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FEDERAL ELECTION  
COMMISSION

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FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 2046

MARCH 30, 1995

MEMORANDUM:

TO: COMMISSIONERS  
THRU: JOHN C. SURINA  
STAFF DIRECTOR  
FROM: ROBERT J. COSTA  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PAYMENT OF \$12,757 RECEIVED FROM BROWN FOR PRESIDENT

This informational memorandum is to advise you of a \$12,757 payment received from Brown for President (the Committee). The payment satisfies the Committee's repayment obligation as recommended in the final audit report and represents profits from excessive press reimbursements and stale dated checks.

Attached is a copy of the check, the letter which accompanied the payment, and the receipt showing delivery to the Department of the Treasury.

Should you have any questions regarding the payment please contact Ray Lisi at 210-3720.

Attachments as stated

95070192

95970192372

NUMBER

PAY TO THE ORDER OF

*L.S. Treasury*

3.16 1995 95-3800/1722

\$12,757.-

*Twelve Thousand, seven hundred & fifty-seven* - DOLLARS



THE NATIONAL CITY  
6001 Santa Monica Blvd., West Hollywood, CA 90048

FOR F.P.C.

*[Signature]*

⑆ 22239005⑆

0400010229⑆

*Brown for President*  
*643 E. Channel Rd.*  
*Santa Monica, Ca 90402*  
*310-454-9905*

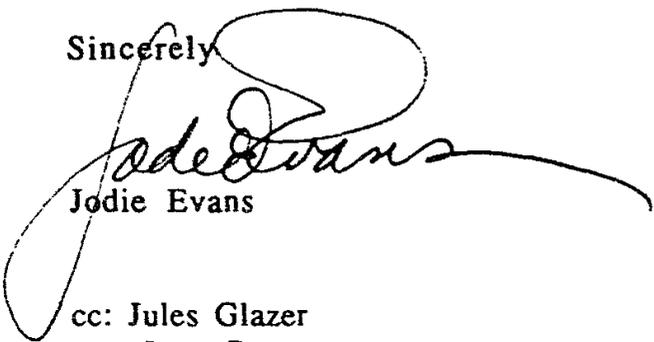
March 17, 1995

Federal Election Commission  
Washington, DC 20463

Dear Mr. Noble,

Enclosed please find the final payment of our Final Repayment Determination (LRA # 440) in the sum of \$12,757. I received a letter addressed to Jerry asking for the balance of \$31,375. dated March 2nd yesterday, I know this amount has been received by the Commission already. I am very sorry for the delays. I hope that this sets everything straight. I would like to know how to complete the closing of Brown for President. Please have someone contact me.

Sincerely



Jodie Evans

cc: Jules Glazer  
Jerry Brown  
Blaine Quick  
Abel Montez

05070192173



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20461

March 30, 1995

RECEIPT FROM THE  
UNITED STATES DEPARTMENT OF TREASURY  
FOR A  
PAYMENT TO THE GENERAL FUND OF THE U. S. TREASURY

Received on March 30, 1995, from the Federal Election Commission (by hand delivery), a check drawn on the Bank of Los Angeles in the amount of \$12,757. The check represents a final payment from Brown for President for profits from excessive press reimbursements and stale dated checks. The payment should be deposited into the General Fund of the U. S. Treasury.

Brown for President  
Amount of Payment: \$12,757

Presented by:

Received by:

*Arthur Stagg*  
for the  
Federal Election Commission

*Jaye McCleary*  
for the  
United States Treasury

9507019254



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

BJ005827

May 26, 1994

MEMORANDUM

TO: RONALD M. HARRIS  
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
BROWN FOR PRESIDENT

Attached please find a copy of the final audit report and related documents on Brown for President which was approved by the Commission on May 24, 1994.

Informational copies of the report have been sent to all parties involved and the report may be released to the public on May 31, 1994.

Attachment as stated

cc: Office of General Counsel  
Office of Public Disclosure  
Reports Analysis Division  
FEC Library

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FEDERAL ELECTION COMMISSION

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FINAL AUDIT REPORT  
ON  
BROWN FOR PRESIDENT  
  
EXECUTIVE SUMMARY

Brown for President ("the Committee") registered with the Federal Election Commission on September 2, 1991. The Committee was the principal campaign committee of Governor Edmund Brown, Jr., a candidate for the 1992 Democratic presidential nomination.

The audit was conducted pursuant to 26 U.S.C. §9038(a), which requires the Commission to audit committees that receive matching funds. The Committee received \$4.2 million in matching funds.

The findings were presented to the Committee at an exit conference held at the conclusion of audit fieldwork (April 13, 1993) and in the interim audit report approved by the Commission on October 22, 1993, and ratified by the Commission on November 9, 1993. The Committee was given an opportunity to respond to the findings both after the exit conference and after receipt of the interim audit report. The responses have been included in this report.

In the final audit report, the Commission made an initial determination that the Committee was required to pay the U.S. Treasury \$126,586  $\frac{1}{2}$ , representing \$125,252 in matching funds received in excess of the candidate's entitlement and \$1,334 in Committee checks that were never cashed. The Commission also determined that the Committee had to make a \$15,974 payment to the U.S. Treasury due to its receipt of apparently excessive

9507019-2016

Misstatement of Financial Activity - 2 U.S.C. §434(b)(1), (2), and (4). On disclosure reports filed between September 1991 and September 1992, the Committee misstated its financial activity. The Committee filed amended reports that materially corrected the misstatements.

Disclosure of Receipts and Disbursements - 2 U.S.C. §434(b). The interim audit report found that the Committee's reports inadequately disclosed offsets to operating expenditures, disbursements and loans. The Committee responded, filing amendments that corrected the disclosure problems.

Excessive Contributions Resulting from Staff Advances and Extensions of Credit by a Vendor and a Union - 2 U.S.C. §441a(a), 2 U.S.C. §441b(a), 11 CFR §116.5(b), 11 CFR §116.3, and 11 CFR 114.9(d). A payment by an individual from his or her personal funds for campaign-related costs is a contribution subject to the \$1,000 limitation unless exempted from the definition of a contribution at 11 CFR 100.7(b)(8) or reimbursed within specific time frames. The interim audit report questioned whether funds advanced by five individuals resulted in contributions that exceeded limits by \$76,261. The report also questioned whether the Committee had accepted prohibited corporate and labor contributions in the form of credit extended outside the normal course of business by a computer firm (\$50,000) and a labor union (\$57,196). The Committee's response to the interim audit report provided no documentation to refute the excessive and prohibited nature of these advances and extensions of credit.

Undocumented Disbursements - 11 CFR §9038.2(b) and 11 CFR §9033.11(a). In response to the interim audit report's identification of inadequate documentation with respect to 16 disbursements totaling \$32,839, the Committee provided the necessary documentation to correct this problem.

Matching Funds in Excess of Entitlement - 26 U.S.C. §9038(b)(1). In the final audit report the Commission made an initial determination that a repayment of \$125,252 to the U.S. Treasury was required. The repayment represented matching funds received in excess of the candidate's entitlement, based on an analysis of the Committee's Statement of Net Outstanding Campaign Obligations and relevant receipt activity.

Apparent Excessive Press Reimbursements - 11 CFR §9034.6(a), 11 CFR §9034.6(b), and 11 CFR §9034.6(d)(1). A committee that provides travel-related services to the Press may charge for the services and accept the resulting reimbursements. The final audit report found that the Committee had earned \$15,974 in profit on reimbursements received from the Press for such services. The Commission determined that this amount had to be paid to the U.S. Treasury. The Commission also determined

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Brown for President  
Executive Summary  
Page 3 of 3

that the Committee had overcharged the Press \$51,233 for travel-related services and consequently had to make refunds to the travelers who had overpaid.

Stale-dated Committee Checks - 11 CFR 9038.6. Finally, the Committee is required to pay to the U.S. Treasury \$1,334, the total amount of checks outstanding which have not been cashed.

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REPORT OF THE AUDIT DIVISION  
ON  
BROWN FOR PRESIDENT

I. Background

A. Audit Authority

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This report is based on an audit of Brown for President ("the Committee"). The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states that "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the Committee has materially complied with the limitations, prohibitions and disclosure requirements of the Federal Election Campaign Act of 1971, as amended.

B. Audit Coverage

The audit covered the period from the Committee's inception, September 2, 1991, through September 30, 1992. During this period, the Committee's reports<sup>1/</sup> reflect an opening cash balance of \$-0-; total receipts of \$10,783,676; total

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<sup>1/</sup> All figures in this report have been rounded to the nearest dollar.

disbursements of \$10,253,296; and a closing cash balance of \$530,297.2/ In addition, a limited review of the Committee's transactions was conducted through March 31, 1993, for purposes of determining the Committee's remaining matching fund entitlement based on its financial position and reported transactions thereafter.

C. Campaign Organization

The Committee registered with the Federal Election Commission on September 2, 1991. The Treasurer of the Committee from its inception through March 5, 1992 was Jodie Evans. On March 6, 1992, Blaine Quick became Treasurer and continues to serve as the Committee's current Treasurer.

During the period audited, the campaign utilized depositories in 16 states in addition to its national headquarters located in Los Angeles, California. The campaign's current offices are in Los Angeles, California.

To handle its financial activity, the campaign used 21 bank accounts at various times. From these accounts the campaign made approximately 6,000 disbursements. Approximately 94,000 contributions were received from about 88,400 persons. These contributions totaled about \$5,015,000. It should be noted that it was the Committee's policy to limit contributions to \$100 per person.

In addition to contributions, the campaign received \$4,239,405 in matching funds from the United States Treasury. This amount represents 30.70% of the \$13,810,000 maximum entitlement that any candidate could receive. The candidate was determined eligible to receive matching funds on December 2, 1991. The campaign made a total of 8 matching funds requests totaling \$4,437,909. The Commission certified 95.53% of the requested amount. For matching fund purposes, the Commission determined that the Honorable Edmund G. Brown's candidacy ended July 15, 1992. This determination was based on the date of the convention pursuant to the Commission's regulations at 11 C.F.R. §9033.5(c) which states, in relevant part, that the candidate's date of ineligibility shall be the last day of the matching payment period as specified in 11 C.F.R. 9032.6; which states that the matching payment period may not exceed "the date on which the party nominates its candidate." On August 4, 1992, the Committee received its final matching fund payment to defray expenses incurred through July 15, 1992 and to help defray the cost of winding down the campaign.

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2/ The reported activity does not foot due to two minor mathematical errors in carrying the ending cash on hand balance to the subsequent report as the beginning cash on hand balance.

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Attachment 1 to this report is a copy of the Commission's most recent Report on Financial Activity for this campaign. The amounts shown are as reported to the Commission by the Committee.

D. Audit Scope and Procedures

In addition to a review of the qualified campaign expenses incurred by the Committee, the audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.E.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.E.);
3. proper disclosure of receipts from individuals, political committees and other entities, to include the itemization of receipts when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.B.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.C.);
5. proper disclosure of Committee debts and obligations (see Finding II.D.);
6. the accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records (see Finding II.A.);
7. adequate recordkeeping for campaign transactions (see Finding III.D.);
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by the Committee to disclose its financial condition and establish continuing matching fund entitlement (see Finding III.C.);
9. the Committee's compliance with spending limitations; and
10. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of the Committee's records was conducted prior to the

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audit fieldwork. This inventory was conducted to determine if the Committee's records were materially complete and in an auditable state. The inventory indicated that some records were not complete and the Committee was provided thirty days to obtain the necessary materials. At the end of the thirty days, some records were still not complete. In order to obtain the necessary records subpoenas were issued to the Committee as well as a number of vendors, banks, and individuals. As a result of the information obtained, it was concluded that the records were materially complete except as discussed in individual findings.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

Our analysis of press refunds/rebates was limited due to the absence of Committee records with respect to: The flight origination and destination to include the cost of each leg of each trip; the flight manifest or itinerary for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization; and workpapers, computer files etc. showing the derivation of amounts billed to the press for each leg of each trip (see Finding III.D.).

9570192172  
II. Findings and Recommendations - Non-repayment Matters

Introduction to Findings

In light of an October 22, 1993 decision by the Court of Appeals for the D.C. Circuit in FEC v. NRA Political Victory Fund et. al, the Commission reconsidered the interim audit report and voted its approval on November 9, 1993. As a result of this action, the Committee was afforded an additional 14 calendar days to respond to the interim audit report.

A. Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code require a political committee to report the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's bank activity to its reported activity<sup>3/</sup> for the period covered by the audit indicated the following misstatements:

<sup>3/</sup> The Committee's reported totals were calculated by summing the current period totals for each reporting period; which differed from the calendar year-to-date totals reported by the Committee for 1992.

1. Inception through December 31, 1991

a. Receipts

The Committee reported total receipts of \$519,658 for 1991. Utilizing available bank records, the Audit staff determined that the Committee should have reported total receipts of \$515,017. Therefore, the Committee's receipts were overstated by a net amount of \$4,641. This overstatement was the result of the following:

|   |                   |
|---|-------------------|
| o In-kind contributions and deposits not reported                         | \$ 6,109          |
| o Deposits reported twice   | \$( 700)          |
| o Reported deposits and edit adjustments not traceable to bank statements | \$(9,800)         |
| o Correction of mathematical error  | \$ 400            |
| o Unexplained year end correction   | \$ (761)          |
| o Reconciling adjustment  | <u>\$ 111</u>     |
| Total (Net) Overstatement   | <u>\$ (4,641)</u> |

b. Disbursements

For 1991, the Committee reported total disbursements of \$440,958. The Audit staff determined that the Committee should have reported total disbursements of \$457,298. Therefore, the Committee's reported disbursements were understated by a net amount of \$16,340. This understatement was a result of the following:

|  |                 |
|--|-----------------|
| o Disbursements not reported and 1991 disbursements reported in 1992 | \$19,993        |
| o Disbursements reported twice                                       | \$(1,503)       |
| o Miscellaneous charges, bank reversals, and error corrections       | \$(1,999)       |
| o Reconciling adjustment   | <u>\$ (151)</u> |
| Total (Net) Understatement   | <u>\$16,340</u> |

c. Cash on Hand

The Committee reported an ending cash on hand balance on December 31, 1991 of \$78,700. The Audit staff determined this was overstated by a net amount of \$20,981 which

resulted from the misstatements detailed above. The correct ending cash was determined to be \$57,719.

2. January 1, 1992 through September 30, 1992

a. Receipts

The Committee reported total receipts of \$10,264,018 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total receipts of \$11,308,890 for this period. Therefore, the Committee's reported receipts were understated by a net amount of \$1,044,872. Committee deposit records identified the receipt of a \$1.1 million dollar loan on May 20, 1992 that was not reported (see Finding II.D.). In addition, the Audit staff noted press reimbursements for air charter services, totaling \$20,126, which were paid directly to the vendor and not reported by the Committee. In the absence of workpapers which detail the preparation of its disclosure reports, the Audit staff was unable to explain the remaining overstatement totaling \$75,254.

b. Disbursements

The Committee reported total disbursements of \$9,812,338 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total disbursements of \$10,875,192. Therefore, the Committee's reported disbursements were understated by a net amount of \$1,062,854. The majority of this difference was the result of the Committee not reporting the May 26, 1992 repayment of the \$1.1 million loan described above. With respect to the press reimbursements discussed above, a credit of \$20,126 was applied by the vendor to amounts due from the Committee, resulting in an underreporting of disbursements. In the absence of workpapers which detail the preparation of its disclosure reports, the Audit staff was unable to explain the remaining \$57,272 difference.

c. Cash on Hand

The Committee reported an ending cash on hand balance on September 30, 1992 of \$530,297. The Audit staff determined this was overstated by a net amount of \$38,880 which resulted from the misstatements noted above and correction carryovers from 1991. The correct ending cash was determined to be \$491,417.

The Audit staff provided photocopies of its bank reconciliations to Committee representatives at the exit conference. The Committee representatives indicated a willingness to file amendments to correct the above noted problems.

In the interim audit report, the Audit staff recommended that the Committee file amended Summary and Detailed

Summary Pages for calendar years 1991 and 1992 correcting the misstatements of financial activity. The Audit staff further recommended that the Committee file amended Schedules A-P and B-P for 1992 to disclose the press transactions (\$20,126) discussed above.

The Committee's response to the interim audit report notes that amended disclosure reports have been filed. The Audit staff's review of these amended disclosure reports determined that the Committee has materially complied with the recommendations of the interim audit report.

B. Failure to Itemize Refunds/Rebates

Section 434(b)(3)(F) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to mean, in the case of any person other than an individual, the full name and address of such person. In addition, 2 U.S.C. §431(11) defines "Person" to include an individual, partnership, corporation, association, labor organization or committee.

The Audit staff's review of refunds/rebates received by the Committee from vendors indicated that 37 out of 67 such receipts totaling \$82,840 were not itemized on the Committee's disclosure reports.

At the exit conference, the Audit staff advised the Committee representatives of this problem and provided them with photocopies of workpapers detailing these transactions. Committee representatives indicated that amended reports would be filed.

In the interim audit report, the Audit staff recommended that the Committee file Schedules A-P to amend its disclosure reports to correctly itemize their refunds and rebates.

The Committee's response to the interim audit report notes that the requested Schedules A-P have been filed. The Audit staff's review of these amended schedules determined that the Committee has complied with our recommendation.

C. Failure to Itemize and Adequately Disclose Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states, that each report under this section shall disclose the name and address of each person to whom an expenditure in an

aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

The Audit staff reviewed disbursements from the Committee's state accounts. The review identified 177 disbursements, in an aggregate amount or value in excess of \$200, totaling \$106,482, that were not itemized on Committee disclosure reports.

In addition, the Audit staff's review of itemized disbursements from state bank accounts identified 80 disbursements totaling \$43,285, for which the proper disclosure of information was either incomplete or omitted. All of the errors resulted from either an incomplete address, or no address being disclosed.

At the exit conference Committee representatives were made aware of the above problems and were provided photocopies of schedules detailing these items. In response to the exit conference the Committee filed amended disclosure reports materially correcting the errors.

D. Reporting of Loan to the Committee

Sections 434(b)(2)(H) and (3)(E) of Title 2 of the United States Code state, that each report shall disclose all loans along with the identification of each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan.

In addition, 11 C.F.R. §104.11(a) provides that debts and obligations owed by a political committee which remain outstanding shall be continuously reported until extinguished.

The Audit staff identified a \$1,100,000 loan, the receipt and repayment of which had not been reported by the Committee (see Finding II.A.2.).

The documentation available with respect to this loan included a Promissory Note, a Committee bank statement with related debit and credit memos and a document from the bank showing the loan history. The Promissory Note was dated May 15, 1992, and related to Loan #6348 in the amount of \$1,100,000. This Note had an initial interest rate of 8.5%, and a repayment due date of June 8, 1992. The Promissory Note also stated that interest started to accrue on the unpaid principal balance as of May 15, 1992 until paid in full. The loan was secured with matching funds. In addition, the bank was authorized to debit the Committee's bank account, upon receipt of matching funds, to repay the loan.

According to the May, 1992 bank statement, this loan was credited to the Committee's account on May 20, 1992. The credit memo is dated 5-20-92 and is annotated "Brown for President Inc. - Loan Proceeds". The bank statement notes a debit on May 26, 1992 to repay the loan. The corresponding debit memo, dated 5-26-92, states that it "Rev[er]ses] entry of 05-22-92".

The documentation reviewed contained discrepancies concerning receipt and repayment dates. Although the loan history supplied by the lending bank and the bank statement supports 5-20-92 as the date of receipt, as noted above, the debit memo is annotated as "Rev[er]ses] entry of 05-22-92". There is no corresponding credit on the bank statement to which this could apply other than the loan credited on May 20, 1992. The Audit staff also noted an inconsistency between the bank statement and the loan history with respect to the date of repayment of this loan. As detailed above, the Committee's account is debited for the amount of the loan proceeds on May 26, 1992, while the loan history lists the repayment date as May 20, 1992. The Audit staff is unable to explain these discrepancies.

Based on the available information, it is the opinion of the Audit staff that the loan was received on May 20, 1992 and repaid on May 26, 1992. The Committee had the proceeds from the loan available for five days.

On the loan history was a note to a Committee representative that stated in part "After signing the documents, the Brown For President people decided that they did not want all the money right away but rather wanted to take it as needed (to save interest charges most likely). Therefore the initial advance was reversed and the loan proceeds were subsequently taken in two parts - but only \$500,000 of the \$1,100,000 were ever taken. This is not a line of credit but rather a straight loan which was disbursed in increments". At the exit conference, Committee representatives stated that because the full amount was not needed at the time the funds were drawn, they elected not to report the \$1,100,000 loan; they elected to report only the subsequent draws on the loan.

The Audit staff acknowledges that loans for \$300,000 on May 26, 1992 and \$200,000 on June 2, 1992 were drawn against Loan #6348 subsequent to the receipt and repayment of the \$1,100,000 draw. The Committee repaid both draws and corresponding interest on June 5, 1992. The Audit staff also acknowledges that both of these loans were correctly disclosed.

At the exit conference, the Audit staff informed Committee representatives of the need to file amended disclosure reports to disclose the initial (\$1,100,000) loan. The Committee agreed to amend its disclosure reports as requested.

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In the interim audit report the Audit staff recommended that the Committee submit Schedules A-P, B-P and C-P, disclosing the receipt and repayment of this (\$1,100,000) loan.

