(b) (1) by failing to forward contributions to the treasurer within 10 days of their receipt and 11 C.F.R. 103.3(a), by failing to deposit contributions checks within 10 days of their receipt.

VI. Respondents will pay a civil penalty to the treasurer of the United States in the amount of Three Hundred Fifty Dollars (\$350.00), pursuant to 2 U.S.C. S. 437g (a) (5) (A).

VII. Respondents will institute procedures to ensure that all contributions are received by the Committee, and all deposits are made by the treasurer, in a timely manner.

VIII. Respondents agree that they shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. S. 431, et sec.

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IX. This agreement shall become effective as of the date all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

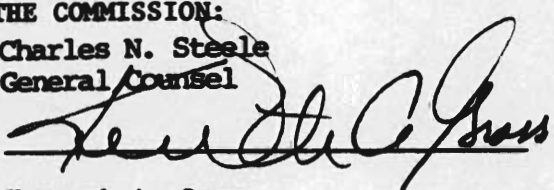
XI. The Commission, on request of anyone filing a complaint under 2 U.S.C. §. 437g (a) (1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

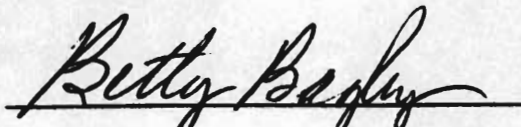
BY:


Kenneth A. Gross

Associate General Counsel

December 24, 1985
Date

FOR THE RESPONDENTS:


Al Swift for Congress Committee

Betty Bagley, as treasurer

Dec 13 1985
Date

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Engle

MEMORANDUM

TO: RETHA DIXON

TO: JOAN HARRIS

FROM: JOAN HARRIS

FROM: RETHA DIXON

CHECK NO. 1457 (a copy of which is attached) RELATING
TO MUR 2064 AND NAME Al Swift for Congress Cnte
WAS RECEIVED ON 12-16-85. PLEASE INDICATE THE ACCOUNT INTO
WHICH IT SHOULD BE DEPOSITED:

/ ~~*~~ / BUDGET CLEARING ACCOUNT (#95F3875.16)

/ / CIVIL PENALTIES ACCOUNT (#95-1099.160)

/ / OTHER _____

SIGNATURE Robert M Bishop DATE 12-17-85

AL SWIFT FOR CONGRESS

P. O. Box 941

EVERETT, WASHINGTON 98206

1457

Dec 16 1985 98-762/1251

PAY TO THE ORDER OF

Treasurer of the United States

\$ 350.00

Three hundred and fifty and 00/100 DOLLARS



918, Box 2215 • Everett, Washington 98206

FOR _____

Robert M Bishop

⑈00001457⑈ ⑆3259096 ⑆13237010280589 8

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2064
Al Swift for Congress Committee)
Betty Bagley, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 29, 1985, the Commission decided by a vote of 6-0 to take the following actions in MUR 2064:

1. Enter into pre-probable cause conciliation with the Respondents.
2. Approve the conciliation agreement and letter attached to the General Counsel's Report circulated to the Commission on November 26, 1985.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald and McGarry voted affirmatively for this decision.

Attest:

12-2-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Mon.,	11-25-85,	3:16
Circulated on 48 hour tally basis:	Tues.,	11-26-85,	4:00
Deadline for vote:	Fri.,	11-29-85,	4:00

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Engle



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 5, 1985

Drew D. Pettus
1502 Longworth HOB
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 2064
Al Swift for Congress Committee
Betty Bagley, as treasurer

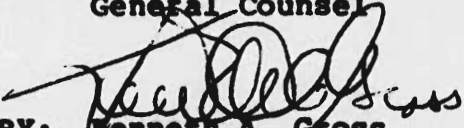
Dear Mr. Pettus:

On October 1, 1985, the Commission found reason to believe that the Al Swift for Congress Committee and Betty Bagley, as its treasurer, violated 2 U.S.C. § 432(b) and 2 U.S.C. § 432(h), as implemented by 11 C.F.R. § 103.3(a), of the Federal Election Campaign Act of 1971, as amended. At your request, the Commission determined on November 29, 1985, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please have the Committee Treasurer sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Craig M. Engle, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosures
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Drew D. Pettus
1502 Longworth HOB
U.S. House of Representatives
Washington, D.C. 20515

RE: MUR 2064
Al Swift for Congress Committee
Betty Bagley, as treasurer

Dear Mr. Pettus:

On October 1, 1985, the Commission found reason to believe that the Al Swift for Congress Committee and Betty Bagley, as its treasurer, violated 2 U.S.C. § 432(b) and 2 U.S.C. § 432(h), as implemented by 11 C.F.R. § 103.3(a), of the Federal Election Campaign Act of 1971, as amended. At your request, the Commission determined on , 1985, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please have the Committee Treasurer sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Craig M. Engle, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures
Conciliation Agreement

ok *mk*
12-3-85

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Al Swift for Congress Committee
Betty Bagley, as treasurer

MUR 2064

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was initiated by the Federal Election Commission (hereinafter "the Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

On May 17, 1985, the Reports Analysis Division referred a Final Audit Report of the Al Swift for Congress Committee (hereinafter "Swift Committee") to the Office of General Counsel. The audit report indicated the the Swift Committee had not timely received and deposited a series of contributor checks. An audit sampling of 45 contributor checks revealed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of the check.

On October 1, 1985, the Commission determined there was reason to believe that the Swift Committee and Betty Bagley, as its treasurer, violated 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 103.3(a), which implements 2 U.S.C. § 432(h). On October 22, 1985, the Swift Committee requested the Commission enter into conciliation negotiations in settlement of this matter.

II. LEGAL ANALYSIS

According to information contained in the audit report, the Swift Committee deposited 19 contributor checks between 26 and

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103 days after the date of the check. The Swift Committee attributed this delay to the Committee's failure to forward checks to the treasurer within 10 days of receipt; the treasurer's unawareness of the 10 day requirement for depositing checks; and the Committee's failure to keep adequate records of when checks were received.

Because the audit report and the statements of the Swift Committee indicated both a delayed-receipt and delayed-deposit problem, the Commission found reason to believe that the Swift Committee and Betty Bagley, as its treasurer, violated 2 U.S.C. § 432(b)(1) by failing to forward contributions to the treasurer within 10 days of their receipt by the Committee, and 2 U.S.C. § 432(h), as implemented by 11 C.F.R. § 103.3(a), by failing to deposit contribution checks within 10 days of the treasurer's receipt.

II. DISCUSSION OF CONCILIATION AGREEMENT AND CIVIL PENALTY

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III. RECOMMENDATIONS

1. Enter into pre-probable cause conciliation with the Respondents.
2. Approve the attached conciliation agreement and letter.

Charles N. Steele
General Counsel

Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments
Conciliation Agreement
Letter to Respondents

86040564674

Gcc#8787

RECEIVED
OFFICE OF THE
COMMISSIONER SECRETARY
CONGRESSMAN
AL SWIFT
2nd DISTRICT-DEMOCRAT
P.O. Box 941 Everett, WA 98201
85 OCT 22 AIO: 04

October 18, 1985

Mr. John Warren McGarry
Chairman
Federal Elections Commission
1325 K Street
Washington, D.C. 20463

RE: MUR 2064

Dear Chairman McGarry:

RECEIVED
Office of the
GENERAL COUNSEL
85 OCT 22 P 4: 52

I have received your letter of October 9, 1985, with its enclosures. Congressman Swift has been fully informed of its contents and has instructed that we respond promptly to resolve this issue. To that end, the Congressman's Administrative Assistant, Drew Pettus, has contacted George Demougeot of your staff to discuss and fully understand the Commission's procedure. It is our desire to cooperate fully with the Commission.

First of all, we find that the General Counsel's "Factual and Legal Analysis" accurately describes the problems that our Committee has encountered in attempting to meet the requirements of the FECA. While our actions were clearly inconsistent with the law, they were entirely unintentional. A significant number of our apparent failures to deposit checks in a timely manner resulted from contributors having held checks for significant periods of time before forwarding them to us. Because, as noted in the General Counsel's analysis, we had no procedure in place at the time to record dates upon which checks were actually received by us, we now have no way of demonstrating compliance with the law. While we know that there were instances in which checks were inadvertently held by us past the time when they should have been deposited, many of the checks cited were deposited in a timely fashion; but our bookkeeping system at the time was inadequate for us to be able to now demonstrate that compliance.

At this point I would like to note that we have since established an extensive procedure that will avoid these problems. We have sent a copy of this procedure to the Commission. It is worth noting that we have recently received checks that the presentors have held for an extended period of time, but with our new procedure can demonstrate the date on which they were actually delivered to us. This will prevent any recurrence of this problem.

