



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

A87-1

March 28, 1988

MEMORANDUM

TO: FRED EILAND  
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -  
MECKLENBURG COUNTY DEMOCRATIC PARTY

Attached please find a copy of the final audit report of the Mecklenburg County Democratic Party which was approved by the Commission on March 17, 1988.

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

Attachment as stated

cc: FEC Library  
RAD  
Public Disclosure  
Office of General Counsel

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WASHINGTON, DC 20463

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REPORT OF THE AUDIT DIVISION  
ON  
MECKLENBURG COUNTY DEMOCRATIC PARTY

I. Background

A. Overview

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This report is based on an audit of the Mecklenburg County Democratic Party ("the Committee") undertaken by the Audit Division of the Federal Election Commission in accordance 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 Federal Election Commission on April 25, 1986, and maintains its headquarters in Charlotte, North Carolina.

The audit covered the period from January 1, 1985 through December 31, 1986. In addition, the Audit staff reviewed the financial activity of the Committee for the period September 1, 1984 through December 31, 1984.

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

B. Key Personnel

The Treasurer of the Committee during the period audited was Mr. Woodrow E. Nail, Jr.

### C. Scope

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

## II. Audit Findings and Recommendations

### Introduction to Findings

The Audit staff reviewed the Committee's activity for 1985 and 1986 and determined that the Committee did not engage in any activity supporting federal candidates except for one contribution to a political committee in January, 1985 for \$265.45, and one transfer to a political committee in March, 1985 for \$2,847.90. The March transaction effected a notice from the Commission requesting that the Committee register as a political committee or seek a refund of the transfer. The Committee elected to register as a political committee on April 25, 1986.

Through discussion with Committee personnel and a review of Committee records, the Audit staff determined that the two transactions noted above were transfers of unused funds received by the Committee for use in Get Out The Vote (GOTV) activity during 1984. The Audit staff reviewed the 1984 GOTV activity and found the following:

Between September 1, 1984 and December 31, 1984, the Committee received \$12,300 from the North Carolina Democratic Victory Fund ("the Victory Fund") designated for GOTV and Phone Bank expenses. In addition, the Committee received \$9,875 from individuals and two non-federal candidate committees for GOTV activities. Except for the first \$500 transfer from the Victory Fund, the receipt and expenditure of these funds were coordinated by a third party who sent contributions, invoices, and statements on GOTV expenditures to the Committee for processing.

Committee documentation indicated a projected \$20,000 budget for GOTV activities which assigned a \$10,000 commitment from a Senatorial candidate, \$1,000 from a House candidate, and \$6,000 and \$3,000 from two non-federal candidates. Although funds were received from the Victory Fund there was no indication in Committee records that any share of the budget was assigned to the Victory Fund.

Of the two non-federal committees, one committee contributed at least \$1,200 and the other committee contributed at least \$2,700.00. The Audit staff could not find evidence that the Senatorial candidate committee or the House candidate committee

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contributed any funds for the GOTV activities. The Committee made payments for GOTV activities totaling \$15,875.09. These expenditures included payments for consulting services, radio advertising, phone bank salaries, expense reimbursement to individuals, printing, labels, voter lists and volunteer expenses.

The Audit staff determined, by adding an apparent GOTV deposit on December 27, 1984 to a Committee calculated balance on December 17, 1984, that the balance of GOTV funds unspent on December 27, 1984, totaled \$5,749.91. Amounts totaling \$5,529.91 of these residual funds were written to the Senatorial committee (\$2,847.90), the House committee (\$265.45), and the two non-federal candidate committees (\$790.77 and \$1,625.79) on January 31, 1985. The check to the Senatorial committee was subsequently voided and then reissued to the Victory Fund on March 4, 1985. The reissue of the voided check to the Victory Fund, the proposed budget, and the lack of any evidence to demonstrate that the federal candidates contributed to the GOTV effort all indicate that the transfers, or portions thereof, to the Committee from the Victory Fund benefited the two federal candidates.<sup>1/</sup> Since the federal activity noted above occurred only in the last quarter of 1984 and the first quarter of 1985, the findings and recommendations noted below pertain to federal activity from September 1, 1984, through March 31, 1985.

A. Registration Reporting and Termination

Section 431(4)(C) of Title 2 of the United States Code defines a political committee, in part, as any local committee of a political party which makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year; or makes payments exempted from the definition of contribution or expenditure aggregating in excess of \$5,000 during a calendar year.

Section 104.12 of Title 11 of the Code of Federal Regulations states that political committees which have cash on hand at the time of registration shall disclose on their first report the source(s) of such funds. The cash on hand balance is assumed to be composed of those contributions most recently received by the committee.

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<sup>1/</sup> The transfers to the Committee were not reported by the Victory Fund as either contributions to, or as coordinated expenditures on behalf of, the two federal candidates.

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Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state in relevant parts that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period, and all receipts and disbursements for the reporting period and the calendar year.

A review of the Committee's bank activity for the period September 1, 1984, through December 31, 1984, disclosed reportable activity of beginning cash totaling \$784.92, receipts of \$27,170.00, disbursements of \$22,385.44, and ending cash of \$5,569.48. From January 1, 1985 through March 31, 1985, the Committee reported receipts of \$1,968.14 and disbursements of \$5,941.46, resulting in an ending cash on hand balance of \$1,596.16.