As part of its response to the interim audit report, the Committee provided the requested schedules.

E. Apparent Excessive Contributions Resulting from Staff Advances and Extensions of Credit by a Vendor and a Union

Section 441a(a)(1)(A) of Title 2 of the United States Code states, in part, that no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation or labor organization to make a contribution in connection with any election to any political office.

Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, that the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 C.F.R. 100.7(b)(8).

Pursuant to 11 C.F.R. §116.5(b), if the payment is not exempted, it shall be considered a contribution by the individual unless it is for the individual's transportation expenses or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business such as food or lodging.

Sections 116.3(a) and (b) of Title 11 the Code of Federal Regulations state, in relevant part, that a commercial vendor that is not a corporation, and a corporation in its capacity as a commercial vendor may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the

commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligations.

Further, 11 C.F.R. §116.3(c) states that in determining whether credit was extended in the ordinary course of business, the Commission will consider:

- (1) Whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit;
- (2) Whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and
- (3) Whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.

Finally, 11 C.F.R. §114.9(d) provides, in part, that persons, other than officials, members and employees, who use labor organization facilities for activity in connection with a Federal election, are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge for the use of the facilities.

1. Staff Advances

During the review of the Committee's disbursements, the Audit staff noted a number of reimbursements to individuals that were for various kinds of campaign activity. For subsistence and transportation expenses, the Committee did not reimburse the individuals within the time periods required by 11 C.F.R. §116.5. Individuals were also reimbursed for other kinds of campaign expenditures, such as advertising, supplies, telephone, postage, and copying. Further, five individuals were reimbursed for the transportation, travel, and related expenses of other individuals, to include the candidate.

As part of the Audit staff's analysis, contributions resulting from the untimely reimbursement of expenses incurred by individuals were added to direct contributions made by these individuals. Our review indicated that five individuals made apparent excessive contributions. The amount in excess varied depending upon when reimbursements were made by the Committee. By summing the largest amount in excess for each individual, the Audit staff determined that the amount in excess was \$76,261. At the conclusion of fieldwork, there were no expense reimbursements outstanding. Of particular note, most of the amount in excess (\$41,869) occurred with respect to the Campaign Manager, Jodie Evans. The Campaign Manager utilized seven (7) different personal credit cards for both personal and campaign related expenses. The majority of expenses charged to

these accounts were for the candidate's and several campaign employees' expenses.

This matter was discussed with the Committee during the exit conference. The Audit Staff provided the Committee with a schedule of excessive amounts, a summary schedule, and a cover sheet explaining symbols and methodology. The Campaign Manager stated that the regulation had been misinterpreted by them. She also commented that the regulation and repayment periods are unfair to candidates who do not have the same access to money or credit as other candidates who have name recognition or political position. Grass roots candidates are forced to rely on the good name of Committee supporters.

In the interim audit report, the Audit staff recommended that the Committee demonstrate that the individuals did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), and/or were reimbursed in a timely manner as defined under 11 C.F.R. §116.5(b)(2), or submit any other comments or documentation the Committee feels may be relevant.

As part of its response to the interim audit report, a facsimile letter from the Committee's Treasurer states that "credit card charges by Jodie Evans [Campaign Manager] in the amount of \$41,869 represents items used for campaign expenses." The Committee's response does not address the apparent excessive contributions of the four individuals other than the Campaign Manager.

With respect to the matter of the credit cards, the Audit staff does not dispute the Committee's assertion that the credit card charges in question represent expenditures made relative to the campaign.

The Committee's response fails to demonstrate that the individuals did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), and/or were reimbursed in a timely manner. Therefore, no adjustment to the interim report analysis has been made.

2. Extension of Credit by a Commercial Vendor and a Union

During the course of fieldwork, the Audit staff identified two disbursements, each to different vendors, that raised concerns with respect to the extension of credit given to the Committee.

On December 1, 1992, the Committee issued check number 8094 in the amount of \$50,000 to Quarterdeck Office Systems ("Quarterdeck") for miscellaneous computer software and hardware. An attached invoice, dated 11-17-92, details the equipment and services provided; the amount of the invoice is \$151,121. The

invoice is annotated as follows: "Bill adjusted to \$50,000. Due Nov 30, 1992, Stanton Kaye".

Based on a review utilizing a Committee-provided, disbursement data file, the Audit staff did not note any other payments to this vendor. According to Committee representatives this equipment was used during the campaign which ended 7-15-92. No other correspondence between the vendor and the Committee has been provided.

In the other instance, on October 27, 1992, the Committee issued check number 5571, in the amount of \$57,196, to Local 1199 (Drug, Hospital & Health Care Employees Union). An attached invoice, with a letter requesting payment, dated 10-28-92, details reimbursable expenses incurred by Local 1199 with respect to Edmund G. Brown Jr.'s Presidential campaign during the period 3/30/92 to 4/10/92. The expenses were for food and refreshments, rent, printing, advertising, telephone and other miscellaneous items. According to an October 12, 1992 letter from the vendor to the Committee, this invoice is a revision of a previous invoice.

The Audit staff did not note any other payments to this vendor based on a Committee-provided, disbursement data file. According to a written statement (dated 5-24-93) submitted to the Audit staff by the Campaign Manager, there was no written agreement for these expenditures, which were the result of a sudden need for meeting rooms and banquet facilities, and were incurred with respect to the New York primary. "Apparently the invoice of the charges 'fell through the cracks' and we were not billed. I contacted him several times asking for the bill so that it could be paid. As soon as we received and reviewed the bill (and after a revised invoice was issued) it was paid."

The Audit staff's concern is whether Local 1199 was reimbursed within a commercially reasonable time at the normal and usual charge. The Audit staff requested that the Committee provide additional documentation with respect to these items. On July 16, 1993, the Audit staff received a letter from Local 1199 stating that the reason for the delay in submitting the bill was the result of several mislaid invoices in the accounting department. It also notes that no bill was submitted to the Committee until these bills were recovered.

In the interim audit report, the Audit staff recommended the Committee provide additional documentation or any other comments to demonstrate that the credit extended by the commercial vendor and union were in the normal course of business and did not represent prohibited contributions.

In its response to the interim audit report, the Committee's cover letter states that "documents are attached that demonstrate these items were in the normal course of business and did not represent prohibited contributions."

The attached documentation consisted of copies of letters sent to the Committee from Local 1199 and Quarterdeck Office Systems. The letter from Local 1199, dated July 16, 1993, had previously been provided to the Audit staff and is discussed above. The letter from the Vice President of Marketing & International Sales for Quarterdeck Office Systems, dated July 21, 1993, states:

"I have known Jodie Evans, The campaign Manager, for quite some time and in one of our conversations it was mentioned that the campaign would be needing computers. I mentioned that although Quarterdeck was not in the business of leasing computers there were some in storage that were not currently being used.

No agreement was ever signed. I turned this matter over to my staff and it was verbally agreed that nothing would be done until it was decided whether the campaign was going to purchase or rent the computers from us.

Jodie, her staff and my staff had discussions for several months and it was finally decided that the campaign would lease the computers for the amount that was comparable to the loss of value and pay for our service time.

Since leasing computers is not our normal business, this was not billed in the 'normal course of business'. However, as soon as it was billed, it was paid."

The facsimile letter from the Committee's Treasurer states that the "[e]xtension of credit by Quarterdeck and Local 1199 represent charges to the campaign in the normal course of business and does not represent contributions of any kind."

The Committee's response did not provide any new documentation or comments to demonstrate that the credit extended by Local 1199 was in the normal course of business and did not represent prohibited contributions.

The Committee's response: (i) does not provide information relative to Quarterdeck's established procedures or past practices in approving extensions of credit; (ii) does not provide any information relative to prompt payment of previously extended credit to the Committee; and (iii) does not provide information to show that this extension of credit conformed to the usual and normal practice in the industry.

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Rather, the letter provided from Quarterdeck appears to buttress the Audit staff's conclusion that credit was not extended in the ordinary course of business. The letter states that Quarterdeck "was not in the business of leasing computers." No agreement was ever signed. There were several months of discussions before the Committee decided to lease or buy the computers. The Committee benefited from the use of the equipment during the campaign until an invoice (dated 11-17-92) was submitted to the Committee for payment well after the campaign had run its course.

III. Findings and Recommendations - Repayment Matters

A. Calculation of Repayment Ratio

Section 9038(b)(2)(A) of Title 26 of the United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

~~Section 9038.1(c)(1)(v) of Title 11 of the Code of Federal Regulations states that preliminary calculations regarding further repayments to the U.S. Treasury may be contained within the interim audit report. Pursuant to §9038.2(a)(2) of this Title the Commission will notify the candidate of any repayment determinations not later than three years after the end of the matching payment period. The issuance of this interim audit report to the candidate constitutes notice of any repayment determinations for purposes of the three year period.~~

The Regulations at 11 C.F.R. §9038.2(b)(2)(iii) state that the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility.

Pursuant to 11 C.F.R. §9033.5(c), Governor Brown's date of ineligibility was determined to be July 15, 1992.

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

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Total Matching Funds Certified through the Date  
of Ineligibility - July 15, 1992

---

Numerator plus Private Contributions Received through  
Date of Ineligibility

\$4,068,269

= .449142

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\$4,068,269 + \$4,989,592

Thus, the repayment ratio for non-qualified campaign expenses is 44.9142%.

B. Apparent Non-Qualified Campaign Expenses-  
Undocumented Disbursements

Section 9032(9) of Title 26 of the United States Code defines, in part, the term "qualified campaign expense" as a purchase or payment incurred by a candidate or his authorized committee, in connection with his campaign for nomination for election, and neither the incurring nor payment of which constitutes a violation of any law of the United States or of any law of any state in which the expense is incurred or paid.

Section 9038.2(b)(3) of Title 11 of the Code of Federal Regulations states the Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents, were not documented in accordance with 11 CFR 9033.11. The amount of any repayment sought under this section shall be determined by using the formula set forth in 11 CFR 9038.2(b)(2)(iii).

Section 9033.11(a) of Title 11 of the Code of Federal Regulations states, in part, that each candidate shall have the burden of proving that disbursements made by the candidate or his authorized committee(s) are qualified campaign expenses.

The Audit staff's review of selected disbursements from the national accounts identified a payment to Left Bank Productions for \$20,000 that was not supported by a receipt, bill or invoice. This payment was made by wire transfer. The associated documentation did not identify the purpose.

The Audit staff also reviewed disbursements made from the Committee's state accounts and identified 15 disbursements, totaling \$12,839, which were not documented in accordance with 11 C.F.R. §9033.11. Based on Committee annotations or lack thereof, these disbursements can be categorized as follows:

- ° Expense Reimbursement/Reimbursement - five (5) disbursements, totaling \$4,317, to individuals, for which notations on the canceled check indicate only expense reimbursement or reimbursement. Committee records contained no invoices or travel vouchers for these disbursements.
- ° No Purpose - ten (10) payments to individuals and vendors, totaling \$8,522 for which no purpose was available. No documentation was available for these disbursements beyond the canceled checks provided for eight of these items.

At the exit conference Committee representatives were made aware of inadequately documented disbursements and provided schedules detailing these items. Committee representatives stated that they would attempt to obtain the additional documentation required.

In the interim audit report, the Audit staff recommended that the Committee submit documentation which demonstrates that these expenses are qualified campaign expenses. The interim audit report also stated that absent such a demonstration, the Audit staff would recommend that the Commission make an initial determination that the Committee was required to make a pro-rata repayment of \$14,749 ( $\$32,839 \times .449142$ ) to the United States Treasury pursuant to 26 U.S.C. §9038(b)(2).

The Committee's response to the interim audit report contained an invoice to support the expenditure to Left Bank Productions. In addition, documentation was provided with respect to four expenditures from state accounts. Based on the Audit staff's review, the documentation submitted materially resolved this matter.

C. Matching Funds Received in Excess of Entitlement

Section 9038.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that a candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section.

Section 9038.2(b)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that the Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such payments include payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 C.F.R. §9034.5.

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Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 days of the candidate's date of ineligibility, the candidate shall submit a statement of net outstanding campaign obligations which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs. Subsection (b) of this section states that the total of outstanding campaign obligations shall not include any accounts payable for non-qualified campaign expenses.

In addition, 11 C.F.R. §9034.1(b) states, in part, that if on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 C.F.R. §9034.5, that candidate may continue to receive matching payments provided that on the date of payment there are remaining net outstanding campaign obligations.

Governor Brown's date of ineligibility was July 15, 1992. The Audit staff reviewed the Committee's financial activity through March 31, 1993 and reported activity through March 31, 1994, as well as analyzed winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations ("NOCO") which appears below:

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BROWN FOR PRESIDENT  
Statement of Net Outstanding Campaign Obligations  
as of July 15, 1992  
as determined March 31, 1994 by the Audit staff

| <u>Assets</u>  |                   |
|--|-------------------|
| Cash   | \$998,386         |
| Accounts Receivable  | 281,986 <u>1/</u> |
| Capital Assets   | <u>43,080</u>     |
| TOTAL ASSETS   | \$1,323,452       |
| <u>Obligations</u>   |                   |
| Accounts Payable Qualified<br>Campaign Expenses                            | (245,486)         |
| Press Payables<br>(See Finding III.D.)                                     | (51,233)          |
| U.S. Treasury for Stale-dated Checks                                       | (1,334)           |
| Profit from Press Reimbursements<br>Due U.S. Treasury (See Finding III.D.) | (15,974)          |
| Winding Down Costs Actual <u>2/</u><br>(7/16/92 through 3/31/93)           | (874,651)         |
| Reported Winding Down Costs <u>3/</u><br>(4/1/93 through 3/31/94)          | (141,758)         |
| Winding Down Costs Estimated <u>4/</u><br>(4-1-94 to 9-30-94)              | <u>(42,700)</u>   |
| TOTAL OBLIGATIONS  | (\$1,373,136)     |
| NOCO (DEFICIT)/SURPLUS   | (\$49,684)        |

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Footnotes to NOCO Statement

- 1 This amount increased significantly as a result of the Committee's reported receipt of refunds/rebates, mostly press reimbursements, totaling about \$206,000 for the period 4-1-93 to 3-31-94. The interim audit report had presented accounts receivable of \$76,025 (collected from 7-16-92 through 3-31-93) and (outstanding) press receivables of \$14,168.
- 2/ This amount excludes \$1,050 in non-qualified campaign expenses.
- 3/ Subject to audit verification.
- 4/ Since estimates were used in computing this amount, the Audit staff will review the Committee's disclosure reports and records to compare the actual figure with the estimates and prepare adjustments as necessary.

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Shown below are adjustments to the NOCO deficit resulting from an analysis of private contributions, interest and matching funds received after 7-15-92, based on the most current information available.

|  |                  |
|--|------------------|
| Net Outstanding Campaign Obligations (7-15-92)         | (\$49,684)       |
| Interest Received (7-16-92 to 8-3-92)                  | 29               |
| Net Private Contributions Received (7-16-92 to 8-3-92) | 3,781            |
| Matching Funds Received (8-4-92)                       | <u>171,126</u>   |
| Amount Received in Excess of Entitlement as of 8-4-92  | <u>\$125,252</u> |

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As presented in Finding III.C. of the interim audit report, the candidate's audited NOCO statement reflected a deficit as of 7-15-92 of \$36,870. On August 4, 1992, the Committee received \$171,126 relative to Matching Fund Request #8. The deficit on August 3, 1992 was calculated to be \$33,060. Therefore, the Committee was determined to have received \$138,066 (\$171,126 - \$33,060) in matching funds in excess of its entitlement. On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,674 based on preliminary figures generated by the Audit staff during the fieldwork inventory stage of the audit process.

In the interim audit report, the Audit staff recommended that the Committee demonstrate that it had not received matching funds in excess of its entitlement. The interim audit report also stated that absent such a showing, the Audit staff would recommend that the Commission make an initial determination that the Committee make a repayment to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1).

In response to the interim audit report, the Treasurer states the Audit staff's analysis showing that matching funds were received in excess of entitlement is incorrect and offers that "[w]inding down costs estimated from 4/1/93 - 9/30/93 should have been \$142,700 as is evidenced by the actual amounts spent during this period." However, the Committee provides no workpapers to support the \$142,700 figure and disclosure reports filed by the Committee indicate only \$66,476 disbursed during this period. Further, the Treasurer fails to consider the impact of refunds/rebates received by the Committee during this same period that were not considered in the interim audit report.

The Audit staff's review of the Committee's response to the interim audit report, as well as disclosure reports filed by the Committee for the period 4/1/93 through 3/31/94, resulted in the revised NOCO presentation above. This NOCO statement reflects a deficit on July 15, 1992 of \$49,684. The deficit on August 3, 1992 was calculated to be \$45,874.

On August 4, 1992, the Committee received \$171,126 in matching funds. Therefore, the Committee received \$125,252 (\$171,126 - \$45,874) in matching funds in excess of its entitlement. Offset against this amount is the preliminary repayment of \$97,674 noted above.

Recommendation #1

The Audit staff recommends that the Commission make an initial determination that the Committee make a repayment of \$125,252 to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1). On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,674.

D. Apparent Excessive Press Reimbursements

Sections 9034.6(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that if an authorized committee incurs expenditures for transportation, ground services and facilities made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall spending limitation at 11 C.F.R. §9035.1(a). Further, if reimbursement for such expenditures is received by a committee, the amount shall not exceed either: The individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate for the individual's pro rata share of the transportation and services made available.

An individual's pro rata share is calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of transportation and services. The total amount of reimbursements received from an individual shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%.

Section 9034.6(d)(1) of Title 11 of the Code of Federal Regulations provides, in relevant part, that the committee may deduct from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9035.1(a) the amount of reimbursements received in payment for the actual cost of transportation and services described in paragraph (a) of this section. This deduction shall not exceed the amount the committee has expended for the actual cost of transportation and services provided. The committee may also deduct from the overall expenditure limitation an additional amount of reimbursements

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received equal to 3% of the actual cost of transportation and services provided under this section as the administrative cost to the committee of providing such services and seeking reimbursement for them. If the committee has incurred higher administrative costs in providing these services, the committee must document the total cost incurred for such services in order to deduct a higher amount of reimbursements received from the overall expenditure limitation.

In addition, 11 C.F.R. §9034.6(d)(1) also states that amounts reimbursed that exceed the amount actually paid by the committee for transportation and services provided to media personnel under paragraph (a) of this section plus the amount of administrative costs permitted by this section up to the maximum amount that may be received under paragraph (b) shall be repaid to the Treasury.

After repeated requests for the necessary records, the Audit staff requested, by memorandum dated November 20, 1992, that subpoenas be prepared by the Office of General Counsel to the Committee and Charter Services, Inc. for the production of records as follows:

- ° a vendor statement (account summary of amounts billed and payments received);
- ° Invoices detailing each flight origination and destination, to include, but not be limited to:
- ° invoices, bills, etc. for the aircraft for each leg of each trip;
- ° invoices, bills for any other costs associated with each leg of each trip to include catering, beverages, ground transportation, meals, press filing facilities, lodging, etc.;
- ° a flight manifest for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization;
- ° working papers, computer files, etc., showing the derivation of amounts billed to the press for each leg of each trip;
- ° copies of bills issued to the press for each leg of each trip; and,
- ° records of amounts received in reimbursement for travel on the Committee charter or other aircraft, from each person for each leg of each trip.

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Prior to the issuance of the subpoenas, the Committee and Charter Services, Inc. provided some of the requested material. Detailed billing statements, which show the costs of each leg of each flight as well as any food costs, were not available from Charter Services, Inc. after April, 1992. At that time, the Committee assumed this function. The Committee stated that they maintained a computerized billing system complete with leg analyses and manifests; the Committee further asserts the disc containing this information is missing. In addition, Charter Services, Inc. advised the Audit staff that they acted as a "middle-man" between the Committee and the airplane charter companies; and therefore, did not maintain any manifests detailing passengers with respect to each flight leg.

Absent a cost figure and passenger manifests for each flight, the Audit staff was unable to assess the Committee's compliance under 11 C.F.R. §9034.6.

At the Exit Conference the Audit staff reiterated its request for documentation of the Committee's procedures for handling travel billings to and reimbursements from the Press, specifically the Committee's computations/worksheets for determining amounts billed.

A request was forwarded to the Office of General Counsel, May 6, 1993, requesting enforcement of the subpoena with respect to the Committee as it relates to the press billing documentation still required. In addition, a request was included to prepare subpoenas to two individuals identified during fieldwork as associated with the Committee's press billing and reimbursement system.

Subsequent to this request, the Committee submitted additional documentation with respect to press billings. The Office of General Counsel agreed to delay subpoena enforcement in order to allow the Audit staff to evaluate the submitted materials.

Our review of these additional documents indicated that total reimbursements from the press were significantly below the overall amount the Audit staff determined could have been billed by the Committee. Although workpapers were not provided detailing the Committee's calculations of amounts billed to the press, available documents indicated the Committee intended to simply bill each press organization at 110% of cost. The Audit staff's review of amounts billed to press organizations was limited to the available documentation. Our limited review indicated that the amounts billed were reasonable. Finally, the Audit staff was aware of press receivables totaling only \$14,168, which, if collected, would not alter our conclusion.

The interim audit report recommended no further action with respect to this matter.