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Mr. John Warren McGarry
Page 2
October 18, 1985

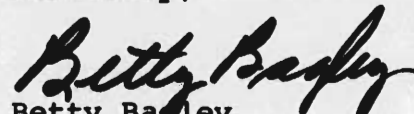
It is my understanding that the next formal step to be taken is for us to request a procedure which you call "Pre-Probable Cause Conciliation." It is further my understanding that upon receipt of this request the Commission will propose a settlement which we can discuss with the Commission's representatives with an eye toward resolving the matter within 30 days.

I trust that this is an accurate summation of the procedure. We are certainly agreeable to it.

Therefore, I would formally request a Pre-Probable Cause Conciliation and would designate Drew D. Pettus as Counsel. I have enclosed the "Designation of Counsel" form with the appropriate information.

In conclusion, I would like to say that while we, of course, regret past mistakes, your staff has been extremely helpful to us in understanding the steps that needed to be taken to correct the procedures. New procedures are, as a result, in place and working, and we feel secure in the knowledge that such inadvertent violations will not recur.

Sincerely,


Betty Bailey
Treasurer

BB/mh

Enclosure

cc Congressman Swift
Drew Pettus

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2064

NAME OF COUNSEL: Drew D. Pettus

ADDRESS: 1502 Longworth HOB
U.S House of Representatives
Washington, D.C. 20515

TELEPHONE: (202) 225-2605

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

October 18, 1985
Date

Betty Bagley
Signature

RESPONDENT'S NAME: Betty Bagley, Treasurer

ADDRESS: Al Swift for Congress Committee
P.O. Box 941
Everett, WA 98206

HOME PHONE: (206) 659-4722

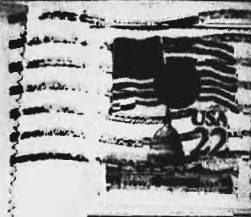
BUSINESS PHONE: (206) 252-2126

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CONGRESSMAN
AL SWIFT ★

2nd DISTRICT - DEMOCRAT

P.O. Box 941 Everett, WA 98208



Mr. John Warren McGarry
Chairman
Federal Elections Commission
1325 K Street
Washington, D.C. 20463

CERTIFIED

P 169 727 479

MAIL

85 OCT 22

A8:0





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Betty Bagley, Treasurer
Al Swift for Congress Committee
P.O. Box 941
Everett, WA 98206

RE: MUR 2064

Dear Ms. Bagley:

On October 1, 1985, the Federal Election Commission determined that there is reason to believe the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1) and 11 C.F.R. § 103.3(a), which implements 2 U.S.C. § 432(h). 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 you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent will not be entertained.

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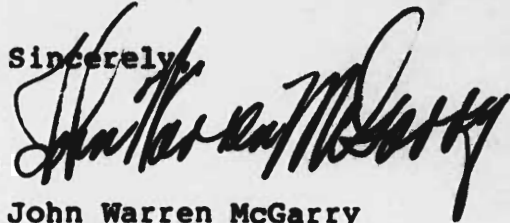
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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

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.

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 George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

cc: Congressman Al Swift

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FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2064

STAFF MEMBER(S) & TEL. No.

George Demougeot

RESPONDENT Al Swift for Congress Committee
and Betty Bagley, as treasurer

SUMMARY OF ALLEGATIONS

The Final Audit Report on the Al Swift for Congress Committee ("Swift Committee") indicates that the Swift Committee has not timely deposited checks received from contributors. A sampling of 45 contributor checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of the check.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

2 U.S.C. § 432(h) states, in part, that all receipts received by a political committee must be deposited in designated accounts. 11 C.F.R. § 103.3(a) states that all deposits shall be made within 10 days of the treasurer's receipt.

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In response to the Interim Audit report findings of untimely depositing of contributor checks, the Swift Committee cited two explanations. First, the treasurer stated that she was unaware of the ten day requirement for depositing contributions. Second, the treasurer contended that in some instances PAC contributions were reported received as of the date written on the checks when in fact the check had been held until a personal presentation could be made by the PAC representative to the candidate or other committee representative. The treasurer also stated that the Committee kept no records of when the presentations were made. The treasurer noted, however, that new procedures have been implemented to avoid a recurrence of these problems. See Attachment I at pp. 8&9.

In this matter, the Swift Committee reported the receipt of 19 contributions on specific dates. According to the information contained in the audit report, these contributions were deposited between 26 and 103 days after the date of the check. The Committee's response confirms that some of the contributions it received were not handled with the care necessary to ensure transmittal to the treasurer and deposit in a timely manner.

In response to the Commission's Interim Audit Report, the Swift Committee provided documentation of its view of the problems it has encountered in meeting the requirements of the FECA. One of the committee's internal communications submitted to the Commission made the following explanation for these problems:

There are several reasons we have not always been in compliance with this requirement [of timely deposit]: (1) we here in D.C. have not gotten checks to [the treasurer] quickly enough; (2) volunteers and other campaign workers who have received contributions for local fund-raisers and other events have not gotten checks to [the treasurer] quickly enough; (3) [the treasurer] has sometimes not deposited checks quickly enough, even after she received them; and (4) we cannot demonstrate our compliance, since we have only been recording the dates of the checks themselves, which is not a reliable guide since some contributors hold on to them before presenting them to us..." (Attachment I at p.11.)

Consistent with these factual representations of the Swift Committee the Office of General Counsel recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1) by failing to forward contributions and the date of their receipt to the treasurer within 10 days. The Office of General Counsel also recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 11 C.F.R. § 103.3(a), which implements 2 U.S.C. § 432(h), by failing to deposit contribution checks within 10 days of the treasurer's receipt.

86040564683

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Al Swift for Congress Committee
Betty Bagley, as treasurer

)
)
) MUR 2064
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of October 1,
1985, do hereby certify that the Commission took the
following actions in MUR 2064:

1. Decided by a vote of 4-1 to find reason
to believe that the Al Swift for Congress
Committee and Betty Bagley, as treasurer,
violated 2 U.S.C. § 432(b)(1).

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

2. Decided by a vote of 5-0 to find reason to
believe that the Al Swift for Congress
Committee and Betty Bagley, as treasurer,
violated 11 C.F.R. § 103.3(a), which
implements 2 U.S.C. § 432(h).

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

(continued)

86040564684

Federal Election Commission
Certification for MUR 2064
October 1, 1985

Page 2

3. Decided by a vote of 5-0 to direct the Office of General Counsel to send the appropriate letter and factual and legal analysis.

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

Attest:

October 1, 1985

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

86040564685

SENSITIVE

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 _____

MUR # 2064
STAFF MEMBER
George Demougeot

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:

Al Swift for Congress Committee
Betty Bagley, as treasurer

RELEVANT STATUTE AND REGULATIONS:

2 U.S.C. § 432(b)(1)
2 U.S.C. § 432(h)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED:

Committee Reports and Several
MURs cited in report

FEDERAL AGENCIES CHECKED:

None

GENERATION OF MATTER

Based on information obtained in the normal course of its supervisory duties under the Federal Election Campaign Act of 1971, as amended (the "Act"), the Audit Division ("Audit") referred this matter to the Office of General Counsel.

SUMMARY OF ALLEGATIONS

The Final Audit Report on the Al Swift for Congress Committee ("Swift Committee") indicates that the Swift Committee has not timely deposited checks received from contributors. A sampling of 45 contributor checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of check.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized political committee shall, no

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COMMISSION SECRETARY

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later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

2 U.S.C. § 432(h) states, in part, that all receipts received by a political committee must be deposited in designated accounts. 11 C.F.R. § 103.3(a) states that all deposits shall be made within 10 days of the treasurer's receipt.

In response to the Interim Audit report findings of untimely depositing of contributor checks, the Swift Committee cited two explanations. First, the treasurer stated that she was unaware of the ten day requirement for depositing contributions. Second, the treasurer contended that in some instances PAC contributions were reported received as of the date written on the checks when in fact the check had been held until a personal presentation could be made by the PAC representative to the candidate or other committee representative. The treasurer also stated that the Committee kept no records of when the presentations were made. The treasurer noted, however, that new procedures have been implemented to avoid a recurrence of these problems. See Attachment I at pp. 8&9.

In this matter, the Swift Committee reported the receipt of 19 contributions on specific dates. According to the information contained in the audit report, these contributions were deposited between 26 and 103 days after the date of the check. The Committee's response confirms that some of the contributions it

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received were not handled with the care necessary to ensure transmittal to the treasurer and deposit in a timely manner.

