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FEDERAL ELECTION COMMISSION

999 E. Street N.W.  
Washington, D.C. 20463

JUL 14 2000

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

AUDIT REFERRAL: #00-04

DATE ACTIVATED: May 17, 2000

STAFF MEMBER: Michelle E. Abellera

**SOURCE:** Audit Referral

**RESPONDENTS:** Mid-America Conservative Political Action Committee,  
and Les Borsay, as treasurer

Corey For Senate Committee and treasurer<sup>1</sup>

**RELEVANT STATUTES:** 2 U.S.C. §432(c)  
2 U.S.C. §434(b)(1)  
2 U.S.C. §434(b)(2)  
2 U.S.C. §434(b)(3)(d)  
2 U.S.C. §434(b)(4)  
2 U.S.C. § 441a(a)(2)(A)  
2 U.S.C. § 441a(a)(4)  
11 C.F.R. § 102.9(b)(2)  
11 C.F.R. § 102.9(d)  
11 C.F.R. § 104.14(b)(1)

**INTERNAL REPORTS CHECKED:** Final Report of the Audit Division on MACPAC

**FEDERAL AGENCIES CHECKED:** None

**I. GENERATION OF THE MATTER**

This matter was referred by the Audit Division to the Office of General Counsel on May 17, 2000, and was generated from an audit of the Mid-America Conservative Political Action Committee ("MACPAC") undertaken in accordance with 2 U.S.C. § 438(b).<sup>2</sup>

<sup>1</sup> The treasurer of record, Leroy Corey, is deceased. At this time, a new treasurer has not been designated.

<sup>2</sup> The Commission approved the Final Audit Report on March 28, 2000.

## II. FACTUAL AND LEGAL ANALYSIS

### A. MACPAC

The Audit staff found that MACPAC failed to report receipts totaling \$187,795 and disbursements totaling \$191,632 as required by 2 U.S.C. §§ 434(b)(2) and (b)(4). Attachment at 4-5. The Audit staff also found that MACPAC failed to disclose the correct amount of cash on hand as required by 2 U.S.C. § 434(b)(1). *Id.* at 6. MACPAC's reported cash on hand was overstated by \$14,480 in January 1995 and by \$18,317 in December 1996. *Id.* The Audit staff also found that MACPAC failed to maintain complete financial activity records as required by 2 U.S.C. § 432(c), 11 C.F.R. § 102.9(d) and 11 C.F.R. § 104.14(b)(1). *Id.* at 3. Furthermore, the Audit staff found that MACPAC made excessive cash disbursements and did not provide documentation as required by 2 U.S.C. § 432(c) and 11 C.F.R. § 102.9(b)(2). *Id.* at 7-8. Lastly, the Audit staff found that MACPAC made contributions to Corey for Senate totaling \$11,593 which exceeded the \$5,000 contribution limit set forth at 2 U.S.C. § 441a(a)(2)(A). *Id.* at 6-7. Based on the audit referral, this Office recommends that the Commission find reason to believe that MACPAC violated 2 U.S.C. § 432(c), 11 C.F.R. § 102.9(b)(2), 11 C.F.R. § 102.9(d), and 11 C.F.R. § 104.14(b)(1); 2 U.S.C. § 434(b)(1),(2),(4); and 2 U.S.C. § 441a(a)(2)(A).

This Office also recommends that the Commission take no further action due to extenuating circumstances. MACPAC's previous treasurer, Mr. Leroy Corey, was killed in November 1999. The Audit staff found that Mr. Corey was the only person knowledgeable about MACPAC's activities and was the treasurer at the time the violations occurred. Attachment at 1. Mr. Les Borsay, designated to act as treasurer after Mr. Corey's death, stated that the committee is substantially without resources and will be terminated as soon as possible. It appears that,

following the death of Mr. Corey, MACPAC ceased all operations and no longer engages in any activities subject to regulation under the Federal Election Campaign Act of 1971, as amended.

2 U.S.C. §§ 431-455. Furthermore, the expiration of the statute of limitations for the latest of the violations is July 27, 2000.<sup>3</sup> For these reasons, this Office recommends that the Commission take no further action against MACPAC or Mr. Borsay.

#### **B. COREY FOR SENATE**

The Audit staff found that Corey For Senate accepted prohibited contributions totaling \$6,593 in violation of 2 U.S.C. §441a(f). Attachment at 6-7. Furthermore, the Audit staff found that Corey For Senate failed to report all contributions as required by 2 U.S.C. § 434(b)(2)(d) and 2 U.S.C. § 434(b)(3)(d). *Id.* at 7. Leroy Corey was the treasurer of Corey For Senate, and the same extenuating circumstances— death, disintegration of the committee, and the statute of limitations— warrant a recommendation to take no further action.<sup>4</sup>

Thus, based on the Audit referral, this Office recommends that the Commission also find reason to believe that Corey For Senate and treasurer violated 2 U.S.C. §441a(f), 2 U.S.C. §434(b)(2), and 2 U.S.C. §434(b)(3)(d) and take no further action.

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<sup>3</sup> The statute of limitations date for the earliest violation, failure to report total disbursements, is January 2, 2000. The statute of limitations date for the last violation, excessive contributions, is July 27, 2000.

<sup>4</sup> Leroy Corey is not included as a respondent due to his death. No other treasurer has been designated for Corey For Senate.

### III. RECOMMENDATIONS

1. Open a MUR;
2. Find reason to believe that Mid-America Conservative Political Action Committee and Les Borsay, as treasurer, violated 2 U.S.C. §§ 434(b)(1), 434(b)(2), 434(b)(4); 2 U.S.C. § 432(c) and 11 C.F.R. §§ 102.9(b)(2), 102.9(d), 104.14(b)(1); 2 U.S.C. § 441(a)(2)(A); and take no further action;
3. Find reason to believe that Corey For Senate and treasurer violated 2 U.S.C. § 434(b)(2)(d), 2 U.S.C. § 434(b)(3)(d) and 2 U.S.C. § 441a(f), and take no further action;
4. Close the file; and
5. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

7/12/00  
Date

BY: Kim Leslie Bright  
Kim Leslie Bright  
Associate General Counsel

**Attachment**

Audit Referral



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**MEMORANDUM**

**TO:** Office of the Commission Secretary

**FROM:** Office of General Counsel *KCS*

**DATE:** July 13, 2000

**SUBJECT:** AUDIT REFERRAL 00-04-First General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

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