However, as a result of our review of recent disclosure reports filed by the Committee, the Audit staff noted that the Committee had received additional reimbursements from the press, totaling \$188,645, during the period April 1, 1993 through March 31, 1994. This greatly exceeded the amount of press receivables (\$14,168) contained in available Committee records and presented by the Audit staff on the interim audit report NOCO statement.

The Audit staff re-evaluated the Committee's press billings and reimbursements, incorporating these additional reimbursements (\$188,645). Based upon available manifests and the cost of transportation/services provided to the press, the Audit staff calculated the amount that could be billed to the press (cost plus 10%) to be \$251,020. The Audit staff identified press reimbursements received through March 31, 1994, totaling \$302,253.

Therefore, the Committee appears to have received reimbursements from the press totaling \$51,233 (\$302,253 - \$251,020), in excess of the maximum billable amount under 11 C.F.R. §9034.6(b). As such, these must be refunded to the press. The Audit staff has recognized this amount (\$51,233) as a payable on the NOCO presentation at Finding III.C.

In addition, the Audit staff used the revised analysis to determine if the Committee had profited from press reimbursements.

The analysis identified amounts paid by the Committee for transportation and services provided to the press totaling \$228,200. Under 11 C.F.R. §9034.6(d)(1), the actual cost of transportation and services provided plus the administrative costs permitted by this section (3%, unless a greater amount is documented) would be \$235,046 ( $\$228,200 \times 1.03$ ); and, the maximum amount of reimbursement that may be received (cost plus 10%) is \$251,020.

As a result, the Audit staff determined that the Committee received press reimbursements in the amount of \$15,974 ( $\$251,020 - 235,046$ ), representing amounts in excess of that actually paid by the Committee for transportation/services provided to media personnel and, therefore, subject to payment to the U.S. Treasury.

It should be noted that the Audit staff's determination of amounts to be refunded to the press (\$51,233) and of the amount payable to the Treasury (\$15,974) does not consider costs for at least 11 flights for which no manifests or billing information have been provided by the Committee. Should the documentation be located for these flights, the analysis of amounts due the press and the U.S. Treasury would be significantly different.

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Recommendation #2

The Audit staff recommends that the Commission make an initial determination that the Committee is required to make a payment of \$15,974 to the United States Treasury pursuant to 11 C.F.R. §9034.6(d)(1). In addition the Audit staff recommends that the Commission determine that the Committee is required to refund, on a pro rata basis \$51,233 to the Press.

E. Stale-Dated Committee Checks

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts are necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff reconciled the Committee's reported activity to its bank activity through September 30, 1992. In addition, limited reconciliations were prepared for the period October 1, 1992 through March 31, 1993. This analysis identified a significant number of stale-dated, outstanding checks.

At the exit conference, the Audit staff discussed this matter with Committee representatives. The Committee representatives agreed to review their records and provide any additional information which may resolve these items.

Subsequent to the exit conference the Committee provided the Audit staff with an updated list and documentation resolving some of the stale-dated checks. Based on this information, the Audit staff provided the Committee with a revised schedule of those checks still considered stale-dated.

There remained 17 unresolved stale-dated checks totaling \$4,927.

In the interim audit report, the Audit staff recommended that the Committee: (1) provide copies of any of the checks which have now cleared the bank; (2) inform the Commission of its efforts to encourage the payees to cash the outstanding checks or provide evidence documenting efforts to resolve these items; and (3) submit a check payable to the United States Treasury for the total amount of such checks which are still outstanding.

In its response to the interim audit report, the Committee detailed its efforts to resolve these checks. This

documentation included letters mailed to vendors to determine if any moneys were still owed to the vendor. Also, included were copies of similarly worded letters sent to follow up the initial mailing, as well as some letters signed and returned by the vendors confirming that no unpaid debt existed. In one instance, a replacement check was issued. Therefore, the Audit staff has reduced the amount of unresolved stale-dated checks to \$1,334.

Recommendation #3

The Audit staff recommends that the Commission make an initial determination that the Committee make a payment of \$1,334 to the United States Treasury pursuant to 11 CFR §9038.6.

IV. Recap of Amounts Due to the United States Treasury

Reflected below are amounts due the United States Treasury as noted in this report:

|  |                  |
|--|------------------|
| Finding III.C. Matching Funds Received in Excess of Entitlement    | \$125,252        |
| Finding III.D. Profit from Apparent Excessive Press Reimbursements | \$ 15,974        |
| Finding III.E. Stale-dated Committee Checks                        | <u>\$ 1,334</u>  |
| TOTAL AMOUNT REPAYABLE   | \$142,560        |
| Less: Repayment received 8-31-92                                   | <u>(97,674)</u>  |
| REMAINING REPAYMENT AMOUNT   | <u>\$ 44,886</u> |

Adjusted Receipts  
(Through March 31, 1994)

|                          | Federal<br>Matching<br>Funds | Individual<br>Contributions<br>Minus Refunds | PAC's and Other<br>Cmte Contrib<br>Minus Refunds | Contributions<br>from the<br>Candidate | Candidate<br>Loans Minus<br>Repayments | Other Loans<br>Minus<br>Repayments | Other<br>Receipts | Adjusted<br>Total<br>Receipts |
|--------------------------|------------------------------|--|--|--|--|------------------------------------|-------------------|-------------------------------|
| <b>Democrats</b>         |                              |  |  |  |  |                                    |                   |                               |
| Larry Agran              | \$269,691                    | \$331,631                                    | \$0  | \$500                                  | \$3,000                                | \$1,029                            | \$3,001           | \$608,852                     |
| Jerry Brown              | \$4,239,345                  | \$5,176,338                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$4,693           | \$9,420,374                   |
| Bill Clinton             | \$12,518,130                 | \$24,983,688                                 | \$2,429  | \$0                                    | \$0                                    | \$1                                | \$17,505          | \$37,521,753                  |
| Tom Harkin               | \$2,103,352                  | \$3,080,206                                  | \$415,570  | \$0                                    | \$0                                    | \$0                                | \$14,709          | \$5,613,837                   |
| Bob Kerrey               | \$2,198,284                  | \$3,913,332                                  | \$349,757  | \$0                                    | \$0                                    | (\$1,225)                          | \$5,931           | \$6,466,079                   |
| Lyndon LaRouche          | \$100,000                    | \$1,604,085                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$21              | \$1,704,086                   |
| Paul Tsongas             | \$3,039,388                  | \$5,072,164                                  | \$3,566  | \$0                                    | \$45,000                               | (\$9,575)                          | \$0               | \$8,150,543                   |
| Doug Wilder              | \$289,026                    | \$508,519                                    | \$750  | \$0                                    | \$0                                    | \$0                                | \$1,039           | \$799,334                     |
| <b>Total Democrats</b>   | <b>\$24,757,216</b>          | <b>\$44,659,941</b>                          | <b>\$772,072</b>                                 | <b>\$500</b>                           | <b>\$48,000</b>                        | <b>(\$9,770)</b>                   | <b>\$46,899</b>   | <b>\$70,284,858</b>           |
| <b>Republicans</b>       |                              |  |  |  |  |                                    |                   |                               |
| Patrick Buchanan         | \$4,999,983                  | \$7,157,808                                  | \$24,750   | \$0                                    | \$0                                    | \$0                                | \$33,936          | \$12,216,477                  |
| George Bush              | \$10,658,513                 | \$27,088,825                                 | \$44,250   | \$0                                    | \$0                                    | \$0                                | \$222,410         | \$38,013,998                  |
| David Duke*              | \$0                          | \$220,715                                    | \$0  | \$0                                    | \$1,000                                | \$0                                | \$0               | \$271,815                     |
| <b>Total Republicans</b> | <b>\$15,658,496</b>          | <b>\$34,467,348</b>                          | <b>\$69,000</b>                                  | <b>\$0</b>                             | <b>\$1,000</b>                         | <b>\$0</b>                         | <b>\$256,346</b>  | <b>\$50,502,290</b>           |
| <b>Other Party</b>       |                              |  |  |  |  |                                    |                   |                               |
| Andie Marrou*            | \$0                          | \$562,770                                    | \$181  | \$116                                  | \$15,000                               | \$0                                | \$0               | \$578,067                     |
| Lenora Fulani*           | \$1,935,524                  | \$2,201,490                                  | \$0  | \$325                                  | (\$1,258)                              | \$1,200                            | \$0               | \$4,137,281                   |
| John Hagelin             | \$153,160                    | \$563,800                                    | \$449  | \$0                                    | \$0                                    | \$5,630                            | \$5,316           | \$928,355                     |
| <b>Total Other Party</b> | <b>\$2,288,684</b>           | <b>\$3,328,060</b>                           | <b>\$630</b>                                     | <b>\$441</b>                           | <b>\$13,742</b>                        | <b>\$6,830</b>                     | <b>\$5,316</b>    | <b>\$5,643,703</b>            |
| <b>Grand Total</b>       | <b>\$42,704,396</b>          | <b>\$82,465,349</b>                          | <b>\$841,702</b>                                 | <b>\$941</b>                           | <b>\$62,742</b>                        | <b>(\$2,940)</b>                   | <b>\$308,561</b>  | <b>\$126,430,851</b>          |
| Party                    | \$0                          | \$3,905,594                                  | \$0  | \$62,854,955                           | \$2,056,371                            | \$0                                | \$5,807           | \$68,822,727                  |

\$ 126,430,851



0507019205



FEDERAL ELECTION COMMISSION

April 28, 1994

MEMORANDUM

TO: Robert J. Costa  
Assistant Staff Director  
Audit Division

THROUGH: John C. Surina  
Staff Director

FROM: Lawrence M. Noble  
General Counsel

Kim Bright-Coleman  
Associate General Counsel

Lorenzo Holloway  
Assistant General Counsel

Rhonda J. Vosdingh  
Attorney

SUBJECT: Proposed Final Audit Report on Brown for President  
(LRA #440/AR #94-5)

The Office of General Counsel has reviewed the proposed Final Audit Report on Brown for President ("the Committee") submitted to this Office on March 7, 1994.<sup>1</sup> The following memorandum provides our comments on the proposed report. If you have any questions concerning our comments, please contact Rhonda J. Vosdingh, the attorney assigned to this audit.

We have comments on findings II.E.1., II.E.2., III.B., and III.E. We concur with the findings in the proposed Final Audit Report which are not discussed separately.

<sup>1/</sup> Since the proposed Final Audit Report does not include any matters exempt from public disclosure under 11 C.F.R. § 2.4, we recommend that the Commission's discussion of this document be conducted in open session.

9507019-2006

*Handwritten notes*

I. CONTRIBUTIONS RESULTING FROM STAFF ADVANCES AND EXTENSIONS OF CREDIT (II.E.1., II.E.2.)

The Office of General Counsel concurs with the Audit Division's findings regarding excessive contributions in the form of staff advances and extensions of credit by a labor organization. The Committee's method of using staff advances did not satisfy the requirements of section 116.5. The credit cards were used to pay for other campaign expenses in addition to personal travel and subsistence. The Committee did not always reimburse the cardholders within 60 days as required by the regulations; reimbursement took anywhere from 0 to as much as 137 days. Personal credit cards were used to pay for others' expenses. Therefore, the Committee's use of staff advances resulted in contributions to the Committee.

950/0192157

We disagree with the Committee's contention that section 116.5 is unfair to "grass roots" candidates who, because they have less name recognition or political position, are forced to rely on committee supporters for credit.<sup>2/</sup> Section 116.5 was promulgated specifically to address the situation where campaign staff do not have access to committee credit cards. Explanation and Justification for 11 C.F.R. § 116.5, 55 Fed. Reg. 26,382 (June 27, 1989) (The Commission noted in its underlying rationale that "campaign committees may not want to provide credit cards to their field workers."). Therefore, the Committee must comply with 11 C.F.R. § 116.5 even if it is forced to rely on Committee supporters for credit.

In addition, it appears the Committee did not reimburse Local 1199 (Drug, Hospital & Health Care Employees Union) ("the Union") for use of its facilities within a commercially reasonable time in the amount of the normal and usual rental charge. 11 C.F.R. § 114.9(d). In March-April, 1992, the Union incurred expenses totaling \$57,195.97 on behalf of the Committee for rent, printing, advertising, telephones, and other miscellaneous items in connection with the New York primary. The Union did not bill and the Committee did not reimburse the Union for these expenditures until October 1992.

This use of the Union's facilities may have resulted in a contribution to the Committee. 11 C.F.R. § 114.9(d). Although the Committee made efforts to pay the Union for the services and accommodations it provided, the Committee did not reimburse the

<sup>2/</sup> We rejected a similar argument raised by the Lenora B. Fulani for President Committee.

Union for over 6 months after the expenses were incurred.<sup>3/</sup> The Committee did not demonstrate that waiting more than 6 months to reimburse the Union was commercially reasonable. Further, the Committee failed to provide any information to demonstrate the rental charge was the normal and usual amount pursuant to 11 C.F.R. § 114.9.

**II. APPARENT NON-QUALIFIED CAMPAIGN EXPENDITURES -- UNDOCUMENTED EXPENDITURES (III.B.)**

The Audit staff found that the Committee's response to the Interim Audit Report materially resolved the 16 undocumented disbursements totaling \$32,839. The Committee's response consisted of documentation to account for \$22,798 and a promise to submit documentation relating to an additional \$3,743.93. The Committee's response did not address the remaining \$6,351.07.

Since this matter has been materially resolved, this Office agrees with the finding in the proposed report. However, we note that the promised documentation has not been submitted. This information should have been submitted within the time prescribed for disputing or commenting on the Interim Audit Report. 11 C.F.R. § 9038.1(c)(2). The Committee's mere promise to submit supporting documentation does not satisfy the Committee's burden to demonstrate the expenses were qualified campaign expenses. See 11 C.F.R. § 9033.11(a). Therefore, you should revise the proposed report to delete the statement "The Committee's response notes that '[l]etters are out representing another \$3,743.93 and when documentation is received, it will be forwarded to the FEC.'"

**III. STALE-DATED CHECKS (III.E.)**

The proposed Final Audit Report includes a finding that there are no remaining unresolved stale-dated checks. This conclusion was reached despite the fact that the Committee failed to provide information for all of the unresolved stale-dated checks noted in the Interim Audit Report. Specifically, checks totaling \$1,333.80 were not resolved nor addressed by the Committee.

The Office of General Counsel disagrees with this finding. The Commission's regulations require committees with outstanding checks to inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. 11 C.F.R. § 9038.6. In informal discussions between this Office and the Audit Division, you noted that the Final Audit Report would be

<sup>3/</sup> However, the Committee argues that it requested several times that the Union send the bill to the Committee so that it could be paid. The Union explained that the delay in submitting the bill to the Committee was the result of several mislaid invoices in the accounting department and no bill was submitted to the Committee until these bills were recovered.

0507019-2008

Memorandum to Robert J. Costa  
Proposed Final Audit Report on  
Brown for President (LRA #440/AR #94-5)  
Page 4

revised to include a separate finding recommending the Committee make a repayment to the United States Treasury in the amount of the remaining unresolved stale-dated checks. The separate finding will clarify the Committee's repayment obligation resulting from the unresolved stale-dated checks. 11 C.F.R. § 9038.6.

95070192119



FEDERAL ELECTION COMMISSION

BJ005817

May 25, 1994

Mr. Blaine Quick, Treasurer  
Brown for President  
444 S. Occidental Blvd., #421  
Los Angeles, CA 90057

Dear Mr. Quick:

Attached please find the Final Audit Report on Brown for President. The Commission approved this report on May 24, 1994. As noted on page 4 of the report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 C.F.R. §§9038.2(c)(1) and (d)(1), the Commission has made an initial determination that the Candidate is to repay the Secretary of the Treasury \$142,560 within 90 days after service of this report (August 25, 1994). On August 31, 1992, a payment of \$97,674 was submitted based on preliminary figures leaving a balance due of \$44,886. In addition, the Commission determined that overcharges to the Press for travel-related services totaling \$51,233 must be refunded to the traveler's who were overcharged.

Should the Candidate dispute the Commission's determination that a repayment is required, Commission regulations at 11 C.F.R. §9038.2(c)(2) provide the Candidate with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (June 26, 1994), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 C.F.R. §9038.2(c)(3) permits a candidate who has submitted written materials, to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by the Candidate within the 30 day period in making a final repayment determination. Such materials may be submitted by counsel if the Candidate so elects. If the Candidate decides to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General

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Letter to Mr. Blaine Quick, Treasurer  
Page 2

Counsel at (202) 219-3690 or toll free at (800) 424-9530. If the Candidate does not dispute this initial determination within the 30 day period provided, it will be considered final.

The Commission approved Final Audit Report will be placed on the public record on May 31, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matters covered during the audit or in the report should be directed to Alex Boniewicz or Joe Stoltz of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,

  
Robert J. Costa  
Assistant Staff Director  
Audit Division

Attachment as stated

05070192211



FEDERAL ELECTION COMMISSION

BJ005816

May 25, 1994

Governor Edmund Brown, Jr.  
Brown for President  
c/o Jodie Evans, Campaign Manager  
643 E. Channel Rd.  
Santa Monica, CA 90402

Dear Governor Brown:

Attached please find the Final Audit Report on Brown for President. The Commission approved this report on May 24, 1994. As noted on page 4 of the report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 C.F.R. §§9038.2(c)(1) and (d)(1), the Commission has made an initial determination that you are to repay the Secretary of the Treasury \$142,560 within 90 days after service of this report (August 25, 1994). On August 31, 1992, a payment of \$97,674 was submitted based on preliminary figures leaving a balance due of \$44,886. In addition, the Commission determined that overcharges to the Press for travel-related services totaling \$51,233 must be refunded to the traveler's who were overcharged.

Should you dispute the Commission's determination that a repayment is required, Commission regulations at 11 C.F.R. §9038.2(c)(2) provide you with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (June 26, 1994), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. Further, 11 C.F.R. §9038.2(c)(3) permits a candidate who has submitted written materials, to request an opportunity to make an oral presentation in open session based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted by you within the 30 day period in making a final repayment determination. Such materials may be submitted by counsel if you so elect. If you decide to file a response to the

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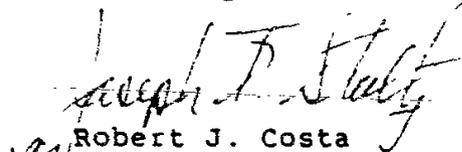
Letter to Governor Edmund Brown, Jr.  
Page 2

initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690 or toll free at (800) 424-9530. If you do not dispute this initial determination within the 30 day period provided, it will be considered final.

The Commission approved Final Audit Report will be placed on the public record on May 31, 1994. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matters covered during the audit or in the report should be directed to Alex Boniewicz or Joe Stoltz of the Audit Division at (202) 219-3720 or toll free at (800) 424-9530.

Sincerely,

  
Robert J. Costa  
Assistant Staff Director  
Audit Division

Attachment as stated

950/019213

CHRONOLOGY

BROWN FOR PRESIDENT

050/0192015

|   |                 |
|---|-----------------|
| Pre-audit Inventory Commenced                       | 8/24/92         |
| Audit Fieldwork                                     | 12/7/92-4/13/93 |
| Interim Audit Report to<br>the Committee            | 11/9/93         |
| Response Received to the<br>Interim Audit Report */ | 1/27/94         |
| Final Audit Report Approved                         | 5/24/94         |

\*/ Additional reponse time was granted after the revote and reissuance of the Interim Audit Report following the Courts decision in FEC v. NRA Political Victory Fund, et al., <No. 91-5360, slip op. at 2 (D.C. Cir. Oct. 22, 1993)

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FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
COMMUNICATIONS

Nov 23 10 55 AM '94

November 23, 1994

**MEMORANDUM**

**TO:** The Commission

**THROUGH:** John C. Surina  
Staff Director

**FROM:** Lawrence M. Noble  
General Counsel

Kim Bright-Coleman  
Associate General Counsel

Lorenzo Holloway  
Assistant General Counsel

Rhonda J. Vosdingh  
Attorney

**SUBJECT:** Proposed Final Repayment Determination and Statement of Reasons - Governor Edmund G. Brown, Jr. and Brown for President (LRA #440)

**I. INTRODUCTION**

On May 24, 1994, the Commission approved the Final Audit Report on Brown for President ("the Committee") and made an initial determination that Governor Edmund G. Brown, Jr. and the Committee must make a repayment to the United States Treasury, consisting of \$125,252 in excess entitlement. The Commission also made an initial determination that the Committee must make a payment to the United States Treasury in the amount of \$1,334 for stale dated Committee checks, \$15,974 for profit on reimbursements received from the media for travel related services, and refund \$51,233 to the media for excessive travel reimbursements.

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Memorandum to the Commission  
Proposed Final Repayment Determination  
Brown for President (LRA #440)  
Page 2

On June 24, 1994, the Committee submitted its written response to the initial repayment determination.<sup>1/</sup> This response addressed the media travel expenses and the valuation of capital assets on the Committee's Statement of Net Outstanding Campaign Obligations. The Committee had previously submitted a check in the amount of \$97,674 on August 31, 1992 to cover the preliminary repayment amount for public funds received in excess of the candidate's entitlement.<sup>2/</sup> The Committee did not dispute the Commission's initial repayment determination for stale dated checks.