In response to the Commission's Interim Audit Report, the Swift Committee provided documentation of its view of the problems it has encountered in meeting the requirements of the FECA. One of the committee's internal communications submitted to the Commission made the following explanation for these problems:

There are several reasons we have not always been in compliance with this requirement [of timely deposit]: (1) we here in D.C. have not gotten checks to [the treasurer] quickly enough; (2) volunteers and other campaign workers who have received contributions for local fund-raisers and other events have not gotten checks to [the treasurer] quickly enough; (3) [the treasurer] has sometimes not deposited checks quickly enough, even after she received them; and (4) we cannot demonstrate our compliance, since we have only been recording the dates of the checks themselves, which is not a reliable guide since some contributors hold on to them before presenting them to us..." (Attachment I at p.11.)

Consistent with these factual representations of the Swift Committee the Office of General Counsel recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1) by failing to forward contributions and the date of their receipt to the treasurer within 10 days. The Office of General Counsel also recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(h) and 11 C.F.R. § 103.3(a) by failing to deposit contribution checks within 10 days of the treasurer's receipt.

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A complete audit has been conducted in this matter; the Commission has received all of the information that it may reasonably expect to receive. Thus, it is appropriate to review prior Commission actions involving similar violations.

DISCUSSION OF PRIOR MURS

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RECOMMENDATIONS

1. Find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1).
2. Find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(h).
3. Find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 11 C.F.R. § 103.3(a).

4. Approve proposed letter and factual and legal analysis.

Charles N. Steele
General Counsel

September 2, 1985
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

- I. Audit Referral
- II. Proposed letter and General Counsel's
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1985

MEMORANDUM TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

FROM: Charles N. Steele *CN*
General Counsel

SUBJECT: Interim Audit Report on the
Al Swift for Congress Committee

The Office of General Counsel has reviewed the Interim Report of the Audit Division on the Al Swift for Congress Committee ("the Committee") and the subsequent memorandum, dated May 17, 1985. Based upon our review, the Office of General Counsel concurs with the Audit Division's recommendation contained in the May 17 memorandum that the report be considered as a final audit report. We further concur that the amended report submitted by the Committee satisfies the recommendation contained in Finding II.A. Finally, with respect to the recommendation contained in Finding II.B., we concur that the Committee's failure to deposit contributions in a timely manner meets the threshold requirements for referral and therefore, should be referred.

Attachment I
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AR 85-20-a
Revised

May 17, 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

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

SUBJECT: RESPONSE TO INTERIM AUDIT REPORT ON
THE AL SWIFT FOR CONGRESS COMMITTEE

On May 9, 1985, the Audit Division forwarded the interim audit report on the Al Swift for Congress Committee ("the Committee") to your office for analysis. On May 17, 1985, an amended disclosure report was filed by the Committee which satisfies the recommendation contained in Finding II.A. Misstatement of Financial Activity.

If your office concurs with the recommendation regarding Finding II.B. which recommends referring the finding to your office then no additional action is necessary by the Committee at this time. The Audit Division therefore recommends that the report be considered as a final audit report and be reviewed by your office appropriately. Upon your concurrence with this memorandum and receipt of the analysis on the report, Finding II.A. will be revised to reflect the Committee's compliance with the recommendation and the report will be forwarded to the Commission as a final audit report.

If you have any questions regarding the matter, please contact Ray Lisi at 523-4155.

Attachment I

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 9, 1985

MEMORANDUM

TO: Charles Steele
General Counsel

THROUGH: John Surina
Staff Director

FROM: Robert Costa
Assistant Staff Director
Audit Division

SUBJECT: Interim Audit Report - Al Swift for Congress
Committee

Attached for your review is a copy of the interim audit report on the Al Swift for Congress Committee ("the Committee").

Pursuant to the Audit Division's approved Materiality Thresholds, Exhibit 1, Timely Deposit of Contributions, is being referred to your office. Regarding this finding the Audit staff identified any contribution deposited 25 days after the date of the check as an error. Twenty five days was used as a cutoff to provide 5 days for mailing, 10 days to forward the check to the Treasurer if received by someone other than the Treasurer, and 10 days for the Treasurer to make the deposit. It is the opinion of the Audit staff that the Committee's April 29, 1985 letter is an official response by the Committee to the finding and no additional information need be requested. However, if your office feels more information is needed the report can be revised to request it.

If you have any questions regarding the matters in this report please contact Ray Lisi at 523-4155.

Attachment as stated

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE AL SWIFT FOR CONGRESS COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Al Swift For Congress Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to 2 U.S.C. § 438(b) which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

The Committee registered with the Clerk of the House of Representatives on March 23, 1978, as the principal campaign committee designated by the Honorable Allan Byron Swift. The Committee maintains its headquarters in Everett, Washington.

The audit covered the period January 1, 1983 through December 31, 1984. The Committee reported an opening cash balance on January 1, 1983, of \$6,141.06; total receipts for the period of \$328,968.28; total disbursements for the period of \$304,282.93 and a cash on hand balance December 31, 1984, of \$30,826.41.

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

B. Key Personnel

The Treasurer of the Committee during the period of audit was Ms. Betty Bagley.

Attachment I
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C. Scope

The audit included such tests as verification of total reported receipts and disbursements and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances. However, although the contribution records provided by the Committee meet the recordkeeping requirements of 2 U.S.C. §432(c) and 11 C.F.R. § 102.9(a) the records were not maintained in a manner which allowed testing for correct aggregate contributor totals and proper itemization.

II. Audit Findings and Recommendations

A. Misstatement of Financial Activity

Sections 434(b)(2) and (4) of Title 2 of the United States Code state, in part, that each report shall contain the total amount of all receipts and disbursements for the reporting period and the calendar year.

A reconciliation between the Committee's bank account and disclosure reports revealed that the Committee's reports contained a \$14,700 overstatement in receipts and a \$14,660 overstatement in disbursements. The receipts overstatement was apparently the result of an incorrect calculation performed by the Treasurer concerning total receipts during the 10/1/84 - 11/26/84 reporting periods. The disbursement overstatement occurred when \$14,300.00 in loan repayments and a \$400 contribution refund were reported twice during the 10/18/84 - 11/26/84 reporting period.

According to the Treasurer, the Committee itemized the majority of receipts and disbursements regardless of amount through September 30, 1984. Upon the advice of the Commission, beginning on October 1, 1984, only receipts and disbursements in excess of or aggregating in excess of \$200 in the calendar year were itemized.^{1/} The overstatements were the result of errors made during this transition period.

The Treasurer of the Committee stated that amended reports would be filed.

Recommendation

The Audit staff recommends that the Committee file an amended report, within 30 days of receipt of this report, to correct the misstatements noted above.

^{1/} See 11 C.F.R. § 104.3(a)(4)(i) and (b)(4)(i)

B. Matter Referred to the Office of General Counsel

A matter noted during the audit was referred to the Office of General Counsel.

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Attachment I
(6)

Timely Deposit of Contributions

Section 432(b)(1) of Title 2 of the United States Code states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50, the name and address of the person making the contribution and the date of receipt.

Pursuant to 11.C.F.R. § 103.3(a) all deposits shall be made within 10 days of the Treasurer's receipt.

The Committee's receipt records consisted of copies of contributor checks, along with letters and/or lists attached to deposit tickets. The date on 45 contributor checks, all in excess of \$200, were compared to the date of deposit. This comparison disclosed that of the 45 checks 19 or 42% were deposited between 26 days and 103 days after the date of the check. ^{1/} Fifteen of the checks were drawn on PAC accounts; the four remaining were contributions from individuals.

The Committee Treasurer stated that she was not aware of the ten day requirement for depositing contributions but that she would make every attempt to comply with it in the future.

On May 2, 1985, a letter was received from the Treasurer of the Committee (See Attachment 1) which stated that new procedures were being implemented which would ensure that contributions are deposited in a timely manner. The letter further stated that in some instances the reason checks did not appear to be deposited timely was due to the PAC representative holding the check until a personal presentation could be made to the candidate.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel.

^{1/} In those cases where a letter accompanied the check the date of the letter was used to more accurately reflect the date of mailing.

Attachment I

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CONGRESSMAN
AL SWIFT
2ND DISTRICT-DEMOCRAT
P.O. Box 124 Everett WA 98224

April 29, 1985

Mr. Ray Lisi
Federal Election Commission
Audit Division
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Lisi:

First, let me thank you for your courtesy and consideration; you were consistently helpful in this unfortunate situation.

My impression is that we were ultimately able to provide you with most of the receipts, bank statements and other records you needed to do a complete audit of our campaign records.

I understand from the exit interview, however, that there are still several serious problems we need to address. Some can be taken care of in an amended report. That will be filed promptly, and I hope it will be completely satisfactory.

Beyond that, though, there remains the problem of contributions that appear not to have been deposited in our bank account in a timely manner. You called our attention to the regulation that requires checks received by the campaign committee to be forwarded to the treasurer within ten days, then deposited within another ten day period.

Part of the difficulty stems from our failure to keep adequate records as to when we received all our contributions. We have been reporting them by the date of the check, rather than the date the check was actually received. Clearly, that failure in and of itself is a substantial error on our part--one that has already been eliminated. All future contributions will be processed and recorded in a manner to comply fully with the regulations.