The Committee did not file disclosure reports for the last quarter of 1984; the Committee filed one report covering the period January 1, 1985 through December 31, 1985. Within this period the Committee contributed \$265.45 to a House committee in January, 1985 and transferred \$2,847.90 to the Victory Fund in March, 1985.

The Audit staff expressed the opinion in the interim audit report that the Committee was a political committee only during the last quarter of 1984 and the first quarter of 1985.

The Audit staff recommended in the interim audit report that the Committee file reports disclosing its activity for the period September 1, 1984 through March 31, 1985, including the source of the funds comprising the cash on hand balance at September 1, 1984. The Audit staff also recommended that the Committee terminate effective March 31, 1985, pursuant to 11 C.F.R. § 102.3 and include in the termination report a statement as to the disposition of the cash on hand balance at March 31, 1985.

In addition, the Audit staff recommended that the Committee report the transaction in January, 1985 to the House candidate as a contribution, and the transfer in March, 1985 to the Victory Fund as a refund of unused GOTV funds.

In response to the interim audit report, the Committee filed reports disclosing the activity noted above. The Committee terminated effective March 31, 1985.

#### Recommendation #1

The Audit staff recommends no further action on this matter.

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**B. Disclosure of Coordinated Expenditures**

Section 441a(d) of Title 2 of the United States Code states, in relevant part, that a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for federal office subject to certain limits. In the case of a candidate for election in North Carolina to the Office of Senator, the limit was \$181,032.40 in 1984; in the case of a candidate for election to the Office of Representative, the limit was \$20,200.

In addition, 2 U.S.C. § 434(b)(6)(B)(iv) states, in part, that a political committee shall disclose each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under Section 441a(d) of the Title, together with the date, amount, and purpose of any such expenditure as well as the name of and office sought by, the candidate on whose behalf the expenditure is made.

Sections 100.8(b)(10) and (16) of Title 11 of the Code of Federal Regulations states that certain payments by a state or local committee of a political party are exempt from the definition of an expenditure provided, in part, that such payments are not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail or similar type of general public communication or political advertising.

As noted above, the Committee made payments for GOTV activity totaling \$15,875.09. In order to determine what portion of the GOTV expenses were related to federal candidate activity, the Audit staff calculated a prorata share of expenditures made on behalf of federal candidates by multiplying the allocated budget/total budget ratio of each federal candidate by the total Committee expenditures for GOTV activity. The results are as follows:

Senatorial candidate:	\$10,000/\$20,000 X \$15,875.09	=	\$7937.55
House candidate:	\$ 1,000/\$20,000 X \$15,875.09	=	793.75
Total expenditures on behalf of federal candidates		=	\$8731.30

Based on review of Committee documentation the Audit staff expressed the opinion in the interim audit report that these expenditures for GOTV activity are not exempt pursuant to 11 C.F.R. §§ 100.8(b) (10) and (16). The Audit staff also expressed the opinion that these expenditures are coordinated expenditures<sup>2/</sup> pursuant to 2 U.S.C. § 441a(d) and should be reported accordingly.

The Audit staff recommended in the interim audit report that the Committee report the GOTV activity conducted in 1984 on behalf of the two federal candidates as coordinated expenditures pursuant to 2 U.S.C. § 441a(d); \$7,937.55 on behalf of the Senatorial candidate and \$793.75 on behalf of the House candidate.

The Committee filed reports correctly disclosing the GOTV activity noted above as coordinated expenditures.

Recommendation #2

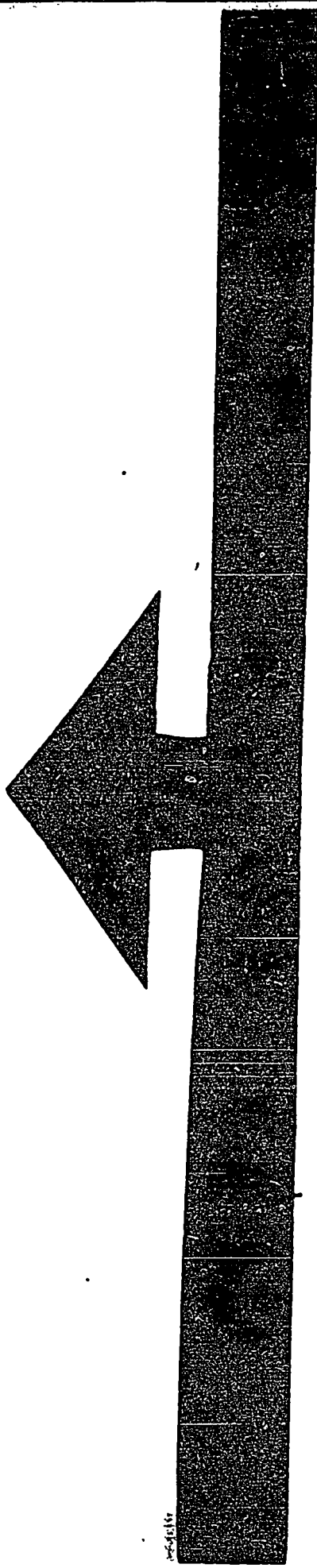
The Audit staff recommends no further action on this matter.

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<sup>2/</sup> The Audit staff reviewed coordinated expenditures reported by the Victory Fund on behalf of the Senatorial and House candidate and determined that, when added to the expenditures made by the Committee, the combined limits of 2 U.S.C. §§ 441a(a) and (d) are not exceeded.

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