The Audit Division and the Office of General Counsel have reviewed the Committee's response to the initial repayment determination. The Office of General Counsel recommends that the Commission make a final determination that the Committee repay \$179,049 to the United States Treasury, representing receipt of funds in excess of entitlement (\$171,136) and surplus funds (\$7,913). If the Commission approves the proposed final repayment determination, the outstanding repayment owed to the United States Treasury would be \$81,375 (\$179,049 - \$97,674). The Office of General Counsel further recommends that the Commission determine the Committee must pay \$12,757 to the United States Treasury, representing stale dated checks (\$1,334) and excessive travel reimbursements received from the media (\$11,423).<sup>3/</sup> The total

1/ Two responses to the initial determination were submitted on behalf of the Committee. This Office contacted Jodie Evans, the Committee's campaign manager. She stated that her submission constituted the Committee's response; the other letter, submitted by the Committee's bookkeeper, Kinde Durkee, was not authorized by the Committee. Therefore, this Office considered only the submission by Ms. Evans. A letter from the Office of General Counsel reflecting this conversation is attached. See Proposed Statement of Reasons, Attachments 4-6.

2/ This repayment amount was calculated and provided to the Committee during the fieldwork inventory stage of the audit process.

3/ The draft Statement of Reasons advises the Committee of amounts to be paid to the United States Treasury to comply with sections 9038.6 (stale dated checks) and 9034.6 (excessive travel reimbursements from the media) of the Commission's regulations. We have modified our approach regarding these payments from that taken in the Final Audit Report, which grouped these payments with the repayments for receipt of funds in excess of entitlement and surplus funds. We believe this to be the better approach since these payments are not repayments required under the statute. See 26 U.S.C. §§ 9038(b)(1)(2) and (3). If the amounts in question are not paid to the Treasury, the Committee would not be in compliance with the Commission's regulations and the matters may be addressed in an enforcement action.

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Memorandum to the Commission  
Proposed Final Repayment Determination  
Brown for President (LRA #440)  
Page 3

outstanding amount the Committee owes to the United States Treasury would therefore be \$94,132 (\$12,757 + \$81,375).

The total amount the Committee owes to the United States Treasury has increased over the initial determination contained in the Final Audit Report. The change in the amount is due to the elimination of the amount owed to the media, a decrease in the payment owed for excessive travel reimbursements, and an increase in the value of the Committee's capital assets. These changes resulted in the Committee's NOCO Statement showing a surplus of funds rather than the deficit reported in the Final Audit Report. Consequently, the Committee now owes a higher repayment for receipt of funds in excess of entitlement. Attached for Commission approval is a draft Statement of Reasons in support of the final determination.

## II. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Determine that Edmund G. Brown, Jr. and Brown for President must repay \$179,049 to the United States Treasury;
2. Determine that Edmund G. Brown, Jr. and Brown for President must make a payment in the amount of ~~\$12,757 to the~~ United States Treasury; and
3. Approve the attached draft Statement of Reasons in support of the final determinations.

Attachment  
Proposed Statement of Reasons

95070192002

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
 Governor Edmund G. Brown, Jr. and )  
 Brown for President )  
 )

STATEMENT OF REASONS

On , 1994, the Commission made a final determination that Governor Edmund G. Brown, Jr. and Brown for President ("the Committee") must repay \$179,049 to the United States Treasury, representing \$171,136 in matching funds received in excess of the candidate's entitlement and \$7,913 in pro rata repayment of surplus funds. The Committee made a partial ~~repayment in the amount of \$97,674 on August 31, 1992.~~ See Attachment 8. Therefore, the outstanding repayment owed to the United States Treasury is \$81,375 (\$179,049 - \$97,674). The Committee must repay this amount within 30 days of receipt of this determination pursuant to 11 C.F.R. § 9038.2(d)(2). In order to comply with 11 C.F.R. §§ 9034.6(d)(1) and 9038.6, the Commission concludes that the Committee must pay to the United States Treasury \$12,757, representing \$1,334 in stale dated Committee checks and \$11,423 in excessive travel reimbursements from the media. The total outstanding amount owed to the United States Treasury is \$94,132 (\$81,375 + \$12,757). This Statement sets forth the legal and factual basis for the Commission's determination in accordance with 11 C.F.R. § 9038.2(c)(4).

95070192003

I. BACKGROUND

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Brown for President is the principal campaign committee of Governor Edmund G. Brown, Jr., a candidate for the Democratic presidential nomination in 1992. The Committee received \$4,239,404.83 in federal matching funds under 26 U.S.C. § 9034(a). Pursuant to 26 U.S.C. § 9038(a), the Commission conducted an audit and examination of the Committee's qualified campaign expenses. The relevant issues first arose in the Interim Audit Report which was approved by the Commission on October 22, 1993 and ratified on November 9, 1993.<sup>1/</sup> Attachment 1. The Committee responded to the Interim Audit Report on January 26, 1994. Attachment 2. On May 24, 1994, the Commission approved the Final Audit Report and made an initial determination that the Committee must make a payment of \$142,560 to the United States Treasury for funds received in excess of entitlement (\$125,252), stale dated checks (\$1,334), and apparent excessive travel reimbursements (\$15,974). Attachment 3. The Commission also determined that the Committee must refund \$51,233 to media organizations for excessive travel reimbursements. Id.

The Committee responded to the Final Audit Report on June 24, 1994. Attachment 4.<sup>2/</sup> The Committee's response addressed the

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1/ The Commission ratified its approval of the Interim Audit Report on November 9, 1993 in light of the decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 114 S.Ct. 2703 (1994).

2/ Two letters, one from the Campaign Manager Jodie Evans and one from Kinde Durkee, the Committee bookkeeper, were submitted in response to the Final Audit Report (Attachments 4 and 5). On June 28, 1994, the Office of General Counsel contacted Jodie Evans, who stated that the response she submitted (Attachment 4)

media travel expenses and the valuation of capital assets on the Committee's Statement of Net Outstanding Campaign Obligations ("NOCO Statement").<sup>3/</sup> The Committee did not dispute the Commission's findings on stale dated checks.

II. EXCESSIVE TRAVEL REIMBURSEMENTS FROM THE MEDIA

A committee that provides travel-related services to the media may charge for the services and accept resulting reimbursements. 11 C.F.R. § 9034.6(b). The reimbursement may not exceed the pro rata portion of the actual cost (or a reasonable estimate of the pro rata share) plus 10%. Id. If the committee receives more than 110% of the actual cost from the media, that excess amount must be returned to the media on a pro rata basis.

~~Explanation and Justification for 11 C.F.R. § 9034.6, 56 Fed. Reg. 35906 (1991).~~ The committee may then deduct from its expenditures subject to the overall expenditure limitation the amount of reimbursement received, not to exceed the actual cost plus 3% for administrative costs. 11 C.F.R. § 9034.6(d)(1).<sup>4/</sup> If the amount

(Footnote 2 continued from previous page) was the Committee's response and that the other response (Attachment 5) was not authorized by the Committee. Attachment 6. Therefore, the Commission considered only the submission by Ms. Evans in making its final determination.

<sup>3/</sup> On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,674 to cover the preliminary repayment amount for public funds received in excess of the candidate's entitlement. Attachment 8. This repayment amount was calculated during the fieldwork inventory stage of the audit process. See Attachment 3, p. 24.

<sup>4/</sup> If a committee has incurred higher administrative costs in providing these services, it must document the total cost incurred for such services in order to deduct a higher amount of reimbursements received. 11 C.F.R. § 9034.6(d)(1).

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reimbursed exceeds the actual cost plus administrative cost, the difference must be paid to the United States Treasury. Id.

The Final Audit Report found that the Committee paid \$228,200 for transportation and services provided to the media. Attachment 3, p. 28. It also found that the Committee received media reimbursements totaling \$302,253 for transportation services. Id. Under the regulations, the maximum amount that could have been billed to the media was \$251,020 (\$228,200 + 10%). See 11 C.F.R. § 9034.6(d)(1). Therefore, the Commission determined that the Committee had overcharged the media \$51,233 (\$302,253 - \$251,020) for travel-related services and consequently made an initial determination that the Committee must make a pro rata refund of \$51,233 to the media.

The actual cost of transportation and services provided plus the administrative costs permitted by the regulations was calculated in the Final Audit Report to be \$235,046 (\$228,200 + 3%). Thus, the Final Audit Report found that the Committee received media reimbursements in excess of the amount actually paid by the Committee for transportation services provided to the media and the administrative costs, totaling \$15,974 (\$251,020 - \$235,046). The Commission, therefore, made an initial determination that the Committee must pay that amount to the United States Treasury pursuant to 11 C.F.R. § 9034.6(d)(1).

In response to the Final Audit Report, the Committee submitted additional manifests related to transportation provided to the media. The information submitted indicated that the Committee actually paid \$282,359 for transportation and services.

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The actual cost of transportation and services provided plus the administrative costs permitted by the regulations is \$290,830 (\$282,359 + 3%).<sup>5/</sup> See 11 C.F.R. § 9034.6(d)(1). The Committee collected reimbursements from the media totaling \$302,253. Thus, the Committee received media reimbursements of \$11,423 (\$302,253 - \$290,830) in excess of the amount actually paid by the Committee for transportation services provided to media and the administrative costs. The Commission therefore has concluded that the Committee must pay \$11,423 to the United States Treasury, representing profit on reimbursements received from the media, pursuant to 11 C.F.R. § 9034.6(d)(1).

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Based on the documentation submitted by the Committee, the Commission has determined that no refunds to the media are required. The documentation submitted in the response indicated that the amount the Committee could bill to the media (cost plus 10%) was \$310,595 (\$282,359 + 10%). Media reimbursements totaled \$302,253. Because media reimbursements were less than the amount that could have been billed, the Commission has made a final determination that no refunds to the media are required.

**III. NOCO STATEMENT: SURPLUS AND RECEIVING FUNDS IN EXCESS OF ENTITLEMENT**

The NOCO Statement reflects the publicly financed committee's financial status as of the candidate's date of ineligibility. Explanation and Justification for 11 C.F.R. § 9034.5, 44 Fed. Reg. 20340 (1979). The candidate must submit this statement within

<sup>5/</sup> The Committee did not document higher administrative costs. See 11 C.F.R. 9034.6(d)(1).

fifteen days after his or her date of ineligibility. 11 C.F.R. § 9034.5(a). The NOCO Statement is calculated by including, inter alia, the fair market value of capital assets.<sup>6/</sup> 11 C.F.R. § 9034.5(a)(2)(ii). The fair market value of capital assets acquired before the candidate's date of ineligibility is the total original cost of the items when acquired less 40% to account for depreciation. 11 C.F.R. § 9034.5(c)(1). A candidate must submit documentation to support a higher depreciation percentage, if he or she wishes to do so. Id.

9507019203

If the the NOCO Statement shows the committee in a surplus position, then the candidate may be required to make a pro rata repayment to the United States Treasury for the amount of the surplus. ~~11 C.F.R. § 9038.2(b)(4).~~ If the NOCO Statement shows the committee with net outstanding campaign obligations, the candidate may continue to receive payments for matchable contributions. 11 C.F.R. § 9034.1(b). However, the payments may not exceed the candidate's net outstanding campaign obligations. Id. If it is later determined that the payments exceeded the net outstanding campaign obligations, the candidate may be required to make a repayment to the United States Treasury. 11 C.F.R. § 9038.2(b)(1)(i).

A. Calculation of the NOCO Statement: Capital Assets

The NOCO Statement in the Final Audit Report included capital assets with a 40% depreciated value of \$43,080. Attachment 3,

<sup>6/</sup> Cash on hand (as of the candidate's last day of eligibility), credits, and refunds are assets that may also be included on the NOCO Statement. 11 C.F.R. § 9034.5(a)(2)(i) and (iii).

p. 22. The Committee challenges this valuation, arguing that most of the capital assets included in the NOCO Statement "have been sold and must be overvalued for what [it has] remaining." Attachment 4, p. 1. The Committee attached a copy of the Commission's workpaper deriving the capital asset figure and annotated the status of each asset. Attachment 4, p. 13. The Committee noted that the telephone system had been sold and claimed that the voice mail system is broken and the copier cannot be sold. With respect to television, video cassette recorders, and video equipment, the Committee noted that "video equip and camera were stolen." Id. The Committee also claimed a lower value for the "computer (AV)" than the amount included in the NOCO Statement.

The Commission concludes that the valuation of capital assets has increased over the value included in the Final Audit Report to \$48,600.<sup>7/</sup> This conclusion is based on two factors. First, a computational error in the depreciated valuation of capital assets on the NOCO statement contained in the Final Audit Report was discovered during the analysis of the Committee's response to the Final Audit Report.<sup>8/</sup> Attachment 7, pp. 3, 5 (revised NOCO Statement).

Second, the Committee failed to provide any documentation supporting a depreciation of more than 40% or a different

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<sup>7/</sup> As a result, the financial position of the publicly financed committee as reflected on the NOCO Statement has been adjusted from the Final Audit Report to show an increase in total assets. Attachment 7, p. 5.

<sup>8/</sup> The error caused an under-valuation of capital assets.

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valuation. See 11 C.F.R. § 9034.5(c)(1). Specifically, the Committee did not provide any documentation to support the sale of the telephone system, nor is it reflected on Committee disclosure reports filed to date. The Committee also failed to submit documentation to support its assertion that the voice mail system is broken and the copier cannot be sold. Without information detailing whether the voice mail system can be repaired, then sold, there is no basis to reassess its valuation. There is also no basis to reassess the valuation of the copier without knowing the specific model and year. Furthermore, the Committee did not provide police reports or identify which items were stolen and which remain in the Committee's possession. The Committee also did not document the purchase price and the source of its valuation of the "computer (AV)," for which it claims a lower value than is included in the NOCO Statement.<sup>9/</sup>

**B. Surplus and Receiving Funds in Excess of Entitlement**

The candidate's date of ineligibility was July 15, 1992. The NOCO Statement in the Interim Audit Report reflected a deficit of \$36,870, as of July 15, 1992. Attachment 1, p. 19. Subsequently, the NOCO Statement was revised based on the Committee's response to the Interim Audit Report and disclosure reports filed by the Committee for the period April 1, 1993 through March 31, 1994. Attachment 3, p. 25. The revised NOCO Statement reflected a deficit on July 15, 1992 of \$49,684; the deficit on August 3, 1992 was calculated to be \$45,874. Attachment 3, p. 25. On August 4,

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<sup>9/</sup> The Committee failed to address any other pieces of computer equipment listed as part of the capital asset determination.

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1992, the Committee received \$171,136 in matching funds.<sup>10/</sup> The Final Audit Report found that the Committee received \$125,252 [(\$171,136 - \$10) - \$45,874] in matching funds in excess of its entitlement. Therefore, the Commission made an initial determination that the Committee make a repayment in the amount of \$125,252 to the United States Treasury.

However, as a result of the elimination of the account payable to the media, the revision in the amount required to be paid to the United States Treasury for excessive media reimbursements, and the revised valuation of capital assets, the Committee's NOCO Statement now reflects a \$17,617 surplus on the candidate's date of ineligibility, rather than a deficit as calculated in the Final Audit Report. Attachment 7, p. 6. The pro rata portion of the surplus, \$7,913 ( $\$17,617 \times .449142$ ), must be repaid to the United States Treasury. 11 C.F.R. § 9038.2(b)(4). Furthermore, in view of the Committee's surplus position based on the revised NOCO Statement, all of the public funds paid to the candidate after his date of ineligibility, \$171,136, exceeded his entitlement. 11 C.F.R. § 9038.2(b)(1)(i). Therefore, the Commission has made a final determination that the Committee must make a repayment of \$179,049 ( $\$7,913 + \$171,136$ ) to the United States Treasury.

<sup>10/</sup> The Final Audit Report states that the Committee received \$171,126 in matching funds on August 4, 1992. The Committee's bank deposit records show that \$171,126 was deposited in Committee accounts. However, the actual amount disbursed to the Committee was \$171,136. The \$10 difference is the result of a deduction for wire transfer fee.

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**IV. FINAL DETERMINATION**

Therefore, the Commission has made a final determination pursuant to 11 C.F.R. § 9038.2(c)(4) that Governor Edmund G. Brown, Jr., and Brown for President must repay \$179,049 to the United States Treasury. The Committee made a partial repayment in the amount of \$97,674 on August 31, 1992. See Attachment 8. Therefore, the outstanding repayment owed to the United States Treasury is \$81,375 (\$179,049 - \$97,674). In order to comply with 11 C.F.R. §§ 9034.6(d)(1) and 9038.6, the Commission concluded that Governor Edmund G. Brown, Jr., and Brown for President must make a payment in the amount of \$12,757 to the United States Treasury. The total outstanding amount owed to the United States Treasury is \$94,132 (\$12,757 + \$81,375).

**Attachments**

1. Interim Audit Report on Brown for President, approved October 22, 1993 and ratified November 9, 1993.
2. Committee response to the Interim Audit Report, January 26, 1994.
3. Final Audit Report on Brown for President, approved on May 24, 1994.
4. Response from Jodie Evans, Campaign Manager, to the Final Audit Report, June 24, 1994.
5. Letter from Kinde Durkee, Committee Bookkeeper, purporting to respond to the Final Audit Report, June 23, 1994.
6. Letter from Rhonda J. Vosdigh to Jodie Evans confirming telephone conversation, July 12, 1994.
7. Memorandum from Robert J. Costa to Lawrence M. Noble, Analysis of Response to the Final Audit Report on Brown for President (LRA #440/AR #94-5), September 16, 1994 (portions redacted).
8. Check for \$97,673.96 for "Surplus Repayment," paid to the order of U.S. Treasury, by Brown for President, August 31, 1992.

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

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INTERIM REPORT OF THE AUDIT DIVISION  
ON  
BROWN FOR PRESIDENT

I. Background

A. Audit Authority

This report is based on an audit of Brown for President ("the Committee"). The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states that "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the Committee has materially complied with the limitations, prohibitions and disclosure requirements of the Federal Election Campaign Act of 1971, as amended.

B. Audit Coverage

The audit covered the period from the Committee's inception, September 2, 1991, through September 30, 1992. During this period, the Committee's reports reflect an opening cash balance of \$-0-; total receipts of \$10,783,675.59; total disbursements of \$10,253,295.87; and a closing cash balance of \$530,297.00.<sup>1/</sup> In addition, a limited review of the Committee's

<sup>1/</sup> The reported activity does not foot due to two minor mathematical errors in carrying the ending cash on hand balance to the subsequent report as the beginning cash on hand balance.

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transactions was conducted through March 31, 1993, for purposes of determining the Committee's remaining matching fund entitlement based on its financial position.

### C. Campaign Organization

The Committee registered with the Federal Election Commission on September 2, 1991. The Treasurer of the Committee from its inception through March 5, 1992 was Jodie Evans. On March 6, 1992, Blaine Quick became Treasurer and continues to serve as the Committee's current Treasurer.

During the period audited, the campaign utilized depositories in 16 states in addition to its national headquarters located in Los Angeles, California. The campaign's current offices are in Los Angeles, California.

To handle its financial activity, the campaign used 21 bank accounts at various times. From these accounts the campaign made approximately 6,000 disbursements. Approximately 94,000 contributions were received from about 88,400 persons. These contributions totaled about \$5,015,000. It should be noted that it was the Committee's policy to limit contributions to \$100.

In addition to contributions, the campaign received \$4,239,404.83 in matching funds from the United States Treasury. This amount represents 30.70% of the \$13,810,000 maximum entitlement that any candidate could receive. The candidate was determined eligible to receive matching funds on December 2, 1991. The campaign made a total of 8 matching funds requests totaling \$4,437,909.13. The Commission certified 95.53% of the requested amount. For matching fund purposes, the Commission determined that the Honorable Edmund G. Brown's candidacy ended July 15, 1992. This determination was based on the date of the convention pursuant to the Commission's regulations at 11 C.F.R. §9033.5(c) which states, in relevant part, that the candidate's date of ineligibility shall be the last day of the matching payment period as specified in 11 C.F.R. 9032.6; which states that the matching payment period may not exceed "the date on which the party nominates its candidate." On August 4, 1992, the Committee received its final matching fund payment to defray expenses incurred through July 15, 1992 and to help defray wind-down costs.

Attachment 1 to this report is a copy of the Commission's most recent Report on Financial Activity for this campaign. The amounts shown are as reported to the Commission by the Committee.

### D. Audit Scope and Procedures

In addition to a review of the qualified campaign expenses incurred by the Committee, the audit covered the following general categories:

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1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.E.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of receipts from individuals, political committees and other entities, to include the itemization of receipts when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.B.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.C.);
5. proper disclosure of Committee debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records (see Finding II.A.);
7. adequate recordkeeping for campaign transactions (see Finding II.F.);
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by the Committee to disclose its financial condition and establish continuing matching fund entitlement (see Finding III.C.);
9. the Committee's compliance with spending limitations; and
10. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of the Committee's records was conducted prior to the audit fieldwork. This inventory was conducted to determine if the Committee's records were materially complete and in an auditable state. The inventory indicated that some records were not complete and the Committee was provided thirty days to obtain the necessary materials. At the end of the thirty days, some records were still not complete. In order to obtain the necessary records subpoenas were issued to the Committee as well as a number of vendors, banks, and individuals. As a result of the information obtained, it was concluded that the records were materially complete except as noted below.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action. Finally, this report constitutes notice of potential Federal funds repayment pursuant to 11 C.F.R. 9038.2(a)(2).