But please be assured at least that we were in compliance on the great majority of our contributions, despite our inability to completely document that fact.

For instance, you mentioned the check we received from the American Medical Association as one that was not deposited in time. Although that check was dated August 1st, we did not receive it until August 14th because the Washington Medical Political Action Committee wanted to present it to Congressman Swift in person on the 14th. (Please see Attachment A for a copy of the announcement of the meeting at which they made the presentation). Similarly, the check we received from the

Attachment 2

Mr. Ray Lisi
Page 2
April 29, 1985

American Optometric Association PAC was dated August 14th. However, Dr. Alan Stone of that PAC wanted to present the check in person, and the earliest we were able to arrange for him to meet with Congressman Swift was August 27th, so we did not actually receive the check until that day. We know there are other instances in which personal presentations delayed our actual receipt of some checks.

Nonetheless, I am also aware that at least some of our contributions were not handled completely properly; [we were just not careful enough to see that they were deposited in time.] In order to be sure that will not happen again we are taking the following actions.

Our campaign organization is being given a thorough re-examination, from the top down, to eliminate these problems, as well as any possibility that they might recur. As detailed in the attached memorandum (Attachment B), new procedures are already being put in place to guarantee no repeat, either of the late deposits, or of the failure of record-keeping that made other deposits appear to be late. As a part of the new procedures, all campaign groups, workers and volunteers will be provided with a form calling attention to compliance requirements (Attachment C), that will be included in our campaign manual. We will also see to it that we gather all the necessary contributor information, every time.

In addition, to the degree that some of our difficulty has stemmed from not placing high enough priority on the requirements of the campaign law, we will emphasize those requirements in every campaign meeting, with all individuals in our organization who might be handling contributions.

Finally, I personally will certainly be doing whatever I can to avoid, eliminate and prevent these or any similar problems--late reports, etc.--in the future.

Those of us in the Al Swift for Congress campaign organization who are in any way responsible for the serious deficiencies you have pointed out to us deeply regret this situation, and are committed to seeing to it that we are in complete compliance with all campaign finance requirements in the future.

Yours sincerely,

Betty Bagley
Betty Bagley
Treasurer

Attachments (4)

Attachment I
(9)

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WMPAC Washington Medical Political Action Committee

900 United Airlines Building, 2033 Sixth Avenue, Seattle, Washington 98121

July 11, 1984

Dear Fellow Physician:

On Tuesday evening, August 14, 1984, you and a guest will have the unique opportunity to personally meet and talk with Washington's Second District Congressman Al Swift.

Time: 7:30-9:30 PM

Place: Home of Dr. & Mrs. K. Robert Lang
576 Klamath Lane
LaConner, Washington
(see directions/map on reverse side)

Congressman Swift has had a significant and positive effect on the Washington DC scene as a concerned representative of the public and medical community in health care matters. There are numerous important health care issues facing Congress. Therefore, on August 14, physicians and their guests will not only learn first hand what these issues are but how concerned citizens can affect the legislative process.

The Washington State Medical Association's political action committee is coordinating and underwriting this event. Please RSVP to Mrs. Anita Lang, member WMPAC Board of Directors, at 456-3847 (LaConner) or Dodie Wine, WMPAC staff assistant at 1-800-552-0612 (Seattle).

Sincerely,

K. Robert Lang
K. Robert Lang, MD

PS: hors d'oeuvres and dessert will be served

/dew
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OVER PLEASE

Attachment I
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MEMORANDUM

TO: Al
 FROM: Drew
 DATE: April 25, 1968

RE: FEC Audit

As you know, I was out in Everett for the initial interview prior to the audit of the campaign committee. Apparently the audit itself and the exit interview went as well as could be expected, considering that there are clearly some critical changes we need to make in several of our procedures.

First and foremost, our fundamental problem has been that attention to our obligations under the campaign law and FEC regulations has simply been too far down our list of priorities. We all bear responsibility for that. All of us involved in campaign-related activities are deeply concerned, and are committed to redrafting our procedures so nothing like this will ever happen again--not only so we will not be audited, but because we should be in compliance.

Specifically with respect to the matters identified by the auditors, I think the most important problem they identified is our failure to consistently have our contributions banked in time. The requirement is that every campaign worker who receives a contribution must have it to the treasurer within 10 days, then the treasurer must deposit it in the bank within 10 days after that.

There are several reasons we have not always been in compliance with this requirement: (1) we here in D.C. have not gotten checks to Betty quickly enough; (2) volunteers and other campaign workers who have received contributions for local fund-raisers and other events have not gotten checks to Betty quickly enough; (3) Betty has sometimes not deposited checks quickly enough, even after she received them; and (4) we cannot demonstrate our compliance, since we have only been recording the dates of the checks themselves, which is not a reliable guide since some contributors hold on to them before presenting them to us. The following are among the changes we are making to eliminate this problem.

1. D.C.: Many of our contributions come to our mailbox here in D.C. Those are then sent to the post office box in Everett, where Liz picks them up and forwards them to Betty.

Obviously, each of those steps takes time, especially if the checks are not forwarded from here promptly to begin with. We need to considerably tighten up this sequence of events.

First, checks received here will be forwarded every day, not every few days, the way they have been. And certainly, there will be no holding on to checks until the day of the fund-raiser, as I think may have happened in some instances in the past. Also, in so far as part of our problem is in not being able to document the date on which we actually received a check, we will keep careful records of the date

Attachment I
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of receipt for each contribution. Those records will be sent to Betty at least once a week since, for record-keeping purposes, she needs to keep track of the day the first person associated with our campaign actually received the contribution.

Second, Liz will get the checks to Betty every day. As the primary conduit for our contributions, and as campaign manager and the person in Everett, Liz will be responsible for overseeing the process to ensure that all contributions are making their way to Betty within the required 10 days. Liz also will record each check the day she picks it up from the box, or receives it from anyone, whether campaign worker or contributor.

Third, Betty will ensure that all checks are in the bank within 10 days after she receives them. If she has any problem meeting that deadline, she will let Liz know promptly. Finally, Betty also will keep careful records of each check and the day she received it, as well as the day she deposited it.

These procedures should do two things. First, they should ensure that our checks are deposited on time. Second, they should provide a much better paper trail than we now have for tracing just who received the checks, when they were received, where they went on their way to the bank, and when they were deposited.

With these changes, we should be able to bring our deposits into compliance—and be able to demonstrate that they are. We will give this a try anyway, and if there is any problem with meeting the deadline we will promptly consider other measures. We could, for instance, have all checks sent directly to the post office box in Everett, and they could just send us a list of the checks and the dates of receipt. We have that information a little faster by having checks sent to the mailbox here, but we could probably live without that. In fact, we can certainly live without it if that is necessary to meet the 10 day deadline.

2. Campaign workers and volunteers: We provide various kinds of instruction for our campaign workers, and we have generally had a campaign manual. We simply have not put enough stress on the requirements of the campaign law, and on the importance of meeting those requirements.

In the future, not only will we have all the relevant information in the campaign manual, but we will also supplement that by stressing these requirements in all campaign meetings.

Attached is a draft of the material we will put in the campaign manual.

The other important problem we face is that we are not doing an adequate job of aggregating our campaign contributions. Each time we report a contribution, we should also report the aggregate year-to-date totals for that contributor. Our record-keeping has not been as complete as it might be to allow us to easily track and report the necessary information. We have already made appropriate changes to ensure that in future we will have the information, and it will be properly reported.

Attachment I
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One other matter that I do not believe was specifically mentioned in the audit, but which I think--from looking at some of our reports--we have to be sure we are doing properly, is getting complete contributor information. That is addressed in the draft of the material that will be in the campaign manual (attached), but I also want to highlight it as something we will be concentrating on in the future.

The first line for gathering the information will be those who receive the contributions--those of us who work on fundraisers here in D.C.; campaign workers and volunteers in the state. But Liz will check all contributions as they come through to be sure the necessary information on the contributor's name, address, occupation and employer are included (as well as the amount of the contribution and the date of receipt). This is not Betty's responsibility; we will see to it that all contributions come to her with the required information. And again, if she has any problem automatically receiving all the information she needs, she will let Liz know promptly.

As a final point, we now have several copies of the FEC's "Campaign Guide for Congressional Candidates and Committees." We have them both here in D.C. and in Everett. We will get one to Bellingham, as well. All of our primary campaign people will be informed that the guide is around, and if there are any questions they should look them up. As nearly as I can see, the guide is clear and simple; most questions are answered readily just by flipping through it.

Furthermore, if there are any questions the guide does not appear to answer, the FEC has a toll free number (800) 424-9530. Again, everyone will be informed: when in doubt, check the manual and, if still in doubt, call.