Our analysis of press refunds/rebates was limited due to the absence of Committee records with respect to: The flight origination and destination to include the cost of each leg of each trip; the flight manifests or itinerary for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization; and workpapers, computer files etc. showing the derivation of amounts billed to the press for each leg of each trip (see Finding II.F.).

## II. Findings and Recommendations - Non-repayment Matters

### A. Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code require a political committee to report the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's bank activity to its reported activity<sup>2/</sup> for the period covered by the audit indicated the following misstatements:

#### 1. Inception through December 31, 1991

##### a. Receipts

The Committee reported total receipts of \$519,657.59 for 1991. Utilizing available bank records, the Audit staff determined that the Committee should have reported total receipts of \$515,017.09. Therefore, the Committee's receipts were overstated by a net amount of \$4,640.50. This overstatement was the result of the following:

|   |              |
|---|--------------|
| o In-kind contributions and deposits not reported                         | \$ 6,108.76  |
| o Deposits reported twice   | \$ ( 700.00) |
| o Reported deposits and edit adjustments not traceable to bank statements | \$(9,800.00) |

<sup>2/</sup> The Committee's reported totals were calculated by summing the current period totals for each reporting period.

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|   |                                  |                  |
|---|----------------------------------|------------------|
| o | Correction of mathematical error | \$ 400.00        |
| o | Unexplained year end correction  | \$ (760.65)      |
| o | Reconciling adjustment           | <u>\$ 111.39</u> |
|   | Total (Net) Overstatement        | \$ (4,640.50)    |

b. Disbursements

For 1991, the Committee reported total disbursements of \$440,957.87. The Audit staff determined that the Committee should have reported total disbursements of \$457,298.12. Therefore, the Committee's reported disbursements were understated by a net amount of \$16,340.25. This understatement was a result of the following:

|   |  |                    |
|---|--|--------------------|
| o | Disbursements not reported and 1991 disbursements reported in 1992 | \$19,993.01        |
| o | Disbursements reported twice                                       | \$(1,503.12)       |
| o | Miscellaneous charges, bank reversals, and error corrections       | \$(1,999.35)       |
| o | Reconciling adjustment   | <u>\$ (150.29)</u> |
|   | Total (Net) Understatement   | \$16,340.25        |

c. Cash on Hand

The Committee reported an ending cash on hand balance on December 31, 1991 of \$78,699.72. The Audit staff determined this was overstated by a net amount of \$20,980.75 which resulted from the misstatements detailed above. The correct ending cash was determined to be \$57,718.97.

2. January 1, 1992 through September 30, 1992

a. Receipts

The Committee reported total receipts of \$10,264,018.00 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total receipts of \$11,308,889.93 for this period. Therefore, the Committee's reported receipts were understated by a net amount of \$1,044,871.93. Committee deposit records identified the receipt of a \$1.1 million dollar loan on May 20, 1992 that was not reported. (See Finding II. D.). In addition, the Audit staff noted press reimbursements for air charter services, totaling \$20,126, which were paid directly to the vendor and not reported by the Committee. In the absence of workpapers which detail the

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preparation of its disclosure reports, the Audit staff was unable to explain the remaining overstatement totaling \$75,254.07.

b. Disbursements

The Committee reported total disbursements of \$9,812,338.00 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total disbursements of \$10,875,192.04. Therefore, the Committee's reported disbursements were understated by a net amount of \$1,062,854.04. The majority of this difference was the result of the Committee not reporting the May 26, 1992 repayment of the \$1.1 million loan described above. With respect to the press reimbursements discussed above, a credit of \$20,126 was applied by the vendor to amounts due from the Committee, resulting in an underreporting of disbursements. In the absence of workpapers which detail the preparation of its disclosure reports, the Audit staff was unable to explain the remaining \$57,271.96 difference.

c. Cash on Hand

The Committee reported an ending cash on hand balance on September 30, 1992 of \$530,297.00. The Audit staff determined this was overstated by a net amount of \$38,880.14 which resulted from the misstatements noted above and correction carryovers from 1991. The correct ending cash was determined to be \$491,416.86.

The Audit staff provided photocopies of its bank reconciliations to Committee representatives at the exit conference. The Committee representatives indicated a willingness to file amendments to correct the above noted problems.

Recommendation #1

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee file amended Summary and Detailed Summary Pages for calendar years 1991 and 1992 correcting the misstatements of financial activity noted above. The Audit staff further recommends that the Committee file amended Schedules A-P and B-P for 1992 to disclose the press transaction (\$20,126) discussed above.

B. Failure to Itemize Refunds/Rebates

Section 434(b)(3)(F) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to mean, in the case of any person other than an individual, the full name and address of such person. In addition, 2 U.S.C. §431(11) defines "Person" to include an individual, partnership, corporation, association, labor organization or committee.

The Audit staff's review of refunds/rebates received by the Committee from vendors indicated that 37 out of 67 such receipts totaling \$82,840.10 were not itemized on the Committee's disclosure reports as required.

At the exit conference, the Audit staff advised the Committee representatives of the above noted problems and provided them with photocopies of workpapers detailing these problems. Committee representatives indicated a willingness to amend their reports.

Recommendation #2

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee file Schedules A-P to amend its disclosure reports to correct the itemization problems noted above.

C. Failure to Itemize and Adequately Disclose Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states, that each report under this section shall disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

The Audit staff reviewed disbursements from the Committee's state accounts. The review identified 177 disbursements totaling \$106,482.03 that were not itemized on Committee disclosure reports as required.

In addition, the Audit staff's review of itemized disbursements from state bank accounts identified 80 disbursements totaling \$43,285.32, for which the proper disclosure of information was either incomplete or omitted. All of the errors resulted from either an incomplete address, or no address being disclosed.

At the exit conference Committee representatives were made aware of the above problems and were provided photocopies of schedules detailing these items. In response to the exit conference the Committee filed amendments materially correcting the errors discussed above.

Recommendation #3

The Audit staff recommends no further action with respect to this matter.

D. Reporting of Loan to the Committee

Sections 434(b)(2)(H) and (3)(E) of Title 2 of the United States Code state, that each report shall disclose all loans along with the identification of each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan.

In addition, 11 C.F.R. §104.11(a) provides that debts and obligations owed by a political committee which remain outstanding shall be continuously reported until extinguished.

The Audit staff identified a \$1,100,000 loan, the receipt and repayment of which has not been reported by the Committee (See Finding II.A.2.).

The documentation available with respect to this loan included a Promissory Note, a Committee bank statement with related debit and credit memos and a document from the bank showing the loan history. The Promissory Note was dated May 15, 1992, and related to Loan #6348 in the amount of \$1,100,000.00. This Note had an initial interest rate of 8.5%, and a repayment date of June 8, 1992. The Promissory Note also stated that interest started to accrue on the unpaid principal balance as of May 15, 1992 until paid in full.

According to the May, 1992 bank statement, this loan was credited to the Committee's account on May 20, 1992. The credit memo is dated 5-20-92 and is annotated "Brown for President Inc. - Loan Proceeds". The bank statement notes a debit on May 26, 1992 to repay the loan. The corresponding debit memo, dated 5-26-92, states that it "Rev[er]ses] entry of 05-22-92".

The documentation reviewed contained discrepancies concerning receipt and repayment dates. Although the loan history documentation supplied by the lending bank and the bank statement supports 5-20-92 as the date of receipt, as noted above, the debit memo is annotated as "Rev[er]ses] entry of 05-22-92". There is no corresponding credit on the bank statement to which this could apply other than the loan credited on May 20, 1992. The Audit staff also noted an inconsistency between the bank statement and the loan history with respect to the date of repayment of this loan. As detailed above, the Committee's account is debited for the amount of the loan proceeds on May 26, 1992, while the loan history lists the repayment date as May 20, 1992. The Audit staff is unable to explain these discrepancies.

ATTACHMENT

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Based on the available information, it is the opinion of the Audit staff that the loan was received on May 20, 1992 and repaid on May 26, 1992. The Committee had the monies from the loan available for five days.

On the loan history was a note to a Committee representative that stated in part "After signing the documents, the Brown For President people decided that they did not want all the money right away but rather wanted to take it as needed (to save interest charges most likely). Therefore the initial advance was reversed and the loan proceeds were subsequently taken in two parts - but only \$500,000.00 of the \$1,100,000 were ever taken. This is not a line of credit but rather a straight loan which was disbursed in increments". At the exit conference, Committee representatives stated that because the full amount was not needed at the time the funds were drawn, the elected not to report the \$1,100,000 loan; they elected to report only the subsequent draws on the loan.

The Audit staff acknowledges that loans for \$300,000.00 on May 26, 1992 and \$200,000.00 on June 2, 1992 were drawn against Loan #6348 subsequent to the receipt and repayment of the \$1,100,000.00 draw. The Committee repaid both draws and corresponding interest on June 5, 1992. The Audit staff also acknowledges that both of these loans were correctly disclosed.

At the exit conference, the Audit staff informed Committee representatives of the need to file amendments to disclose the initial (\$1,100,000) loan. The Committee agreed to amend its disclosure reports as required.

#### Recommendation #4

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee submit Schedules A-P, B-P and C-P, disclosing the receipt and repayment of this (\$1,100,000) loan.

#### E. Apparent Excessive Contributions Resulting from Staff Advances and Extensions of Credit by a Vendor and a Union

Section 441a(a)(1)(A) of Title 2 of the United States Code states, in part, that no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000.00.

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation or labor organization to make a contribution in connection with any election to any political office.

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Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, that the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 C.F.R. 100.7(b)(8).

Pursuant to 11 CFR 116.5(b) the payment is not exempted, it shall be considered a contribution by the individual unless it is for the individual's transportation expenses or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business such as food or lodging.

Sections 116.3(a) and (b) of Title 11 the Code of Federal Regulations state, in relevant part, that a commercial vendor that is not a corporation, and a corporation in its capacity as a commercial vendor may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligations.

Further, 11 C.F.R. §116.3(c) states that in determining whether credit was extended in the ordinary course of business, the Commission will consider:

- (1) Whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit;
- (2) Whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and
- (3) Whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.

Finally, 11 C.F.R. §114.9(d) provides, in part, that persons, other than officials, members and employees, who use labor organization facilities for activity in connection with a

Federal election, are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge for the use of the facilities.

1. Credit Cards

During the review of the Committee's disbursements, the Audit staff noted a number of reimbursements to individuals that were for various kinds of campaign activity. For subsistence and transportation expenses, the Committee did not reimburse the individuals within the time periods required by 11 C.F.R. §116.5. Individuals were also reimbursed for other kinds of campaign expenditures, such as advertising, supplies, telephone, postage, and copying. Further, five individuals were reimbursed for the transportation, travel, and related expenses of other individuals, to include the candidate.

As part of the Audit staff's analysis, contributions resulting from the untimely reimbursement of expenses incurred by individuals were added to direct contributions made by these individuals. Our review indicated that five individuals made apparent excessive contributions. The amount in excess varied depending upon when reimbursements were made by the Committee. By summing the largest amount in excess for each individual, the Audit staff determined the largest amount in excess was \$76,261.10 (see Attachment 2). At the conclusion of fieldwork, there were no expense reimbursements outstanding. Of particular note, most of the amount in excess (\$41,868.98) occurred with respect to the Campaign Manager, Jodie Evans. The Campaign Manager utilized seven (7) different personal credit cards for both personal and campaign related expenses. The majority of expenses charged to these accounts were for the candidate's and several campaign employees' expenses.

This matter was discussed with the Committee during the exit conference. The Audit Staff provided the Committee with a schedule of errors, a summary schedule, and a cover sheet explaining symbols and methodology. The Campaign Manager stated that the regulation had been misinterpreted by them. She also commented that the regulation and repayment periods are unfair to candidates who do not have the same access to money or credit as other candidates who have name recognition or political position. Grass roots candidates are forced to rely on the good name of Committee supporters.

2. Extension of Credit by a Commercial Vendor and a Union

During the course of fieldwork, the Audit staff identified two disbursements, each to different vendors, that raised concerns with respect to the extension of credit given to the Committee.

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On December 1, 1992, the Committee issued check number 8094 in the amount of \$50,000 to Quarterdeck Office Systems for miscellaneous computer software and hardware. An attached invoice, dated 11-27-92, details the equipment and services provided; the amount of the invoice is \$151,121.10. The invoice is annotated as follows: "Bill adjusted to \$50,000. Due Nov 30, 1992, Stanton Kaye".

Based on a review utilizing a Committee-provided, disbursement data file, the Audit staff did not note any other payments to this vendor. According to Committee representatives this equipment was used during the campaign which ended 7-15-92. No other correspondence between the vendor and the Committee has been provided.

In the other instance, on October 27, 1992, the Committee issued check number 5571, in the amount of \$57,195.97, to Local 1199 (Drug, Hospital & Health Care Employees Union). An attached invoice, with a letter requesting payment, dated 10-28-92, details reimbursable expenses incurred by Local 1199 with respect to Edmund G. Brown Jr.'s Presidential campaign during the period 3/30/92 to 4/10/92. The expenses were for food and refreshments, rent, printing, advertising, telephone and other miscellaneous items. According to an October 12, 1992 letter from the vendor to the Committee, this invoice is a revision of a previous invoice.

The Audit staff did not note any other payments to this vendor based on a Committee-provided, disbursement data file. According to a written statement (dated 5-24-93) submitted to the Audit staff by the Campaign Manager, there was no written agreement for these expenditures, which were the result of a sudden need for meeting rooms and banquet facilities, and were incurred with respect to the New York primary. "Apparently the invoice of the charges 'fell through the cracks' and we were not billed. I contacted him several times asking for the bill so that it could be paid. As soon as we received and reviewed the bill (and after a revised invoice was issued) it was paid."

The Audit staff's concern is whether Local 1199 was reimbursed within a commercially reasonable time at the normal and usual charge. The Audit staff requested that the Committee provide additional documentation with respect to these items. On July 16, 1993, the Audit staff received a letter from Local 1199 stating that the reason for the delay in submitting the bill was the result of several mislaid invoices in the accounting department. It also notes that no bill was submitted to the Committee until these bills were recovered. To date no further information has been received.

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Recommendation #5

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee demonstrate that the individuals did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), and/or were reimbursed in a timely manner as defined under 11 C.F.R. §116.5(b)(2), or submit any other comments or documentation the Committee feels may be relevant. In addition, the Audit staff recommends the Committee provide additional documentation or any other comments to demonstrate that the credit extended by the above-noted commercial vendor and union was in the normal course of business and did not represent prohibited contributions.

F. Documentation for Press Billings

Sections 9034.6(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that if an authorized committee incurs expenditures for transportation, ground services and facilities made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall spending limitation at 11 C.F.R. §9035.1(a). Further, if reimbursement for such expenditures is received by a committee, the amount shall not exceed either: The individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate for the individual's pro rata share of the transportation and services made available.

An individual's pro rata share is calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of transportation and services. The total amount of reimbursements received from an individual shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%.

After repeated requests for the necessary records, the Audit staff requested, by memorandum dated November 20, 1992, that subpoenas be prepared by the Office of General Counsel to the Committee and Charter Services, Inc. for the production of records as follows:

- ° a vendor statement (account summary of amounts billed and payments received);
- ° Invoices detailing each flight origination and destination, to include, but not be limited to:
- ° invoices, bills, etc. for the aircraft for each leg of each trip;

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- ° invoices, bills for any other costs associated with each leg of each trip to include catering, beverages, ground transportation, meals, press filing facilities, lodging, etc.;
- ° a flight manifest for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization;
- ° working papers, computer files, etc., showing the derivation of amounts billed to the press for each leg of each trip;
- ° copies of bills issued to the press for each leg of each trip; and,
- ° records of amounts received in reimbursement for travel on the Committee charter or other aircraft, from each person for each leg of each trip.

Prior to the issuance of the subpoenas, the Committee and Charter Services, Inc. provided some of the requested material. Detailed billing statements, which show the costs of each leg of each flight as well as any food costs, were not available from Charter Services, Inc. after April, 1992. At that time, the Committee assumed this function. The Committee stated that they maintained a computerized billing system complete with leg analysis and manifests; the Committee further asserts the disc containing this information is missing. In addition, Charter Services, Inc. advised the Audit staff that they acted as a "middle-man" between the Committee and the airplane charter companies; and therefore, did not maintain any manifests detailing passengers with respect to each flight leg.

Absent a cost figure and passenger manifests for each flight, the Audit staff was unable to assess the Committee's compliance under 11 C.F.R. §9034.6.

At the Exit Conference the Audit staff reiterated its request for documentation of the Committee's procedures for handling travel billings to and reimbursements from the Press, specifically the Committee's computations/worksheets for determining amounts billed.

A request was forwarded to the Office of General Counsel, May 6, 1993, requesting enforcement of the subpoena with respect to the Committee as it relates to the press billing documentation still required. In addition, a request was included to prepare subpoenas to two individuals identified during fieldwork as associated with the Committee's press billing and reimbursement system.

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Subsequent to this request, the Committee submitted additional documentation with respect to press billings. The Office of General Counsel agreed to delay subpoena enforcement in order to allow the Audit staff to evaluate the submitted materials.

Our review of these additional documents indicated that total reimbursements from the press were significantly below the overall amount the Audit staff determined could have been billed by the Committee. Although workpapers were not provided detailing the Committee's calculations of amounts billed to the press, available documents indicated the Committee intended to simply bill each press organization at 110% of cost. The Audit staff's review of amounts billed to press organizations was limited to the available documentation. Our review indicted that the amounts billed were reasonable.

#### Recommendation #6

The Audit staff recommends no further action with respect to this matter.

### III. Findings and Recommendations - Repayment Matters

#### A. Calculation of Repayment Ratio

Section 9038(b)(2)(A) of Title 26 of the United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

Section 9038.1(c)(1)9v) of Title 11 of the Code of Federal Regulations states that preliminary calculations regarding further repayments to the U.S. Treasury may be contained within the interim audit report. Pursuant to §9038.2(a)(2) of this Title the Commission will notify the candidate of any repayment determinations not later than three years after the end of the matching payment period. The issuance of this interim audit report to the candidate constitutes notice of any repayment determinations for purposes of the three year period.

The Regulations at 11 C.F.R. §9038.2(b)(2)(iii) state that the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility.

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Pursuant to 11 C.F.R. §9033.5(c), Governor Brown's date of ineligibility was determined to be July 15, 1992.

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

Total Matching Funds Certified through the Date  
of Ineligibility - July 15, 1992

---

Numerator plus Private Contributions Received through  
Date of Ineligibility

\$4,068,268.91

= .449142

---

\$4,068,268.91 + \$4,989,591.89

Thus, the repayment ratio for non-qualified campaign expenses is 44.9142%.

**B. Apparent Non-Qualified Campaign Expenses-  
Undocumented Disbursements**

Section 9032(9) of Title 26 of the United States Code defines, in part, the term "qualified campaign expense" as a purchase or payment incurred by a candidate or his authorized committee, in connection with his campaign for nomination for election, and neither the incurring nor payment of constitutes a violation of any law of any state in which the expense is paid.

Section 9038.2(b)(3) of Title 11 of the Code of Federal Regulations states the Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents, were not documented in accordance with 11 CFR 9033.11. The amount of any repayment sought under this section shall be determined by using the formula set forth in 11 CFR 9038.2(b)(2)(iii).

Section 9033.11(a) of Title 11 of the Code of Federal Regulations states, in part, that each candidate shall have the burden of proving that disbursements made by the candidate or his authorized committee(s) are qualified campaign expenses.

The Audit staff's review of selected disbursements from the national accounts identified a payment to Left Bank Productions for \$20,000 that was not supported by a receipt, bill or invoice. This payment was made by wire transfer. The associated documentation did not identify the purpose.

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The Audit staff also reviewed disbursements made from the Committee's state accounts and identified 15 disbursements, totaling \$12,838.95, which were not documented in accordance with 11 C.F.R. §9033.11. See Attachment 3. Based on Committee annotations or lack thereof, these disbursements can be categorized as follows:

- ° Expense Reimbursement/Reimbursement - five (5) disbursements, totaling \$4,317.25, to individuals, for which notations on the canceled check indicate only expense reimbursement or reimbursement. Committee records contained no invoices or travel vouchers for these disbursements.
- ° No Purpose - ten (10) payments to individuals and vendors, totaling \$8,521.70 for which no purpose was available. No documentation was available for these disbursements beyond the canceled checks provided for eight of these items.

At the exit conference Committee representatives were made aware of inadequately documented disbursements and provided schedules detailing these items. Committee representatives stated that they would attempt to obtain the additional documentation required.

#### Recommendation #7

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee submit documentation which demonstrates that the expenses noted above are qualified campaign expenses. Absent such a demonstration, the Audit staff will recommend that the Commission make an initial determination that the Committee make a pro rata repayment of \$14,749.35 ( $\$32,838.95 \times .449142$ ) to the United States Treasury pursuant to 26 U.S.C. §9038(b)(2).

#### C. Matching Funds Received in Excess of Entitlement

Section 9038.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that a candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section.

Section 9038.2(b)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that the Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such payments include payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 C.F.R. §9034.5.