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*****IMPORTANT*****
Federal Election Campaign Act
REQUIREMENTS

All individuals and groups working with THE Al Swift for Congress campaign must be familiar with the following information, and comply with the listed requirements. If you have any questions or problems, please be sure to contact our campaign manager, Liz McLaughlin.

I. For any contribution you receive on behalf of Al Swift for Congress, please be sure:

(1) that you obtain the following information:

—for individual contributions up to \$200: contributors full name and address, date you received the contribution, and amount.

—for individual contributions of \$200 or more: contributor's full name, mailing address, occupation, and name of employer along with the date you received the contribution and the amount of the check.

—for all political action committee (PAC) contributions, regardless of amount: name of PAC, amount of contribution and date you received it.

(2) that you forward the checks and above information to our campaign treasurer soon enough so she will have them within 10 days of the date you received them.

A log is attached for your convenience. Please use it, and send it with the checks themselves to Box 941, Everett, Washington 98206.

II. Please be aware that the following are PROHIBITED CONTRIBUTIONS:

1. Checks from unions or corporations. They must use their political action committee (PAC) accounts.

2. Checks from government contractors. This prohibition applies to contributions made by individuals or sole proprietors who have entered into contract with the Federal Government. It does not apply, however, to personal contributions of employees, partners, shareholders or officers of businesses with Government contracts; nor does it apply to PACs established by corporations or labor organizations with Government contracts.

3. Checks from foreign nationals. Contributions from foreign nationals who have not been granted permanent residence in the United States (i.e., those without green cards) are prohibited.

4. Contributions in cash, unless they are strictly limited to no more than \$100 per person, in the aggregate, for the entire campaign period.

5. Contributions in the name of another.

Attachment I
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III. In addition:

1. If a partnership check is received, there must be a breakdown of each partner's contribution.

2. There is a limit of \$1000 per individual, per election. Since the primary and the general are treated as separate elections, the overall total is \$2000.

3a. There is a limit of \$5000 per PAC per election. Again, the primary and the general are treated as separate elections.

IT IS IMPORTANT TO NOTE that the Federal Election Commission is strict about enforcing its reporting requirements. Whatever your experience might have been with any other reporting requirements, remember that THESE FEDERAL REQUIREMENTS MUST BE MET STRICTLY AND PROMPTLY.

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Attachment I
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LOG OF CONTRIBUTION

A. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

B. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

C. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

D. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

E. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

F. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

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Attachment I
(16)

MEMO
TO DREW
FROM LIZ

April 25, 1985

You asked for a little background on what went wrong with our PEC Reporting, and how we can avoid a repeat in the future.

First, we simply let too much pile up on Betty. Partly, that was our fault for not keeping a closer eye on things. She has been serving as campaign treasurer for quite awhile; we all have confidence in her ability to do the job well; and we just were paying no attention as too much work got sent her way.

And partly, Betty was trying too hard to do the job in the face of what turned out to be insurmountable odds last year. The company where she works as the bookkeeper went on computer in the fall, just as the campaign work was the heaviest--right around the time of the primary in September and then the general election campaign in October. Also, her mother--who, as you know, lives with her--was having serious health problems right about then.

For my part, I will do a much better job in the future of monitoring the work on Betty. And we will all need to see to it that she has the information she needs, when she needs it, and that no extra burdens get put on her. It is not fair to her, particularly as a volunteer with a full-time job, and in the end--as we have seen--it turns out poorly for the campaign as well.

For her part, she will stop trying to do more than she can handle. When things are too busy at work, or when her mother is ill, or if she is having a problem for any other reason, she will let me know right away.

Second, I think we have to be more aware that the Federal campaign requirements may not be the same as state requirements. When I got a deficiency notice back from the state after I filed one of our reports, for example, I was greatly concerned and called immediately to find out what we should do to fix things. The state people were quite reassuring and essentially said: the law is strict and often people have trouble filing the reports right; so I didn't worry too much about it.

I think as a result of that experience, both Betty and I were less concerned and responsive than we should have been when we received letters from the PEC asking for amendments.

Attachment I
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page 2

We are all aware of how we got in this fix, and what we need to do to avoid it in the future. I think the reorganization of responsibilities and the new procedures we are working on for the memo you are preparing are all excellent, and everyone here is determined to follow through on them.

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Attachment I
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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Betty Bagley, Treasurer
Al Swift for Congress Committee
P.O. Box 941
Everett, WA 98206

RE: MUR 2064

Dear Mr. Bagley:

On , 1985, the Federal Election Commission determined that there is reason to believe the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. §§ 432(b)(1), 432(h) and 11 C.F.R. § 103.3(a). 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 you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent will not be entertained.

H. Edmund II

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

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

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.

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 George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

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Attended AF (20)

**FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS**

MUR NO. 2064

STAFF MEMBER(S) & TEL. No.

George Demougeot

RESPONDENT Al Swift for Congress Committee
and Betty Bagley, as treasurer

SUMMARY OF ALLEGATIONS

The Final Audit Report on the Al Swift for Congress Committee ("Swift Committee") indicates that the Swift Committee has not timely deposited checks received from contributors. A sampling of 45 contributor checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of the check.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

2 U.S.C. § 432(h) states, in part, that all receipts received by a political committee must be deposited in designated accounts. 11 C.F.R. § 103.3(a) states that all deposits shall be made within 10 days of the treasurer's receipt.

Attachment II (21)

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In response to the Interim Audit report findings of untimely depositing of contributor checks, the Swift Committee cited two explanations. First, the treasurer stated that she was unaware of the ten day requirement for depositing contributions. Second, the treasurer contended that in some instances PAC contributions were reported received as of the date written on the checks when in fact the check had been held until a personal presentation could be made by the PAC representative to the candidate or other committee representative. The treasurer also stated that the Committee kept no records of when the presentations were made. The treasurer noted, however, that new procedures have been implemented to avoid a recurrence of these problems. See Attachment I at pp. 8&9.

In this matter, the Swift Committee reported the receipt of 19 contributions on specific dates. According to the information contained in the audit report, these contributions were deposited between 26 and 103 days after the date of the check. The Committee's response confirms that some of the contributions it received were not handled with the care necessary to ensure transmittal to the treasurer and deposit in a timely manner.

In response to the Commission's Interim Audit Report, the Swift Committee provided documentation of its view of the problems it has encountered in meeting the requirements of the FECA. One of the committee's internal communications submitted to the Commission made the following explanation for these problems:

Attachment II (22)

There are several reasons we have not always been in compliance with this requirement [of timely deposit]: (1) we here in D.C. have not gotten checks to [the treasurer] quickly enough; (2) volunteers and other campaign workers who have received contributions for local fund-raisers and other events have not gotten checks to [the treasurer] quickly enough; (3) [the treasurer] has sometimes not deposited checks quickly enough, even after she received them; and (4) we cannot demonstrate our compliance, since we have only been recording the dates of the checks themselves, which is not a reliable guide since some contributors hold on to them before presenting them to us..." (Attachment I at p.11.)

Consistent with these factual representations of the Swift Committee the Office of General Counsel recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1) by failing to forward contributions and the date of their receipt to the treasurer within 10 days. The Office of General Counsel also recommends that the Commission find reason to believe that the Swift Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(h) and 11 C.F.R. § 103.3(a) by failing to deposit contribution checks within 10 days of the treasurer's receipt.

Attachment II (23)

86040564714

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Al Swift for Congress Committee) MUR 2064
Betty Bagley, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of October 11, 1985, do hereby certify that the Commission took the following actions in MUR 2064:

1. Decided by a vote of 4-1 to find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1).

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

2. Decided by a vote of 5-0 to find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 11 C.F.R. § 103.3(a), which implements 2 U.S.C. § 432(h).

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

(continued)

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Federal Elelction Commission
Certification for MUR 2064
October 1, 1985

Page 2

3. Decided by a vote of 5-0 to direct the
Office of General Counsel to send the
appropriate letter and factual and legal
analysis.

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

Attest:

October 1, 1985

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

86040564716

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Sunshine Recommendation -
Final Audit Report of the
Al Swift for Congress
Committee

)
)
)
)
)
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal
Election Commission, do hereby certify that on July 5,
1985, the Commission approved by a vote of 6-0 the Staff
Director's recommendation to discuss the Final Audit Report
of the Al Swift for Congress Committee in Executive Session.

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

Attest:

7/8/85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

86040564717

SENSITIVE

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 _____

MUR # 2064
STAFF MEMBER
George Demougeot

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:

Al Swift for Congress Committee
Betty Bagley, as treasurer

RELEVANT STATUTE:

2 U.S.C. § 432(b)(1)
11 C.F.R. § 103.3(a)

INTERNAL REPORTS CHECKED:

Committee Reports

FEDERAL AGENCIES CHECKED:

None

GENERATION OF MATTER

Based on information obtained in the normal course of its supervisory duties under the Federal Election Campaign Act of 1971, as amended (the "Act"), the Audit Division ("Audit") referred this matter to the Office of General Counsel on July 23, 1985.