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 days of the candidate's date of ineligibility, the candidate shall submit a statement of net outstanding campaign obligations which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs. Subsection (b) of this section states that the total of outstanding campaign obligations shall not include any accounts payable for non-qualified campaign expenses.

In addition, 11 C.F.R. §9034.1(b) states, in part, that if on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 C.F.R. §9034.5, that candidate may continue to receive matching payments provided that on the date of payment there are remaining net outstanding campaign obligations.

Governor Brown's date of ineligibility was July 15, 1992. The Audit staff reviewed the Committee's financial activity through March 31, 1993, as well as analyzed winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations ("NOCO") as of March 31, 1993, which appears below:

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**BROWN FOR PRESIDENT**  
**Statement of Net Outstanding Campaign Obligations**  
**as of July 15, 1992**  
**as determined March 31, 1993 by the Audit staff**

Assets

|                     |              |
|---------------------|--------------|
| Cash                | \$994,816.38 |
| Accounts Receivable | 76,025.04    |
| Press Receivables   | 14,168.34    |
| Capital Assets      | 43,080.00    |
| <br>                |              |
| TOTAL ASSETS        | 1,128,089.76 |

Obligations

|   |                |
|---|----------------|
| Accounts Payable Qualified<br>Campaign Expenses | (246,414.10) * |
|---|----------------|

## Winding Down Costs Actual:

|                |                 |              |
|----------------|-----------------|--------------|
| 7/17-8/31/92   | (247,873.80)    |              |
| Sept. 1992     | (129,686.95)    |              |
| Oct. 1992      | (265,131.66)    |              |
| Nov. 1992      | ( 66,754.97)    |              |
| Dec. 1992      | ( 95,836.23)    |              |
| 1/1-3/31/93    | ( 58,147.84)    |              |
| state accounts | ( 12,414.48) 1/ | (875,845.93) |

|  |             |
|--|-------------|
| Winding Down Costs Estimated 2/<br>(4-1-93 to 9-30-93) | (42,700.00) |
|--|-------------|

|                   |                           |
|-------------------|---------------------------|
| TOTAL OBLIGATIONS | ( <u>\$1,164,960.03</u> ) |
|-------------------|---------------------------|

|                        |               |
|------------------------|---------------|
| NOCO (DEFICIT)/SURPLUS | (\$36,870.27) |
|------------------------|---------------|

- 1/ This amount excludes \$1,049.59 in non-qualified campaign expenses included at Finding III.B. above.
- 2/ Since estimates were used in computing this amount, the Audit staff will review the Committee's disclosure reports and records to compare the actual figure with the estimates and prepare adjustments as necessary.

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Shown below is an adjustment for private contributions and matching funds received after 7/15/92, based on the most current financial information available at the close of fieldwork:

|  |                     |
|--|---------------------|
| Net Outstanding Campaign Obligations (Deficit) as of 7-15-92 | (\$36,870.27)       |
| Interest Received (7-16-92 to 8-3-92)                        | 29.08               |
| Net Private Contributions Received (7-16-92 to 8-3-92)       | 3,781.00            |
| Matching Funds Received (7-16-92 to 8-4-92)                  | <u>171,125.92</u>   |
| Amount Received in Excess of Entitlement as of 8/4/92        | <u>\$138,065.73</u> |

On August 4, 1992, the Committee received \$171,125.92 relative to Matching Fund Request #8. The deficit on August 3, 1992 was calculated to be \$33,060.19. Therefore, the Committee, was determined to have received \$138,065.73 (\$171,125.92 - \$33,060.19) in matching funds in excess of its entitlement.

On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,673.96 based on preliminary figures generated by the Audit staff during the fieldwork inventory stage of the audit process.

#### Recommendation #8

The Audit staff recommends that, within 30 calendar days of service of this report, the Committee demonstrate that it has not received matching funds in excess of its entitlement. Absent such a showing, the Audit staff will recommend that the Commission make an initial determination that the Committee make a repayment of \$40,391.77 (\$138,065.73 - \$97,673.96) to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1).

#### D. Stale-Dated Committee Checks

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts are necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff reconciled the Committee's reported activity to its bank activity through September 30, 1992. In addition, limited reconciliations were prepared for the period October 1, 1992 through March 31, 1993. This analysis identified a significant number of stale-dated, outstanding checks.

At the exit conference, the Audit staff discussed this matter with Committee representatives. The Committee representatives agreed to review their records and provide any additional information which may resolve these items.

Subsequent to the exit conference the Committee provided the Audit staff with an updated list and documentation resolving some of the stale-dated checks. Based on this information, the Audit staff provided the Committee with a revised schedule of those checks still considered stale-dated.

There remain 17 unresolved stale-dated checks totaling \$4,926.61 (see Attachment 4).

#### Recommendation #9

The Audit staff recommends that the Committee, within 30 calendar days of service of this report, (1) provide copies of any of the checks which have now cleared the bank; (2) inform the Commission of its efforts to encourage the payees to cash the outstanding checks or provide evidence documenting efforts to resolve these items; and (3) the Committee submit a check payable to the United States Treasury for the total amount of such checks which are still outstanding.

#### IV. Amounts Repayable to the United States Treasury

Presented below is a recap of the amounts subject to the repayment provisions of 26 U.S.C. §9038(b) or 11 C.F.R. §9038.6.

|                |   |                    |
|----------------|---|--------------------|
| Finding III.B. | Apparent Non-Qualified Campaign Expenses - Undocumented Disbursements | \$14,749.35        |
| Finding III.C. | Matching Funds Received in Excess of Entitlement                      | \$138,065.73       |
| Finding VII.D. | Stale Dated Committee Checks  | <u>\$4,926.61</u>  |
|                | TOTAL AMOUNT REPAYABLE  | \$157,741.69       |
|                | Less: Repayment received 8-31-92                                      | <u>(97,673.96)</u> |
|                | REMAINING REPAYMENT AMOUNT  | <u>\$60,067.73</u> |

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Adjusted Disbursements  
(Through June 30, 1993)

|                          | Operating<br>Expenditures<br>Minus Offsets | Exempt<br>Fundraising<br>Minus Offsets | Exempt<br>Legal/Accounting<br>Minus Offsets | Other<br>Disburse | Adjusted Total<br>Disbursements | Expenditures<br>Subject to<br>Limit | Latest Cash<br>On Hand | Debts Owed By<br>the Campaign |
|--------------------------|--|--|---|-------------------|---------------------------------|-------------------------------------|------------------------|-------------------------------|
| <b>Democrats</b>         |  |  |   |                   |                                 |                                     |                        |                               |
| Larry Agran              | \$607,048                                  | \$0                                    | \$0   | \$95              | \$607,143                       | \$612,159                           | \$2,843                | \$5,970                       |
| Jerry Brown              | \$6,483,270                                | \$2,278,938                            | \$233,331                                   | \$108,584         | \$9,104,123                     | \$6,588,482                         | \$61,064               | \$4,927                       |
| Bill Clinton             | \$27,822,792                               | \$3,572,078                            | \$2,301,667                                 | \$55,101          | \$33,751,638                    | \$25,530,989                        | \$1,686,272            | \$58,392                      |
| Tom Harkin               | \$3,872,140                                | \$1,184,978                            | \$170,402                                   | \$0               | \$5,227,520                     | \$3,102,188                         | \$237,587              | \$143,388                     |
| Bob Kerrey               | \$5,181,458                                | \$1,076,978                            | \$179,911                                   | \$23,404          | \$6,461,751                     | \$6,050,481                         | \$9,662                | \$0                           |
| Lyndon LaRouche          | \$1,523,019                                | \$0                                    | \$65,916                                    | \$0               | \$1,588,934                     | \$1,488,858                         | \$6,707                | \$7,710                       |
| Paul Tsongas             | \$6,701,825                                | \$754,978                              | \$179,329                                   | \$0               | \$7,636,132                     | \$7,001,566                         | \$59,322               | \$138,102                     |
| Doug Wilder              | \$788,534                                  | \$6,568                                | \$39  | \$0               | \$795,141                       | \$789,014                           | \$19,030               | \$0                           |
| <b>Total Democrats</b>   | <b>\$52,980,066</b>                        | <b>\$8,874,516</b>                     | <b>\$3,130,594</b>                          | <b>\$187,184</b>  | <b>\$65,172,360</b>             | <b>\$51,263,733</b>                 | <b>\$2,082,287</b>     | <b>\$354,490</b>              |
| <b>Republicans</b>       |  |  |   |                   |                                 |                                     |                        |                               |
| Patrick Buchanan         | \$11,481,278                               | \$0                                    | \$0   | \$0               | \$11,481,278                    | \$11,481,277                        | \$807,854              | \$0                           |
| George Bush              | \$27,807,045                               | \$5,524,000                            | \$4,700,102                                 | \$69,421          | \$37,900,568                    | \$27,807,047                        | \$61,333               | \$0                           |
| David Duke               | \$353,838                                  | \$0                                    | \$0   | \$1,000           | \$354,838                       | \$0                                 | \$0                    | \$29,250                      |
| <b>Total Republicans</b> | <b>\$39,422,159</b>                        | <b>\$5,524,000</b>                     | <b>\$4,700,102</b>                          | <b>\$70,421</b>   | <b>\$49,716,682</b>             | <b>\$39,088,324</b>                 | <b>\$869,187</b>       | <b>\$29,250</b>               |
| <b>Other Party</b>       |  |  |   |                   |                                 |                                     |                        |                               |
| Andre Marrou             | \$415,578                                  | \$160,219                              | \$0   | \$0               | \$575,795                       | \$0                                 | \$0                    | \$0                           |
| Lenora Fulani            | \$4,203,822                                | \$0                                    | \$0   | \$3,235           | \$4,206,857                     | \$4,204,555                         | \$2,970                | \$0                           |
| <b>Total Other Party</b> | <b>\$4,619,198</b>                         | <b>\$160,219</b>                       | <b>\$0</b>                                  | <b>\$3,235</b>    | <b>\$4,782,652</b>              | <b>\$4,204,555</b>                  | <b>\$2,970</b>         | <b>\$0</b>                    |
| <b>Grand Total</b>       | <b>\$97,021,443</b>                        | <b>\$14,558,735</b>                    | <b>\$7,830,696</b>                          | <b>\$280,640</b>  | <b>\$119,671,714</b>            | <b>\$94,536,612</b>                 | <b>\$2,954,444</b>     | <b>\$383,740</b>              |

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**Adjusted Receipts  
(Through June 30, 1993)**

|                          | Federal<br>Matching<br>Funds | Individual<br>Contributions<br>Minus Refunds | PAC's and Other<br>Cmte Contrib<br>Minus Refunds | Contributions<br>from the<br>Candidate | Candidate<br>Loans Minus<br>Repayments | Other Loans<br>Minus<br>Repayments | Other<br>Receipts | Adjusted<br>Total<br>Receipts |
|--------------------------|------------------------------|--|--|--|--|------------------------------------|-------------------|-------------------------------|
| <b>Democrats</b>         |                              |  |  |  |  |                                    |                   |                               |
| Larry Agran              | \$269,691                    | \$331,631                                    | \$0  | \$500                                  | \$5,000                                | \$1,029                            | \$2,983           | \$610,814                     |
| Jerry Brown              | \$4,239,345                  | \$5,176,338                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$4,693           | \$9,420,374                   |
| Bill Clinton             | \$12,518,130                 | \$25,105,044                                 | \$5,204  | \$0                                    | \$0                                    | \$1                                | \$13,440          | \$37,641,819                  |
| Tom Harkin               | \$2,103,351                  | \$3,089,474                                  | \$492,069  | \$4,533                                | \$0                                    | \$0                                | \$11,629          | \$5,681,058                   |
| Bob Kerrey               | \$2,198,284                  | \$3,913,332                                  | \$349,757  | \$0                                    | \$0                                    | (\$1,225)                          | \$5,931           | \$6,466,079                   |
| Lyndon LaRouche          | \$0                          | \$1,597,490                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$5               | \$1,597,495                   |
| Paul Tsongas             | \$2,995,442                  | \$5,033,853                                  | \$3,568  | \$0                                    | \$45,000                               | (\$9,575)                          | \$0               | \$8,068,288                   |
| Doug Wilder              | \$289,026                    | \$508,519                                    | \$750  | \$0                                    | \$0                                    | \$0                                | \$1,039           | \$799,334                     |
| <b>Total Democrats</b>   | <b>\$24,613,269</b>          | <b>\$44,735,679</b>                          | <b>\$851,348</b>                                 | <b>\$5,033</b>                         | <b>\$50,000</b>                        | <b>(\$9,770)</b>                   | <b>\$39,700</b>   | <b>\$70,265,257</b>           |
| <b>Republicans</b>       |                              |  |  |  |  |                                    |                   |                               |
| Patrick Buchanan         | \$4,999,983                  | \$7,147,143                                  | \$24,750   | \$0                                    | \$0                                    | \$0                                | \$9,343           | \$12,181,219                  |
| George Bush              | \$10,858,513                 | \$27,088,760                                 | \$44,250   | \$0                                    | \$0                                    | \$0                                | \$221,787         | \$38,013,310                  |
| David Duke*              | \$0                          | \$220,715                                    | \$0  | \$0                                    | \$1,000                                | \$0                                | \$0               | \$271,815                     |
| <b>Total Republicans</b> | <b>\$15,858,496</b>          | <b>\$34,456,618</b>                          | <b>\$69,000</b>                                  | <b>\$0</b>                             | <b>\$1,000</b>                         | <b>\$0</b>                         | <b>\$231,130</b>  | <b>\$50,466,344</b>           |
| <b>Other Party</b>       |                              |  |  |  |  |                                    |                   |                               |
| Andre Marrou*            | \$0                          | \$582,770                                    | \$181  | \$118                                  | \$15,000                               | \$0                                | \$0               | \$578,067                     |
| Lanera Fulani            | \$1,935,524                  | \$2,201,577                                  | \$0  | \$325                                  | (\$1,258)                              | \$1,200                            | \$0               | \$4,137,368                   |
| <b>Total Other Party</b> | <b>\$1,935,524</b>           | <b>\$2,784,347</b>                           | <b>\$181</b>                                     | <b>\$441</b>                           | <b>\$13,742</b>                        | <b>\$1,200</b>                     | <b>\$0</b>        | <b>\$4,715,435</b>            |
| <b>Grand Total</b>       | <b>\$42,207,289</b>          | <b>\$81,956,644</b>                          | <b>\$920,527</b>                                 | <b>\$5,474</b>                         | <b>\$64,742</b>                        | <b>(\$8,570)</b>                   | <b>\$270,830</b>  | <b>\$125,467,036</b>          |

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**WINDY FOR PRESIDENT**  
**SCHEDULE OF 116.5 SUMMER OF EXPENSES**

| Contributor Name | Date of Contribution | Amount of Contribution | Date Expenses Incurred | Amount             |            | Date     | Amount Reimbursed | Balance Remaining in Excess of Limit |
|------------------|----------------------|------------------------|------------------------|--------------------|------------|----------|-------------------|--------------------------------------|
|                  |                      |                        |                        | In Excess of Limit | Reimbursed |          |                   |                                      |
| Jocita Burns     | 06-Sep-91            | \$100.00               | 8/21/91-10/17/91       | \$28,675.72        |            | 10/18/91 | \$13,799.14       | \$15,152.58                          |
|                  |                      |                        | 10/20/91-11/06/91      | \$26,120.45        |            | 11/08/91 | \$500.00 **       | \$25,575.45                          |
|                  |                      |                        | 11/09/91-11/25/91      | \$30,156.39        |            | 11/27/91 | \$24,454.01       | \$5,701.38                           |
|                  |                      |                        | 12/01/91-12/11/91      | \$11,378.04        |            | 12/11/91 | \$25.00           | \$11,345.04                          |
|                  |                      |                        | 12/12/91-12/26/91      | \$16,026.07        |            | 12/27/91 | \$661.24          | \$15,362.83                          |
|                  |                      |                        | 12/28/91-01/29/92      | \$23,871.97        |            | 01/30/92 | \$6,420.09        | \$17,407.88                          |
|                  |                      |                        | 01/30/92-02/04/92      | \$21,042.21        |            | 02/05/92 | \$6,704.43        | \$14,337.78                          |
|                  |                      |                        | 02/05/92-02/09/92      | \$20,676.52        |            | 02/12/92 | \$106.00          | \$20,570.52                          |
|                  |                      |                        | 02/12/92-02/21/92      | \$24,845.69        |            | 02/24/92 | \$6,442.08        | \$18,413.61                          |
|                  |                      |                        | 02/24/92-02/24/92      | \$21,046.11        |            | 02/25/92 | \$7,435.28        | \$13,610.83                          |
|                  |                      |                        | 02/25/92-03/02/92      | \$23,655.10        |            | 03/03/92 | \$574.00          | \$23,081.10                          |
|                  |                      |                        | 03/03/92-03/04/92      | \$25,196.10        |            | 03/05/92 | \$797.77          | \$24,398.33                          |
|                  |                      |                        | 03/05/92-03/07/92      | \$25,216.33        |            | 03/08/92 | \$626.00 **       | \$24,590.33                          |
|                  |                      |                        | 03/08/92-03/19/92      | \$17,226.43        |            | 03/20/92 | \$4,309.09 **     | \$12,837.34                          |
|                  |                      |                        | 03/20/92-03/31/92      | \$17,617.95        |            | 04/01/92 | \$4,190.75        | \$13,427.20                          |
|                  |                      |                        | 04/01/92-04/02/92      | \$34,958.41        |            | 04/03/92 | \$7,454.20        | \$27,505.21                          |
|                  |                      |                        | 04/03/92-04/07/92      | \$11,511.76        |            | 04/08/92 | \$756.00 **       | \$10,755.76                          |
|                  |                      |                        | 04/08/92-04/13/92      | \$40,058.22        |            | 04/14/92 | \$423.04          | \$19,636.18                          |
|                  |                      |                        | 04/14/92-04/14/92      | \$41,193.37        |            | 04/15/92 | \$11,455.42       | \$29,737.95                          |
|                  |                      |                        |                        | \$29,737.95        |            | 04/16/92 | \$1,644.67        | \$27,994.28                          |
|                  |                      |                        | 04/16/92-04/21/92      | \$13,935.28        |            | 04/22/92 | \$1,576.88        | \$22,358.40                          |
|                  |                      |                        | 04/22/92-05/01/92      | \$41,868.96 ***    |            | 05/02/92 | \$13,017.10       | \$29,809.86                          |
|                  |                      |                        | 05/02/92-05/20/92      | \$30,281.15        |            | 05/04/92 | \$1,520.08        | \$28,771.07                          |
|                  |                      |                        |                        | \$28,771.07        |            | 05/06/92 | \$157.56          | \$28,509.51                          |
|                  |                      |                        |                        | \$28,509.51        |            | 05/06/92 | \$480.93          | \$28,028.58                          |
|                  |                      |                        | 05/10/92-05/11/92      | \$20,396.94        |            | 05/14/92 | \$9,307.62        | \$21,089.32                          |
|                  |                      |                        | 05/14/92-05/25/92      | \$33,102.62        |            | 05/26/92 | \$8,778.90        | \$25,071.72                          |
|                  |                      |                        | 05/26/92-05/28/92      | \$25,758.68        |            | 05/29/92 | \$9,981.30        | \$15,778.38                          |
|                  |                      |                        | 05/29/92-06/01/92      | \$16,515.77        |            | 06/02/92 | \$15,670.22       | \$916.74                             |
|                  |                      |                        | 06/03/92-06/12/92      | \$5,000.99         |            | 06/14/92 | \$1,726.16        | \$3,274.85                           |
|                  |                      |                        | 06/14/92-06/24/92      | \$8,419.39         |            | 06/25/92 | \$800.72          | \$7,618.67                           |
|                  |                      |                        | 06/25/92               | \$7,652.67         |            | 06/26/92 | \$410.00 **       | \$7,242.67                           |
|                  |                      |                        | 06/26/92-07/01/92      | \$9,487.02         |            | 07/02/92 | \$1,466.97        | \$8,020.05                           |
|                  |                      |                        | 07/02/92-07/02/92      | \$11,090.12        |            | 07/07/92 | \$7,856.67        | \$3,233.45                           |
|                  |                      |                        | 07/08/92-07/15/92      | \$5,931.20         |            | 07/16/92 | \$5,008.20        | \$923.10                             |
|                  |                      |                        | 07/16/92-07/27/92      | \$14,310.83        |            | 07/28/92 | \$114.00 **       | \$14,206.83                          |

95970192007

MEMORANDUM FOR PRESIDENT  
SCHEDULE OF 116.5 SUPPORT OF EXPENSES

| Contributor Name    | Date of Contribution | Amount of Contribution | Date Expenses Incurred | Amount in Excess of Limit | Date Reimbursed | Amount Reimbursed | Balance                      |                              |
|---------------------|----------------------|------------------------|------------------------|---------------------------|-----------------|-------------------|------------------------------|------------------------------|
|                     |                      |                        |                        |                           |                 |                   | Remaining in Excess of Limit | Remaining in Excess of Limit |
|                     |                      | \$16,204.63            |                        |                           | 07/20/92        | \$477.52          | \$13,729.11                  |                              |
|                     |                      | \$13,729.31            |                        |                           | 07/31/92        | \$40.13           | \$13,689.18                  |                              |
|                     |                      | \$14,335.99            | 07/31/92-08/03/92      |                           | 08/04/92        | \$1,066.13        | \$13,269.77                  |                              |
|                     |                      | \$15,356.72            | 08/04/92-08/21/92      |                           | 08/22/92        | \$4,246.60        | \$10,810.04                  |                              |
|                     |                      | \$18,403.93            | 08/22/92-09/19/92      |                           | 09/21/92        | \$2,077.59        | \$16,406.34                  |                              |
|                     |                      | \$16,406.34            |                        |                           | 09/22/92        | \$89.39           | \$16,316.95                  |                              |
|                     |                      | \$19,462.87            | 09/22/92-10/06/92      |                           | 10/07/92        | \$1,375.00        | \$18,087.87                  |                              |
|                     |                      | \$18,087.87            |                        |                           | 10/08/92        | \$2,183.17        | \$15,904.70                  |                              |
|                     |                      | \$16,075.76            | 10/09/92-10/19/92      |                           | 10/21/92        | \$21.95           | \$16,053.81                  |                              |
|                     |                      | \$16,574.31            | 10/22/92-10/27/92      |                           | 10/29/92        | \$221.34          | \$16,352.97                  |                              |
|                     |                      | \$16,459.81            | 10/29/92               |                           | 10/30/92        | \$10,000.00       | \$6,459.81                   |                              |
|                     |                      | \$6,754.31             | 11/04/92-11/07/92      |                           | 11/11/92        | \$163.95          | \$6,590.36                   |                              |
|                     |                      | \$6,590.36             |                        |                           | 11/13/92        | \$6,146.61        | \$443.75                     |                              |
|                     |                      | \$1,500.83             | 11/13/92-11/20/92      |                           | 12/03/92        | \$8,665.40        | \$0.00                       |                              |
| Joseph Sabes        | 06-Apr-92            | \$100.00               | 01/20/92-02/06/92      |                           | 02/10/92        | \$4,160.75        | \$0.00                       |                              |
|                     |                      |                        | 04/11/92-04/20/92      |                           | 05/04/92        | \$3,019.24        | \$3,222.50                   |                              |
|                     |                      |                        |                        |                           | 05/04/92        | \$4,122.50        | \$0.00                       |                              |
| Linda Bourbeau      | 06-May-91            | \$100.00               | 01/20/93-04/09/92      |                           | 04/15/92        | \$1,500.00        | \$1,791.22                   |                              |
|                     |                      |                        | 04/16/92-04/21/92      |                           | 04/21/92        | \$5,500.00        | \$0.00                       |                              |
|                     |                      |                        | 04/27/92-05/04/92      |                           | 05/06/92        | \$4,075.26        | \$4,297.30                   |                              |
|                     |                      |                        |                        |                           | 05/14/92        | \$6,055.33        | \$241.97                     |                              |
|                     |                      |                        |                        |                           | 08/11/92        | \$1,161.97        | \$0.00                       |                              |
| Michael C. Bourbeau | 06-May-91            | \$100.00               | 10/21/91-12/11/91      |                           | 12/22/92        | \$432.76          | \$0.00                       |                              |
|                     |                      |                        | 12/13/91-02/29/92      |                           | 03/04/92        | \$5,975.14        | \$820.89                     |                              |
|                     |                      |                        | 03/06/92-03/08/92      |                           | 03/09/92        | \$1,213.77        | \$4,765.86                   |                              |
|                     |                      |                        | 03/09/92-03/12/92      |                           | 03/13/92        | \$2,730.00        | \$8,484.64                   |                              |

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**BOOK FOR PRESIDENT  
SCHEDULE OF 116.5 SUMMARY OF EXPENSES**

| Contributor Name | Date of Contribution | Amount of Contribution | Date Expenses Incurred | Amount in Excess of Limit* | Date Reimbursed | Amount Reimbursed | Balance Remaining in Excess of Limit |
|------------------|----------------------|------------------------|------------------------|----------------------------|-----------------|-------------------|--------------------------------------|
|                  |                      |                        | 03/16/92-03/21/92      | \$13,173.13 ***            | 03/22/92        | \$2,815.06        | \$10,357.07                          |
|                  |                      |                        | 03/24/92-03/28/92      | \$19,426.97                | 03/30/92        | \$2,635.05        | \$4,291.02                           |
|                  |                      |                        | —                      | \$4,291.02                 | 04/01/92        | \$4,000.00        | \$4,291.02                           |
|                  |                      |                        | —                      | \$4,291.02                 | 04/06/92        | \$4,767.96        | \$0.00                               |
|                  |                      |                        | 04/28/92-05/15/92      | \$1,572.72                 | 05/03/92        | \$5,099.22        | \$0.00                               |
|                  |                      |                        | 06/03/92-06/08/92      | \$2,317.18                 | 06/09/92        | \$2,360.44        | \$0.00                               |
| Hubert Rubin     |                      |                        | 04/11/92-05/09/92      | \$2,342.25                 | 05/09/92        | \$500.00          | \$1,842.25                           |
|                  |                      |                        | 05/09/92-05/24/92      | \$4,605.69 ***             | 05/26/92        | \$2,014.81        | \$2,714.32                           |
|                  |                      |                        | 05/24/92-06/19/92      | \$3,091.32                 | 06/22/92        | \$3,687.32        | \$0.00                               |
|                  |                      |                        | 07/03/92-07/10/92      | \$733.05                   | 07/11/92        | \$180.00          | \$553.05                             |
|                  |                      |                        | 07/11/92-07/16/92      | \$1,079.55                 | 07/21/92        | \$2,167.55        | \$0.00                               |

**Notes:**

- \* Amount in excess is the maximum amount of contributions during the time period specified in "Date Expenses Incurred".
- \*\* The "Amount Reimbursed" contains credit adjustments made on Justice Evans' credit card statements for goods or services returned to the vendor.
- \*\*\* This amount is the highest excessive balance for this individual. The sum total of this amount for all excessive individuals is \$76,261.10.

BROWN FOR PRESIDENT  
Schedule of Non-Qualified Campaign Expenditures-  
Undocumented State Account Disbursements

| PAYEE                          | CHK# | DATE      | AMOUNT             | COMMENTS | PURPOSE       |
|--------------------------------|------|-----------|--------------------|----------|---------------|
| <b>First Tier Bank(NE):</b>    |      |           |                    |          |               |
| First Tier                     | 155  | 27-Apr-92 | \$190.00           | docu     | Unknown       |
| David Robinson                 | 108  | 13-May-92 | \$895.25           | docu     | Reimbursement |
| Enterprise Bank                | 126  | 10-Jul-92 | \$3,194.12         | docu     | Unknown       |
| Mary Harding                   | 227  | 31-Jul-92 | \$789.77           | docu     | Unknown       |
| <b>Chittenden Bank(VT):</b>    |      |           |                    |          |               |
| Robert Pearl                   | 13   | 27-Mar-92 | \$500.00           | docu     | Exp.Reimburse |
| Joe Coffey                     | 23   | 02-Apr-92 | \$300.00           | docu     | Exp.Reimburse |
| Robert A. Backus               | 31   | 12-Apr-92 | \$622.00           | docu     | Exp.Reimburse |
| Ben Ptashnik                   | 59   | 18-May-92 | \$2,000.00         | docu     | Exp.Reimburse |
| <b>First NH Bank:</b>          |      |           |                    |          |               |
| Larry Fernsworth               | 102  | 04-Aug-92 | \$259.82           | docu     | Unknown       |
| <b>Marine Midland(NY):</b>     |      |           |                    |          |               |
| NPV                            | 1009 | 06-Apr-92 | \$300.00           | docu     | Unknown       |
| Wilda Roderiguez               | 1023 | 07-Apr-92 | \$289.99           | cc;docu  | Unknown       |
| NY Telephone                   | 1026 | 07-Apr-92 | \$1,000.00         | cc;docu  | Unknown       |
| Spartan Display                | 4    | 30-Mar-92 | \$1,388.00         | docu     | Unknown       |
| Kim Elia                       | 1822 | 06-Apr-92 | \$425.00           | docu     | Unknown       |
| Rev. Bosic Kimber              | 1825 | 03-Apr-92 | \$685.00           | docu     | Unknown       |
| <b>TOTAL NQCE UNDOCUMENTED</b> |      |           | <b>\$12,838.95</b> |          |               |

Legend:

cc = no cancelled check available for review.  
docu = supporting documentation unavailable.

9507019209

Attachment 4  
Page 1 of 1

Brown for President

State-Dated Checks

| Check #                       | Check Date | Payee                 | Check Amount |
|-------------------------------|------------|-----------------------|--------------|
| 1697                          | 05-Feb-92  | Kevin Coner           | \$450.00     |
| 1874                          | 04-Mar-92  | Univ. of Arizona      | \$150.00     |
| 1966                          | 17-Mar-92  | Dade Co.              | \$22.00      |
| 2173                          | 09-Mar-92  | Sec. of State Ohio    | \$34.50      |
| 2248                          | 27-Mar-92  | Audio Gallery         | \$172.12     |
| 2327                          | 30-Mar-92  | Robert Harris         | \$62.31      |
| 3079                          | 24-Apr-92  | Mark Bochner          | \$100.00     |
| 3107                          | 27-Apr-92  | Audio Services Corp.  | \$800.00     |
| 3575                          | 20-May-92  | Clifton Gordon        | \$87.50      |
| 3748                          | 26-May-92  | Robert Marmorstein    | \$100.00     |
| 3774                          | 27-May-92  | Terra Verde Trading C | \$90.93      |
| 4574                          | 06-Jul-92  | Ameritrek             | \$1,500.00   |
| 4777                          | 24-Jul-92  | Vincent Lavery        | \$162.45     |
| 5102                          | 17-Aug-92  | Delia Ibar            | \$200.00     |
| 5483                          | 02-Oct-92  | Colin F. Weitzman     | \$805.18     |
| 5536                          | 24-Oct-92  | Mike McMahon          | \$174.50     |
| 5540                          | 14-Oct-92  | Paula Tejada          | \$15.12      |
| Total 1992 State-Dated Checks |            |                       | \$4,926.61   |

05070192000

Brown For President  
643 E. Channel Rd.  
Santa Monica, CA 90402  
310/454-9905 Phone  
310/454-3486 Fax

*audit 1/21*  
ATTACHMENT  
Page 1 of 4

January 26, 1994

Robert J. Costa  
Federal Election Commission  
999 E Street NW  
Washington, D.C. 20463

Dear Mr. Costa:

Enclosed is our response to your audit report, despite the beating our records took in the earthquake.

The amendments requested in recommendations #1 and #2 were completed with the amendments filed in July 1993. Pursuant to Kinde Durkee's conversation with Alex Bonowitz, he confirmed that these amendments are in fact in our file at the Commission.

Even though recommendation #3 states there is no further action, I would like it noted that the numbers quoted in C. are incorrect, Alex has quite a bit of additional backup in his office pertaining to those numbers that was sent to him from the time of the close of the audit until now.

The attached Schedules A-P, B-P, C-P are part of the amendments filed in July 1993 for the May monthly report, and in response to recommendation #4 of the audit report.

In response to recommendation #5, documents are attached that demonstrate these items were in the normal course of business and did not represent prohibited contributions. There will also be a fax on Thursday, January 27 from Jules Glazer sent directly to your office regarding my credit card expenditures.

Recommendation #6 asked for no further action.

ATTACHMENT 2  
Page 1 of 4

0507019201

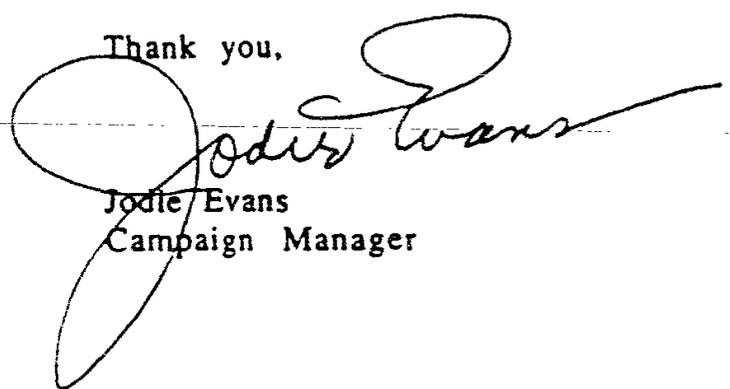
**Recommendation #7** See attached statement from Cheryl Gundred.

The response for recommendation #8 will come by fax directly to your office from Jules Glazer on January 27.

Cheryl's attached statement also refers to recommendation #9. We have made every effort to track down the stale dated checks and have backups on \$2,500.63 which is over 50% of what you requested.

We now consider all of the requirements you asked for, to be completed and submitted. We request the audit now be declared terminated and the changes taken into consideration for the repayment requested. (I would love to get on with my life and have my garage free from all the boxes.)

Thank you,



Jodie Evans  
Campaign Manager

05070192012

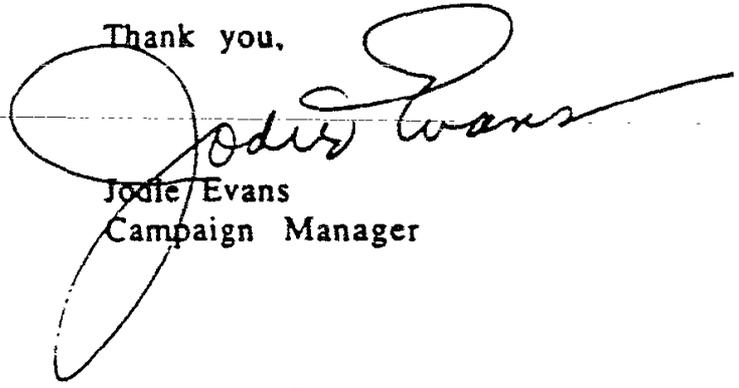
Recommendation #7 See attached statement from Cheryl Gundred.

The response for recommendation #8 will come by fax directly to your office from Jules Glazer on January 27.

Cheryl's attached statement also refers to recommendation #9. We have made every effort to track down the stale dated checks and have backups on \$2,500.63 which is over 50% of what you requested.

We now consider all of the requirements you asked for, to be completed and submitted. We request the audit now be declared terminated and the changes taken into consideration for the repayment requested. (I would love to get on with my life and have my garage free from all the boxes.)

Thank you,



Jodie Evans  
Campaign Manager

95070192006

Brown for President  
444 S. Occidental Blvd., #421  
Los Angeles, CA 90057

January 26, 1994

Alex Bonowitz  
Audit Division  
Federal Election Commission  
Washington, D.C. 20463

Dear Mr. Bonowitz:

Please include the following in the committee's answers to your requests in the audit report.

Recommendation #5 - credit card charges by Jodie Evans in the amount of \$41,868.98 represents items used for campaign expenses. Extension of credit by Quarterdeck and Local 1199 represent charges to the campaign in the normal course of business and does not represent contributions of any kind.

Recommendation #7 - your analysis that matching funds exceeded in excess of entitlement is incorrect. Winding down costs estimated from 4/1/93-9/30/93 should have been \$142,700.00 as is evidenced by the actual amounts spent during this period.

Sincerely,

Blaine Quick  
Treasurer  
Brown for President

4 2 of 4

9507019274



FINAL AUDIT REPORT  
ON  
BROWN FOR PRESIDENT  
  
EXECUTIVE SUMMARY

Brown for President ("the Committee") registered with the Federal Election Commission on September 2, 1991. The Committee was the principal campaign committee of Governor Edmund Brown, Jr., a candidate for the 1992 Democratic presidential nomination.

The audit was conducted pursuant to 26 U.S.C. §9038(a), which requires the Commission to audit committees that receive matching funds. The Committee received \$4.2 million in matching funds.

The findings were presented to the Committee at an exit conference held at the conclusion of audit fieldwork (April 13, 1993) and in the interim audit report approved by the Commission on October 22, 1993, and ratified by the Commission on November 9, 1993. The Committee was given an opportunity to respond to the findings both after the exit conference and after receipt of the interim audit report. The responses have been included in this report.

In the final audit report, the Commission made an initial determination that the Committee was required to pay the U.S. Treasury \$126,586 1/, representing \$125,252 in matching funds received in excess of the candidate's entitlement and \$1,334 in Committee checks that were never cashed. The Commission also determined that the Committee had to make a \$15,974 payment to the U.S. Treasury due to its receipt of apparently excessive travel reimbursements from the Press. In addition, the Committee had to refund \$51,233 to the Press. These and other matters are summarized below.

1/ The Committee submitted a payment of \$97,674 on August 31, 1992, based on a preliminary calculation made early in the audit process.

Misstatement of Financial Activity - 2 U.S.C. §434(b)(1), (2), and (4). On disclosure reports filed between September 1991 and September 1992, the Committee misstated its financial activity. The Committee filed amended reports that materially corrected the misstatements.

Disclosure of Receipts and Disbursements - 2 U.S.C. §434(b). The interim audit report found that the Committee's reports inadequately disclosed offsets to operating expenditures, disbursements and loans. The Committee responded, filing amendments that corrected the disclosure problems.

Excessive Contributions Resulting from Staff Advances and Extensions of Credit by a Vendor and a Union - 2 U.S.C. §441a(a), 2 U.S.C. §441b(a), 11 CFR §116.5(b), 11 CFR §116.3, and 11 CFR 114.9(d). A payment by an individual from his or her personal funds for campaign-related costs is a contribution subject to the \$1,000 limitation unless exempted from the definition of a contribution at 11 CFR 100.7(b)(8) or reimbursed within specific time frames. The interim audit report questioned whether funds advanced by five individuals resulted in contributions that exceeded limits by \$76,261. The report also questioned whether the Committee had accepted prohibited corporate and labor contributions in the form of credit extended outside the normal course of business by a computer firm (\$50,000) and a labor union (\$57,196). The Committee's response to the interim audit report provided no documentation to refute the excessive and prohibited nature of these advances and extensions of credit.

Undocumented Disbursements - 11 CFR §9038.2(b) and 11 CFR §9033.11(a). In response to the interim audit report's identification of inadequate documentation with respect to 16 disbursements totaling \$32,839, the Committee provided the necessary documentation to correct this problem.

Matching Funds in Excess of Entitlement - 26 U.S.C. §9038(b)(1). In the final audit report the Commission made an initial determination that a repayment of \$125,252 to the U.S. Treasury was required. The repayment represented matching funds received in excess of the candidate's entitlement, based on an analysis of the Committee's Statement of Net Outstanding Campaign Obligations and relevant receipt activity.

Apparent Excessive Press Reimbursements - 11 CFR §9034.6(a), 11 CFR §9034.6(b), and 11 CFR §9034.6(d)(1). A committee that provides travel-related services to the Press may charge for the services and accept the resulting reimbursements. The final audit report found that the Committee had earned \$15,974 in profit on reimbursements received from the Press for such services. The Commission determined that this amount had to be paid to the U.S. Treasury. The Commission also determined

that the Committee had overcharged the Press \$51,233 for travel-related services and consequently had to make refunds to the travelers who had overpaid.

Stale-dated Committee Checks - 11 CFR 9038.6. Finally, the Committee is required to pay to the U.S. Treasury \$1,334, the total amount of checks outstanding which have not been cashed.

9507019227



FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20461

AK004708

REPORT OF THE AUDIT DIVISION  
ON  
BROWN FOR PRESIDENT

I. Background

A. Audit Authority

This report is based on an audit of Brown for President ("the Committee"). The audit is mandated by Section 9038(a) of Title 26 of the United States Code. That section states that "After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under section 9037." Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission's Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the Committee has materially complied with the limitations, prohibitions and disclosure requirements of the Federal Election Campaign Act of 1971, as amended.

B. Audit Coverage

The audit covered the period from the Committee's inception, September 2, 1991, through September 30, 1992. During this period, the Committee's reports<sup>1/</sup> reflect an opening cash balance of \$-0-; total receipts of \$10,783,676; total

<sup>1/</sup> All figures in this report have been rounded to the nearest dollar.

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disbursements of \$10,253,296; and a closing cash balance of \$530,297.2/ In addition, a limited review of the Committee's transactions was conducted through March 31, 1993, for purposes of determining the Committee's remaining matching fund entitlement based on its financial position and reported transactions thereafter.

C. Campaign Organization

The Committee registered with the Federal Election Commission on September 2, 1991. The Treasurer of the Committee from its inception through March 5, 1992 was Jodie Evans. On March 6, 1992, Blaine Quick became Treasurer and continues to serve as the Committee's current Treasurer.

During the period audited, the campaign utilized depositories in 16 states in addition to its national headquarters located in Los Angeles, California. The campaign's current offices are in Los Angeles, California.

To handle its financial activity, the campaign used 21 bank accounts at various times. From these accounts the campaign made approximately 6,000 disbursements. Approximately 94,000 contributions were received from about 88,400 persons. These contributions totaled about \$5,015,000. It should be noted that it was the Committee's policy to limit contributions to \$100 per person.

In addition to contributions, the campaign received \$4,239,405 in matching funds from the United States Treasury. This amount represents 30.70% of the \$13,810,000 maximum entitlement that any candidate could receive. The candidate was determined eligible to receive matching funds on December 2, 1991. The campaign made a total of 8 matching funds requests totaling \$4,437,909. The Commission certified 95.53% of the requested amount. For matching fund purposes, the Commission determined that the Honorable Edmund G. Brown's candidacy ended July 15, 1992. This determination was based on the date of the convention pursuant to the Commission's regulations at 11 C.F.R. §9033.5(c) which states, in relevant part, that the candidate's date of ineligibility shall be the last day of the matching payment period as specified in 11 C.F.R. 9032.6; which states that the matching payment period may not exceed "the date on which the party nominates its candidate." On August 4, 1992, the Committee received its final matching fund payment to defray expenses incurred through July 15, 1992 and to help defray the cost of winding down the campaign.