SUMMARY OF ALLEGATIONS

The Final Audit Report on the Al Swift for Congress Committee ("Swift Committee") indicates that the Swift Committee has not timely deposited checks received from contributors. A sampling of 45 contributor checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of check.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(b)(1) states that every person who receives a contribution for an authorized political committee shall, no

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OFFICE OF THE FEC
GENERAL COUNSEL
11 AUG 23 1985

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later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

11 C.F.R. § 103.3(a) states that all deposits shall be made within 10 days of the Treasurer's receipt.

8 6 0 4 0 5 6 4 7 1 9
In response to the Interim Audit report findings, the Swift Committee cited two causes for the untimely depositing of contributor checks. First, the treasurer stated that she was unaware of the ten day requirement for depositing contributions. Second, the treasurer contended that in some instances PAC contributions were reported received as of the date written on the checks when in fact the check had been held until a personal presentation could be made by the PAC representative to the candidate. The treasurer also stated that the Committee kept no records of when the presentations were made. However, new procedures have been implemented to avoid a recurrence of such problems.

Neither the Act nor Commission regulations specify a point at which a contribution is received for limitation purposes for primary and general elections.* / Such a determination depends on the specific factual circumstances. In this matter, the Swift Committee reported the receipt of 19 contributions on specific dates. According to the information contained in the audit

* / The Commission stated in a recent advisory opinion that a contribution was made when it left the control of the contributor and was received by the political committee. See AO 1984-32. In U.S. v Hankin, 607 F.2d 611(3d Cir. 1979), the Court of Appeals held that the making of a contribution did not occur at the time of deposit of the contribution check but at some time before.

report, these contributions were deposited between 26 and 103 days late. In addition, the Committee's response to the auditors admits that at least some of the contributions were not handled properly and the necessary care to ensure timely deposits was not exercised.

In that the Committee acknowledges that it failed to implement sufficient procedures to ensure timely deposits and that contributions were not in fact deposited in a timely manner, the Office of General Counsel recommends that Commission find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1) by failing to deposit contributions within 10 days of receipt.

RECOMMENDATION

1. Find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1).
2. Approve proposed letter and factual and legal analysis.

Charles N. Steele
General Counsel

August 28, 1985
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

- I. Audit Referral
- II. Proposed letter and General Counsel's Factual and Legal Analysis

86040564720



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 1985

MEMORANDUM TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

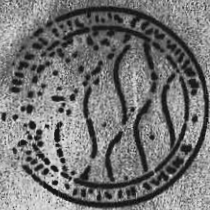
FROM: Charles N. Steele *CNS*
General Counsel

SUBJECT: Interim Audit Report on the
Al Swift for Congress Committee

The Office of General Counsel has reviewed the Interim Report of the Audit Division on the Al Swift for Congress Committee ("the Committee") and the subsequent memorandum, dated May 17, 1985. Based upon our review, the Office of General Counsel concurs with the Audit Division's recommendation contained in the May 17 memorandum that the report be considered as a final audit report. We further concur that the amended report submitted by the Committee satisfies the recommendation contained in Finding II.A. Finally, with respect to the recommendation contained in Finding II.B., we concur that the Committee's failure to deposit contributions in a timely manner meets the threshold requirements for referral and therefore, should be referred.

Attachment I
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86040564721



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AR 85-20-a
Remington

May 17, 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

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

SUBJECT: RESPONSE TO INTERIM AUDIT REPORT ON
THE AL SWIFT FOR CONGRESS COMMITTEE

On May 9, 1985, the Audit Division forwarded the interim audit report on the Al Swift for Congress Committee ("the Committee") to your office for analysis. On May 17, 1985, an amended disclosure report was filed by the Committee which satisfies the recommendation contained in Finding II.A. Misstatement of Financial Activity.

If your office concurs with the recommendation regarding Finding II.B. which recommends referring the finding to your office then no additional action is necessary by the Committee at this time. The Audit Division therefore recommends that the report be considered as a final audit report and be reviewed by your office appropriately. Upon your concurrence with this memorandum and receipt of the analysis on the report, Finding II.A. will be revised to reflect the Committee's compliance with the recommendation and the report will be forwarded to the Commission as a final audit report.

If you have any questions regarding the matter, please contact Ray Lisi at 523-4155.

Attachment I
(2)

86040564722



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 9, 1985

MEMORANDUM

TO: Charles Steele
General Counsel

THROUGH: John Surina
Staff Director

FROM: Robert Costa
Assistant Staff Director
Audit Division

SUBJECT: Interim Audit Report - Al Swift for Congress
Committee

Attached for your review is a copy of the interim audit report on the Al Swift for Congress Committee ("the Committee").

Pursuant to the Audit Division's approved Materiality Thresholds, Exhibit 1, Timely Deposit of Contributions, is being referred to your office. Regarding this finding the Audit staff identified any contribution deposited 25 days after the date of the check as an error. Twenty five days was used as a cutoff to provide 5 days for mailing, 10 days to forward the check to the Treasurer if received by someone other than the Treasurer, and 10 days for the Treasurer to make the deposit. It is the opinion of the Audit staff that the Committee's April 29, 1985 letter is an official response by the Committee to the finding and no additional information need be requested. However, if your office feels more information is needed the report can be revised to request it.

If you have any questions regarding the matters in this report please contact Ray Lisi at 523-4155.

Attachment as stated

Attachment I
(3)

86040564723



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

INTERIM REPORT OF THE AUDIT DIVISION ON THE AL SWIFT FOR CONGRESS COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Al Swift For Congress Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the Commission's audit policy to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to 2 U.S.C. § 438(b) which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under Section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

The Committee registered with the Clerk of the House of Representatives on March 23, 1978, as the principal campaign committee designated by the Honorable Allan Byron Swift. The Committee maintains its headquarters in Everett, Washington.

The audit covered the period January 1, 1983 through December 31, 1984. The Committee reported an opening cash balance on January 1, 1983, of \$6,141.06; total receipts for the period of \$328,968.23; total disbursements for the period of \$304,282.93 and a cash on hand balance December 31, 1984, of \$30,826.41.

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

B. Key Personnel

The Treasurer of the Committee during the period of audit was Ms. Betty Bagley.

Attachment I
(4)

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C. Scope

The audit included such tests as verification of total reported receipts and disbursements and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances. However, although the contribution records provided by the Committee meet the recordkeeping requirements of 2 U.S.C. §432(c) and 11 C.F.R. § 102.9(a) the records were not maintained in a manner which allowed testing for correct aggregate contributor totals and proper itemization.

II. Audit Findings and Recommendations

A. Misstatement of Financial Activity

Sections 434(b)(2) and (4) of Title 2 of the United States Code state, in part, that each report shall contain the total amount of all receipts and disbursements for the reporting period and the calendar year.

A reconciliation between the Committee's bank account and disclosure reports revealed that the Committee's reports contained a \$14,700 overstatement in receipts and a \$14,660 overstatement in disbursements. The receipts overstatement was apparently the result of an incorrect calculation performed by the Treasurer concerning total receipts during the 10/1/84 - 11/26/84 reporting periods. The disbursement overstatement occurred when \$14,300.00 in loan repayments and a \$400 contribution refund were reported twice during the 10/18/84 - 11/26/84 reporting period.

According to the Treasurer, the Committee itemized the majority of receipts and disbursements regardless of amount through September 30, 1984. Upon the advice of the Commission, beginning on October 1, 1984, only receipts and disbursements in excess of or aggregating in excess of \$200 in the calendar year were itemized.^{1/} The overstatements were the result of errors made during this transition period.

The Treasurer of the Committee stated that amended reports would be filed.

Recommendation

The Audit staff recommends that the Committee file an amended report, within 30 days of receipt of this report, to correct the misstatements noted above.

^{1/} See 11 C.F.R. § 104.3(a)(4)(i) and (b)(4)(i)

B. Matter Referred to the Office of General Counsel

A matter noted during the audit was referred to the Office of General Counsel.

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Attachment I
(6)

Timely Deposit of Contributions

Section 432(b)(1) of Title 2 of the United States Code states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50, the name and address of the person making the contribution and the date of receipt.

Pursuant to 11.C.F.R. § 103.3(a) all deposits shall be made within 10 days of the Treasurer's receipt.

The Committee's receipt records consisted of copies of contributor checks, along with letters and/or lists attached to deposit tickets. The date on 45 contributor checks, all in excess of \$200, were compared to the date of deposit. This comparison disclosed that of the 45 checks 19 or 42% were deposited between 26 days and 103 days after the date of the check. ^{1/} Fifteen of the checks were drawn on PAC accounts; the four remaining were contributions from individuals.

The Committee Treasurer stated that she was not aware of the ten day requirement for depositing contributions but that she would make every attempt to comply with it in the future.

On May 2, 1985, a letter was received from the Treasurer of the Committee (See Attachment 1) which stated that new procedures were being implemented which would ensure that contributions are deposited in a timely manner. The letter further stated that in some instances the reason checks did not appear to be deposited timely was due to the PAC representative holding the check until a personal presentation could be made to the candidate.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel.

^{1/} In those cases where a letter accompanied the check the date of the letter was used to more accurately reflect the date of mailing.

Attachment I

(7)

86040564727

CONGRESSMAN
AL SWIFT
2ND DISTRICT-DEMOCRAT
P.O. Box 547 Everett, WA 98224

April 29, 1983

Mr. Ray Lisi
Federal Election Commission
Audit Division
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Lisi:

First, let me thank you for your courtesy and consideration; you were consistently helpful in this unfortunate situation.

My impression is that we were ultimately able to provide you with most of the receipts, bank statements and other records you needed to do a complete audit of our campaign records.

I understand from the exit interview, however, that there are still several serious problems we need to address. Some can be taken care of in an amended report. That will be filed promptly, and I hope it will be completely satisfactory.

Beyond that, though, there remains the problem of contributions that appear not to have been deposited in our bank account in a timely manner. You called our attention to the regulation that requires checks received by the campaign committee to be forwarded to the treasurer within ten days, then deposited within another ten day period.

Part of the difficulty stems from our failure to keep adequate records as to when we received all our contributions. We have been reporting them by the date of the check, rather than the date the check was actually received. Clearly that failure in and of itself is a substantial error on our part--one that has already been eliminated. All future contributions will be processed and recorded in a manner to comply fully with the regulations.

But please be assured at least that we were in compliance on the great majority of our contributions, despite our inability to completely document that fact.

For instance, you mentioned the check we received from the American Medical Association as one that was not deposited in time. Although that check was dated August 1st, we did not receive it until August 14th because the Washington Medical Political Action Committee wanted to present it to Congressman Swift in person on the 14th. (Please see Attachment A for a copy of the announcement of the meeting at which they made the presentation). Similarly, the check we received from the

Attachment I

86040564728

Mr. Ray List
Page 2
April 29, 1985

American Optometric Association PAC was dated August 14th. However, Dr. Alan Stone of that PAC wanted to present the check in person, and the earliest we were able to arrange for him to meet with Congressman Swift was August 27th, so we did not actually receive the check until that day. We know there are other instances in which personal presentations delayed our actual receipt of some checks.

Nonetheless, I am also aware that at least some of our contributions were not handled completely properly; we were just not careful enough to see that they were deposited in time. In order to be sure that will not happen again we are taking the following actions.

Our campaign organization is being given a thorough re-examination, from the top down, to eliminate these problems, as well as any possibility that they might recur. As detailed in the attached memorandum (Attachment B), new procedures are already being put in place to guarantee no repeat, either of the late deposits, or of the failure of record-keeping that made other deposits appear to be late. As a part of the new procedures, all campaign groups, workers and volunteers will be provided with a form calling attention to compliance requirements (Attachment C), that will be included in our campaign manual. We will also see to it that we gather all the necessary contributor information, every time.

In addition, to the degree that some of our difficulty has stemmed from not placing high enough priority on the requirements of the campaign law, we will emphasize those requirements in every campaign meeting, with all individuals in our organization who might be handling contributions.

Finally, I personally will certainly be doing whatever I can to avoid, eliminate and prevent these or any similar problems--late reports, etc.--in the future.

Those of us in the Al Swift for Congress campaign organization who are in any way responsible for the serious deficiencies you have pointed out to us deeply regret this situation, and are committed to seeing to it that we are in complete compliance with all campaign finance requirements in the future.

Yours sincerely,

Betty Bagley
Betty Bagley
Treasurer

Attachments (4)

Attachment I
(9)

WAMPAC Washington Medical Political Action Committee

500 United Airlines Building, 2033 Sixth Avenue, Seattle, Washington 98121

July 11, 1984

Dear Fellow Physician:

On Tuesday evening, August 14, 1984, you and a guest will have the unique opportunity to personally meet and talk with Washington's Second District Congressman Al Swift.

Time: 7:30-9:30 PM

Place: Home of Dr. & Mrs. K. Robert Leng

576 Klammath Lane

LaConner, Washington

(see directions/map on reverse side)

Congressman Swift has had a significant and positive effect on the Washington DC scene as a concerned representative of the public and medical community in health care matters. There are numerous important health care issues facing Congress. Therefore, on August 14, physicians and their guests will not only learn first hand what these issues are but how concerned citizens can affect the legislative process.

The Washington State Medical Association's political action committee is coordinating and underwriting this event. Please RSVP to Mrs. Anita Leng, member WAMPAC Board of Directors, at 456-3847 (LaConner) or Dottie Mine, WAMPAC staff assistant at 1-800-552-0512 (Seattle).

Sincerely,

K. Robert Leng
K. Robert Leng, MD

PS: hors d'oeuvres and dessert will be served

/clw
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OVER PLEASE

Attachment I
(10)

86040564730

MEMORANDUM

TO: Al
 FROM: Drew
 DATE: April 28, 1988
 RE: FEC Audit

As you know, I was out in Everett for the initial interview prior to the audit of the campaign committee. Apparently the audit itself and the exit interview went as well as could be expected, considering that there are clearly some critical changes we need to make in several of our procedures.

First and foremost, our fundamental problem has been that attention to our obligations under the campaign law and FEC regulations has simply been too far down our list of priorities. We all bear responsibility for that. All of us involved in campaign-related activities are deeply concerned, and are committed to redrafting our procedures so nothing like this will ever happen again--not only so we will not be audited, but because we should be in compliance.

Specifically with respect to the matters identified by the auditors, I think the most important problem they identified is our failure to consistently have our contributions banked in time. The requirement is that every campaign worker who receives a contribution must have it to the treasurer within 10 days, then the treasurer must deposit it in the bank within 10 days after that.

There are several reasons we have not always been in compliance with this requirement: (1) we here in D.C. have not gotten checks to Betty quickly enough; (2) volunteers and other campaign workers who have received contributions for local fund-raisers and other events have not gotten checks to Betty quickly enough; (3) Betty has sometimes not deposited checks quickly enough, even after she received them; and (4) we cannot demonstrate our compliance, since we have only been recording the dates of the checks themselves, which is not a reliable guide since some contributors hold on to them before presenting them to us. The following are among the changes we are making to eliminate this problem.

1. D.C.: Many of our contributions come to our mailbox here in D.C. Those are then sent to the post office box in Everett, where Liz picks them up and forwards them to Betty.

Obviously, each of those steps takes time, especially if the checks are not forwarded from here promptly to begin with. We need to considerably tighten up this sequence of events.

First, checks received here will be forwarded every day, not every few days, the way they have been. And certainly, there will be no holding on to checks until the day of the fund-raiser, as I think may have happened in some instances in the past. Also, in so far as part of our problem is in not being able to document the date on which we actually received a check, we will keep careful records of the date

Attachment I
 (11)

86040564731

of receipt for each contribution. Those records will be sent to Betty at least once a week since, for record-keeping purposes, she needs to keep track of the day the first person associated with our campaign actually received the contribution.

Second, Liz will get the checks to Betty every day. As the primary conduit for our contributions, and as campaign manager and the person in Everett, Liz will be responsible for overseeing the process to ensure that all contributions are making their way to Betty within the required 10 days. Liz also will record each check the day she picks it up from the box, or receives it from anyone, whether campaign worker or contributor.

Third, Betty will ensure that all checks are in the bank within 10 days after she receives them. If she has any problem meeting that deadline, she will let Liz know promptly. Finally, Betty also will keep careful records of each check and the day she received it, as well as the day she deposited it.

These procedures should do two things. First, they should ensure that our checks are deposited on time. Second, they should provide a much better paper trail than we now have for tracing just who received the checks, when they were received, where they went on their way to the bank, and when they were deposited.

With these changes, we should be able to bring our deposits into compliance—and be able to demonstrate that they are. We will give this a try anyway, and if there is any problem with meeting the deadline we will promptly consider other measures. We could, for instance, have all checks sent directly to the post office box in Everett, and they could just send us a list of the checks and the dates of receipt. We have that information a little faster by having checks sent to the mailbox here, but we could probably live without that. In fact, we can certainly live without it if that is necessary to meet the 10 day deadline.

2. Campaign workers and volunteers: We provide various kinds of instruction for our campaign workers, and we have generally had a campaign manual. We simply have not put enough stress on the requirements of the campaign law, and on the importance of meeting those requirements.

In the future, not only will we have all the relevant information in the campaign manual, but we will also supplement that by stressing these requirements in all campaign meetings.

Attached is a draft of the material we will put in the campaign manual.

The other important problem we face is that we are not doing an adequate job of aggregating our campaign contributions. Each time we report a contribution, we should also report the aggregate year-to-date totals for that contributor. Our record-keeping has not been as complete as it might be to allow us to easily track and report the necessary information. We have already made appropriate changes to ensure that in future we will have the information, and it will be properly reported.

Attachment I
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One other matter that I do not believe was specifically mentioned in the audit, but which I think--from looking at some of our reports--we have to be sure we are doing properly, is getting complete contributor information. That is addressed in the draft of the material that will be in the campaign manual (attached), but I also want to highlight it as something we will be concentrating on in the future.

The first line for gathering the information will be those who receive the contributions--those of us who work on fundraisers here in D.C.; campaign workers and volunteers in the state. But Liz will check all contributions as they come through to be sure the necessary information on the contributor's name, address, occupation and employer are included (as well as the amount of the contribution and the date of receipt). This is not Betty's responsibility; we will see to it that all contributions come to her with the required information. And again, if she has any problem automatically receiving all the information she needs, she will let Liz know promptly.

As a final point, we now have several copies of the FEC's "Campaign Guide for Congressional Candidates and Committees." We have them both here in D.C. and in Everett. We will get one to Bellingham, as well. All of our primary campaign people will be informed that the guide is around, and if there are any questions they should look them up. As nearly as I can see, the guide is clear and simple; most questions are answered readily just by flipping through it.

Furthermore, if there are any questions the guide does not appear to answer, the FEC has a toll free number (800) 424-9530. Again, everyone will be informed: when in doubt, check the manual and, if still in doubt, call.

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~~CONFIDENTIAL~~
Federal Election Campaign Act
REQUIREMENTS

All individuals and groups working with THE Al Swift for Congress campaign must be familiar with the following information, and comply with the listed requirements. If you have any questions or problems, please be sure to contact our campaign manager, Liz McLaughlin.

I. For any contribution you receive on behalf of Al Swift for Congress, please be sure:

(1) that you obtain the following information:

—for individual contributions up to \$200: contributors full name and address, date you received the contribution, and amount.

—for individual contributions of \$200 or more: contributor's full name, mailing address, occupation, and name of employer along with the date you received the contribution and the amount of the check.

—for all political action committee (PAC) contributions, regardless of amount: name of PAC, amount of contribution and date you received it.

(2) that you forward the checks and above information to our campaign treasurer soon enough so she will have them within 10 days of the date you received them.

A log is attached for your convenience. Please use it, and send it with the checks themselves to Box 941, Everett, Washington 98206.

II. Please be aware that the following are ~~PROHIBITED~~ CONTRIBUTIONS:

1. Checks from unions or corporations. They must use their political action committee (PAC) accounts.

2. Checks from government contractors. This prohibition applies to contributions made by individuals or sole proprietors who have entered into contract with the Federal Government. It does not apply, however, to personal contributions of employees, partners, shareholders or officers of businesses with Government contracts; nor does it apply to PACs established by corporations or labor organizations with Government contracts.

3. Checks from foreign nationals. Contributions from foreign nationals who have not been granted permanent residence in the United States (i.e., those without green cards) are prohibited.

4. Contributions in cash, unless they are strictly limited to no more than \$100 per person, in the aggregate, for the entire campaign period.

5. Contributions in the name of another.

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III. In addition:

1. If a partnership check is received, there must be a breakdown of each partner's contribution.

2. There is a limit of \$1000 per individual, per election. Since the primary and the general are treated as separate elections, the overall total is \$2000.

3. There is a limit of \$5000 per PAC per election. Again, the primary and the general are treated as separate elections.

IT IS IMPORTANT TO NOTE that the Federal Election Commission is strict about enforcing its reporting requirements. Whatever your experience might have been with any other reporting requirements, remember that THESE FEDERAL REQUIREMENTS MUST BE MET STRICTLY AND PROMPTLY.

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LOG OF CONTRIBUTION

A. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

B. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

C. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

D. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

E. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

F. NAME, ADDRESS, ZIP CODE

EMPLOYER

DATE

OCCUPATION:

AMOUNT:

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MEMO
TO DREW
FROM LIZ

April 25, 1985

You asked for a little background on what went wrong with our PEC reporting, and how we can avoid a repeat in the future.

First, we simply let too much pile up on Betty. Partly, that was our fault for not keeping a closer eye on things. She has been serving as campaign treasurer for quite awhile; we all have confidence in her ability to do the job well; and we just were paying no attention as too much work got sent her way.

And partly, Betty was trying too hard to do the job in the face of what turned out to be insurmountable odds last year. The company where she works as the bookkeeper went on computer in the fall, just as the campaign work was the heaviest--right around the time of the primary in September and then the general election campaign in October. Also, her mother--who, as you know, lives with her--was having serious health problems right about then.

For my part, I will do a much better job in the future of monitoring the work on Betty. And we will all need to see to it that she has the information she needs, when she needs it, and that no extra burdens get put on her. It is not fair to her, particularly as a volunteer with a full-time job, and in the end--as we have seen--it turns out poorly for the campaign as well.

For her part, she will stop trying to do more than she can handle. When things are too busy at work, or when her mother is ill, or if she is having a problem for any other reason, she will let me know right away.

Second, I think we have to be more aware that the Federal campaign requirements may not be the same as state requirements. When I got a deficiency notice back from the state after I filed one of our reports, for example, I was greatly concerned and called immediately to find out what we should do to fix things. The state people were quite reassuring and essentially said: the law is strict and often people have trouble filing the reports right; so I didn't worry too much about it.

I think as a result of that experience, both Betty and I were less concerned and responsive than we should have been when we received letters from the PEC asking for amendments.

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We are all aware of how we got in this fix, and what we need to do to avoid it in the future. I think the reorganization of responsibilities and the new procedures we are working on for the memo you are preparing are all excellent, and everyone here is determined to follow through on them.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Betty Bagley, Treasurer
Al Swift for Congress Committee
P.O. Box 941
Everett, WA 98206

RE: MUR 2064

Dear ~~Mr.~~ Bagley:

On , 1985, the Federal Election Commission determined that there is reason to believe the Al Swift Congress Committee and Betty Bagley, as treasurer, violated 2 U.S.C. § 432(b)(1), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you and the committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent will not be entertained.

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

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

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.

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 George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

cc: Congressman Al Swift

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**FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS**

MUR NO. 2064

STAFF MEMBER(S) & TEL. No.

George Demougeot

RESPONDENT Al Swift for Congress Committee
and Betty Bagley, as treasurer

SUMMARY OF ALLEGATIONS

The Final Audit Report on the Al Swift for Congress Committee ("Swift Committee") indicates that the Swift Committee has not timely deposited checks received from contributors. A sampling of 45 contributor checks disclosed that 19 checks, or 42% of the sample, were deposited between 26 and 103 days after the date of the check.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 432(b) (1) states that every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of \$50 the name and address of the person making the contribution and the date of receipt.

11 C.F.R. § 103.3(a) states that all deposits shall be made within 10 days of the Treasurer's receipt.

In response to the Interim Audit report findings, the Swift Committee cited two causes for the untimely depositing of contributor checks. First, the treasurer stated that she was

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unaware of the ten day requirement for depositing contributions. Second, the treasurer contended that in some instances PAC contributions were reported received as of the date written on the checks when in fact the check would be held until a personal presentation could be made by the PAC representative to the candidate. The treasurer also stated that the Committee kept no records of when the presentations were made. However, new procedures have been implemented to avoid a recurrence of such problems.

Neither the Act nor Commission regulations define at what point a contribution is "made" for limitation purposes for primary and general elections.* / In this matter, the Swift Committee reported the receipt of 19 contributions on specific dates. According to information contained in the audit report, contributions were deposited between 26 and 103 days late. In addition, the Committee's response to the auditors admits that at least some of the contributions were not handled properly and the necessary care to ensure timely deposits was not exercised.

In that the Committee acknowledges that it failed to implement sufficient procedures to ensure timely deposits and that contributions were not in fact deposited in a timely manner,

* / The Commission stated in a recent advisory opinion that a contribution was made when it left the control of the contributor and was received by the political committee. See AO 1984-32. In U.S. v Hankin, 607 F.2d 611(3d Cir. 1979), the Court of Appeals held that the making of a contribution did not occur at the time of deposit of the contribution check but at some time before.

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the Office of General Counsel recommends that Commission find reason to believe that the Al Swift for Congress Committee and Betty Bagley, as treasurer violated 2 U.S.C. § 432(b)(1) by failing to deposit contributions within 10 days of receipt..

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2064

Date Filmed 2/8/86 Camera No. --- 2

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