2/ The reported activity does not foot due to two minor mathematical errors in carrying the ending cash on hand balance to the subsequent report as the beginning cash on hand balance.

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Attachment 1 to this report is a copy of the Commission's most recent Report on Financial Activity for this campaign. The amounts shown are as reported to the Commission by the Committee.

D. Audit Scope and Procedures

In addition to a review of the qualified campaign expenses incurred by the Committee, the audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (see Finding II.E.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations (see Finding II.E.);
3. proper disclosure of receipts from individuals, political committees and other entities, to include the itemization of receipts when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.B.);
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed (see Finding II.C.);
5. proper disclosure of Committee debts and obligations (see Finding II.D.);
6. the accuracy of total reported receipts, disbursements and cash balances as compared to Committee bank records (see Finding II.A.);
7. adequate recordkeeping for campaign transactions (see Finding III.D.);
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by the Committee to disclose its financial condition and establish continuing matching fund entitlement (see Finding III.C.);
9. the Committee's compliance with spending limitations; and
10. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of the Committee's records was conducted prior to the

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audit fieldwork. This inventory was conducted to determine if the Committee's records were materially complete and in an auditable state. The inventory indicated that some records were not complete and the Committee was provided thirty days to obtain the necessary materials. At the end of the thirty days, some records were still not complete. In order to obtain the necessary records subpoenas were issued to the Committee as well as a number of vendors, banks, and individuals. As a result of the information obtained, it was concluded that the records were materially complete except as discussed in individual findings.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this report in an enforcement action.

Our analysis of press refunds/rebates was limited due to the absence of Committee records with respect to: The flight origination and destination to include the cost of each leg of each trip; the flight manifest or itinerary for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization; and workpapers, computer files etc. showing the derivation of amounts billed to the press for each leg of each trip (see Finding III.D.).

## II. Findings and Recommendations - Non-repayment Matters

### Introduction to Findings

In light of an October 22, 1993 decision by the Court of Appeals for the D.C. Circuit in FEC v. NRA Political Victory Fund et. al, the Commission reconsidered the interim audit report and voted its approval on November 9, 1993. As a result of this action, the Committee was afforded an additional 14 calendar days to respond to the interim audit report.

#### A. Misstatement of Financial Activity

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code require a political committee to report the amount of cash on hand at the beginning of each reporting period and the total amount of all receipts and disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's bank activity to its reported activity<sup>3/</sup> for the period covered by the audit indicated the following misstatements:

<sup>3/</sup> The Committee's reported totals were calculated by summing the current period totals for each reporting period; which differed from the calendar year-to-date totals reported by the Committee for 1992.

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1. Inception through December 31, 1991

a. Receipts

The Committee reported total receipts of \$519,658 for 1991. Utilizing available bank records, the Audit staff determined that the Committee should have reported total receipts of \$515,017. Therefore, the Committee's receipts were overstated by a net amount of \$4,641. This overstatement was the result of the following:

|   |                  |
|---|------------------|
| o In-kind contributions and deposits not reported                         | \$ 6,109         |
| o Deposits reported twice   | \$( 700)         |
| o Reported deposits and edit adjustments not traceable to bank statements | \$(9,800)        |
| o Correction of mathematical error  | \$ 400           |
| o Unexplained year end correction   | \$ (761)         |
| o Reconciling adjustment  | <u>\$ 111</u>    |
| Total (Net) Overstatement   | <u>\$(4,641)</u> |

b. Disbursements

For 1991, the Committee reported total disbursements of \$440,958. The Audit staff determined that the Committee should have reported total disbursements of \$457,298. Therefore, the Committee's reported disbursements were understated by a net amount of \$16,340. This understatement was a result of the following:

|  |                 |
|--|-----------------|
| o Disbursements not reported and 1991 disbursements reported in 1992 | \$19,993        |
| o Disbursements reported twice                                       | \$(1,503)       |
| o Miscellaneous charges, bank reversals, and error corrections       | \$(1,999)       |
| o Reconciling adjustment   | <u>\$ (151)</u> |
| Total (Net) Understatement   | <u>\$16,340</u> |

c. Cash on Hand

The Committee reported an ending cash on hand balance on December 31, 1991 of \$78,700. The Audit staff determined this was overstated by a net amount of \$20,981 which

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resulted from the misstatements detailed above. The correct ending cash was determined to be \$57,719.

2. January 1, 1992 through September 30, 1992

a. Receipts

The Committee reported total receipts of \$10,264,018 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total receipts of \$11,308,890 for this period. Therefore, the Committee's reported receipts were understated by a net amount of \$1,044,872. Committee deposit records identified the receipt of a \$1.1 million dollar loan on May 20, 1992 that was not reported (see Finding II.D.). In addition, the Audit staff noted press reimbursements for air charter services, totaling \$20,126, which were paid directly to the vendor and not reported by the Committee. In the absence of workpapers which detail the preparation of its disclosure reports, the Audit staff was unable to explain the remaining overstatement totaling \$75,254.

b. Disbursements

The Committee reported total disbursements of \$9,812,338 for the period January 1, 1992 through September 30, 1992. The Audit staff determined that the Committee should have reported total disbursements of \$10,875,192. Therefore, the Committee's reported disbursements were understated by a net amount of \$1,062,854. The majority of this difference was the result of the Committee not reporting the May 26, 1992 repayment of the \$1.1 million loan described above. With respect to the press reimbursements discussed above, a credit of \$20,126 was applied by the vendor to amounts due from the Committee, resulting in an underreporting of disbursements. In the absence of workpapers which detail the preparation of its disclosure reports, the Audit staff was unable to explain the remaining \$57,272 difference.

c. Cash on Hand

The Committee reported an ending cash on hand balance on September 30, 1992 of \$530,297. The Audit staff determined this was overstated by a net amount of \$38,880 which resulted from the misstatements noted above and correction carryovers from 1991. The correct ending cash was determined to be \$491,417.

The Audit staff provided photocopies of its bank reconciliations to Committee representatives at the exit conference. The Committee representatives indicated a willingness to file amendments to correct the above noted problems.

In the interim audit report, the Audit staff recommended that the Committee file amended Summary and Detailed

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Summary Pages for calendar years 1991 and 1992 correcting the misstatements of financial activity. The Audit staff further recommended that the Committee file amended Schedules A-P and B-P for 1992 to disclose the press transactions (\$20,126) discussed above.

The Committee's response to the interim audit report notes that amended disclosure reports have been filed. The Audit staff's review of these amended disclosure reports determined that the Committee has materially complied with the recommendations of the interim audit report.

B. Failure to Itemize Refunds/Rebates

Section 434(b)(3)(F) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to mean, in the case of any person other than an individual, the full name and address of such person. In addition, 2 U.S.C. §431(11) defines "Person" to include an individual, partnership, corporation, association, labor organization or committee.

The Audit staff's review of refunds/rebates received by the Committee from vendors indicated that 37 out of 67 such receipts totaling \$82,840 were not itemized on the Committee's disclosure reports.

At the exit conference, the Audit staff advised the Committee representatives of this problem and provided them with photocopies of workpapers detailing these transactions. Committee representatives indicated that amended reports would be filed.

In the interim audit report, the Audit staff recommended that the Committee file Schedules A-P to amend its disclosure reports to correctly itemize their refunds and rebates.

The Committee's response to the interim audit report notes that the requested Schedules A-P have been filed. The Audit staff's review of these amended schedules determined that the Committee has complied with our recommendation.

C. Failure to Itemize and Adequately Disclose Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states, that each report under this section shall disclose the name and address of each person to whom an expenditure in an

aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

The Audit staff reviewed disbursements from the Committee's state accounts. The review identified 177 disbursements, in an aggregate amount or value in excess of \$200, totaling \$106,482, that were not itemized on Committee disclosure reports.

In addition, the Audit staff's review of itemized disbursements from state bank accounts identified 80 disbursements totaling \$43,285, for which the proper disclosure of information was either incomplete or omitted. All of the errors resulted from either an incomplete address, or no address being disclosed.

At the exit conference Committee representatives were made aware of the above problems and were provided photocopies of schedules detailing these items. In response to the exit conference the Committee filed amended disclosure reports materially correcting the errors.

D. Reporting of Loan to the Committee

Sections 434(b)(2)(H) and (3)(E) of Title 2 of the United States Code state, that each report shall disclose all loans along with the identification of each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan.

In addition, 11 C.F.R. §104.11(a) provides that debts and obligations owed by a political committee which remain outstanding shall be continuously reported until extinguished.

The Audit staff identified a \$1,100,000 loan, the receipt and repayment of which had not been reported by the Committee (see Finding II.A.2.).

The documentation available with respect to this loan included a Promissory Note, a Committee bank statement with related debit and credit memos and a document from the bank showing the loan history. The Promissory Note was dated May 15, 1992, and related to Loan #6348 in the amount of \$1,100,000. This Note had an initial interest rate of 8.5%, and a repayment due date of June 8, 1992. The Promissory Note also stated that interest started to accrue on the unpaid principal balance as of May 15, 1992 until paid in full. The loan was secured with matching funds. In addition, the bank was authorized to debit the Committee's bank account, upon receipt of matching funds, to repay the loan.

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According to the May, 1992 bank statement, this loan was credited to the Committee's account on May 20, 1992. The credit memo is dated 5-20-92 and is annotated "Brown for President Inc. - Loan Proceeds". The bank statement notes a debit on May 26, 1992 to repay the loan. The corresponding debit memo, dated 5-26-92, states that it "Rev[er]ses] entry of 05-22-92".

The documentation reviewed contained discrepancies concerning receipt and repayment dates. Although the loan history supplied by the lending bank and the bank statement supports 5-20-92 as the date of receipt, as noted above, the debit memo is annotated as "Rev[er]ses] entry of 05-22-92". There is no corresponding credit on the bank statement to which this could apply other than the loan credited on May 20, 1992. The Audit staff also noted an inconsistency between the bank statement and the loan history with respect to the date of repayment of this loan. As detailed above, the Committee's account is debited for the amount of the loan proceeds on May 26, 1992, while the loan history lists the repayment date as May 20, 1992. The Audit staff is unable to explain these discrepancies.

Based on the available information, it is the opinion of the Audit staff that the loan was received on May 20, 1992 and repaid on May 26, 1992. The Committee had the proceeds from the loan available for five days.

On the loan history was a note to a Committee representative that stated in part "After signing the documents, the Brown For President people decided that they did not want all the money right away but rather wanted to take it as needed (to save interest charges most likely). Therefore the initial advance was reversed and the loan proceeds were subsequently taken in two parts - but only \$500,000 of the \$1,100,000 were ever taken. This is not a line of credit but rather a straight loan which was disbursed in increments". At the exit conference, Committee representatives stated that because the full amount was not needed at the time the funds were drawn, they elected not to report the \$1,100,000 loan; they elected to report only the subsequent draws on the loan.

The Audit staff acknowledges that loans for \$300,000 on May 26, 1992 and \$200,000 on June 2, 1992 were drawn against Loan #6348 subsequent to the receipt and repayment of the \$1,100,000 draw. The Committee repaid both draws and corresponding interest on June 5, 1992. The Audit staff also acknowledges that both of these loans were correctly disclosed.

At the exit conference, the Audit staff informed Committee representatives of the need to file amended disclosure reports to disclose the initial (\$1,100,000) loan. The Committee agreed to amend its disclosure reports as requested.

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In the interim audit report the Audit staff recommended that the Committee submit Schedules A-P, B-P and C-P, disclosing the receipt and repayment of this (\$1,100,000) loan.

As part of its response to the interim audit report, the Committee provided the requested schedules.

E. Apparent Excessive Contributions Resulting from Staff Advances and Extensions of Credit by a Vendor and a Union

Section 441a(a)(1)(A) of Title 2 of the United States Code states, in part, that no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation or labor organization to make a contribution in connection with any election to any political office.

Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, that the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 C.F.R. 100.7(b)(8).

Pursuant to 11 C.F.R. §116.5(b), if the payment is not exempted, it shall be considered a contribution by the individual unless it is for the individual's transportation expenses or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business such as food or lodging.

Sections 116.3(a) and (b) of Title 11 the Code of Federal Regulations state, in relevant part, that a commercial vendor that is not a corporation, and a corporation in its capacity as a commercial vendor may extend credit to a candidate, a political committee or another person on behalf of a candidate or political committee. An extension of credit will not be considered a contribution to the candidate or political committee provided that the credit is extended in the ordinary course of the

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commercial vendor's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligations.

Further, 11 C.F.R. §116.3(c) states that in determining whether credit was extended in the ordinary course of business, the Commission will consider:

- (1) Whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit;
- (2) Whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and
- (3) Whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.

Finally, 11 C.F.R. §114.9(d) provides, in part, that persons, other than officials, members and employees, who use labor organization facilities for activity in connection with a Federal election, are required to reimburse the labor organization within a commercially reasonable time in the amount of the normal and usual rental charge for the use of the facilities.

1. Staff Advances

During the review of the Committee's disbursements, the Audit staff noted a number of reimbursements to individuals that were for various kinds of campaign activity. For subsistence and transportation expenses, the Committee did not reimburse the individuals within the time periods required by 11 C.F.R. §116.5. Individuals were also reimbursed for other kinds of campaign expenditures, such as advertising, supplies, telephone, postage, and copying. Further, five individuals were reimbursed for the transportation, travel, and related expenses of other individuals, to include the candidate.

As part of the Audit staff's analysis, contributions resulting from the untimely reimbursement of expenses incurred by individuals were added to direct contributions made by these individuals. Our review indicated that five individuals made apparent excessive contributions. The amount in excess varied depending upon when reimbursements were made by the Committee. By summing the largest amount in excess for each individual, the Audit staff determined that the amount in excess was \$76,261. At the conclusion of fieldwork, there were no expense reimbursements outstanding. Of particular note, most of the amount in excess (\$41,869) occurred with respect to the Campaign Manager, Jodie Evans. The Campaign Manager utilized seven (7) different personal credit cards for both personal and campaign related expenses. The majority of expenses charged to

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these accounts were for the candidate's and several campaign employees' expenses.

This matter was discussed with the Committee during the exit conference. The Audit Staff provided the Committee with a schedule of excessive amounts, a summary schedule, and a cover sheet explaining symbols and methodology. The Campaign Manager stated that the regulation had been misinterpreted by them. She also commented that the regulation and repayment periods are unfair to candidates who do not have the same access to money or credit as other candidates who have name recognition or political position. Grass roots candidates are forced to rely on the good name of Committee supporters.

In the interim audit report, the Audit staff recommended that the Committee demonstrate that the individuals did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), and/or were reimbursed in a timely manner as defined under 11 C.F.R. §116.5(b)(2), or submit any other comments or documentation the Committee feels may be relevant.

As part of its response to the interim audit report, a facsimile letter from the Committee's Treasurer states that "credit card charges by Jodie Evans [Campaign Manager] in the amount of \$41,869 represents items used for campaign expenses." The Committee's response does not address the apparent excessive contributions of the four individuals other than the Campaign Manager.

With respect to the matter of the credit cards, the Audit staff does not dispute the Committee's assertion that the credit card charges in question represent expenditures made relative to the campaign.

The Committee's response fails to demonstrate that the individuals did not exceed the contribution limits of 2 U.S.C. §441a(a)(1)(A), and/or were reimbursed in a timely manner. Therefore, no adjustment to the interim report analysis has been made.

2. Extension of Credit by a Commercial Vendor and a Union

During the course of fieldwork, the Audit staff identified two disbursements, each to different vendors, that raised concerns with respect to the extension of credit given to the Committee.

On December 1, 1992, the Committee issued check number 8094 in the amount of \$50,000 to Quarterdeck Office Systems ("Quarterdeck") for miscellaneous computer software and hardware. An attached invoice, dated 11-17-92, details the equipment and services provided; the amount of the invoice is \$151,121. The

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invoice is annotated as follows: "Bill adjusted to \$50,000. Due Nov 30, 1992, Stanton Kaye".

Based on a review utilizing a Committee-provided, disbursement data file, the Audit staff did not note any other payments to this vendor. According to Committee representatives this equipment was used during the campaign which ended 7-15-92. No other correspondence between the vendor and the Committee has been provided.

In the other instance, on October 27, 1992, the Committee issued check number 5571, in the amount of \$57,196, to Local 1199 (Drug, Hospital & Health Care Employees Union). An attached invoice, with a letter requesting payment, dated 10-28-92, details reimbursable expenses incurred by Local 1199 with respect to Edmund G. Brown Jr.'s Presidential campaign during the period 3/30/92 to 4/10/92. The expenses were for food and refreshments, rent, printing, advertising, telephone and other miscellaneous items. According to an October 12, 1992 letter from the vendor to the Committee, this invoice is a revision of a previous invoice.

The Audit staff did not note any other payments to this vendor based on a Committee-provided, disbursement data file. According to a written statement (dated 5-24-93) submitted to the Audit staff by the Campaign Manager, there was no written agreement for these expenditures, which were the result of a sudden need for meeting rooms and banquet facilities, and were incurred with respect to the New York primary. "Apparently the invoice of the charges 'fell through the cracks' and we were not billed. I contacted him several times asking for the bill so that it could be paid. As soon as we received and reviewed the bill (and after a revised invoice was issued) it was paid."

The Audit staff's concern is whether Local 1199 was reimbursed within a commercially reasonable time at the normal and usual charge. The Audit staff requested that the Committee provide additional documentation with respect to these items. On July 16, 1993, the Audit staff received a letter from Local 1199 stating that the reason for the delay in submitting the bill was the result of several mislaid invoices in the accounting department. It also notes that no bill was submitted to the Committee until these bills were recovered.

In the interim audit report, the Audit staff recommended the Committee provide additional documentation or any other comments to demonstrate that the credit extended by the commercial vendor and union were in the normal course of business and did not represent prohibited contributions.

In its response to the interim audit report, the Committee's cover letter states that "documents are attached that demonstrate these items were in the normal course of business and did not represent prohibited contributions."

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The attached documentation consisted of copies of letters sent to the Committee from Local 1199 and Quarterdeck Office Systems. The letter from Local 1199, dated July 16, 1993, had previously been provided to the Audit staff and is discussed above. The letter from the Vice President of Marketing & International Sales for Quarterdeck Office Systems, dated July 21, 1993, states:

"I have known Jodie Evans, The campaign Manager, for quite some time and in one of our conversations it was mentioned that the campaign would be needing computers. I mentioned that although Quarterdeck was not in the business of leasing computers there were some in storage that were not currently being used.

No agreement was ever signed. I turned this matter over to my staff and it was verbally agreed that nothing would be done until it was decided whether the campaign was going to purchase or rent the computers from us.

Jodie, her staff and my staff had discussions for several months and it was finally decided that the campaign would lease the computers for the amount that was comparable to the loss of value and pay for our service time.

Since leasing computers is not our normal business, this was not billed in the 'normal course of business'. However, as soon as it was billed, it was paid."

The facsimile letter from the Committee's Treasurer states that the "[e]xtension of credit by Quarterdeck and Local 1199 represent charges to the campaign in the normal course of business and does not represent contributions of any kind."

The Committee's response did not provide any new documentation or comments to demonstrate that the credit extended by Local 1199 was in the normal course of business and did not represent prohibited contributions.

The Committee's response: (i) does not provide information relative to Quarterdeck's established procedures or past practices in approving extensions of credit; (ii) does not provide any information relative to prompt payment of previously extended credit to the Committee; and (iii) does not provide information to show that this extension of credit conformed to the usual and normal practice in the industry.

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Rather, the letter provided from Quarterdeck appears to buttress the Audit staff's conclusion that credit was not extended in the ordinary course of business. The letter states that Quarterdeck "was not in the business of leasing computers." No agreement was ever signed. There were several months of discussions before the Committee decided to lease or buy the computers. The Committee benefited from the use of the equipment during the campaign until an invoice (dated 11-17-92) was submitted to the Committee for payment well after the campaign had run its course.

III. Findings and Recommendations - Repayment Matters

A. Calculation of Repayment Ratio

Section 9038(b)(2)(A) of Title 26 of the United States Code states that if the Commission determines that any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray the qualified campaign expenses with respect to which such payment was made it shall notify such candidate of the amount so used, and the candidate shall pay to the Secretary an amount equal to such amount.

Section 9038.1(c)(1)(v) of Title 11 of the Code of Federal Regulations states that preliminary calculations regarding further repayments to the U.S. Treasury may be contained within the interim audit report. Pursuant to §9038.2(a)(2) of this Title the Commission will notify the candidate of any repayment determinations not later than three years after the end of the matching payment period. The issuance of this interim audit report to the candidate constitutes notice of any repayment determinations for purposes of the three year period.

The Regulations at 11 C.F.R. §9038.2(b)(2)(iii) state that the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility.

Pursuant to 11 C.F.R. §9033.5(c), Governor Brown's date of ineligibility was determined to be July 15, 1992.

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

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Total Matching Funds Certified through the Date  
of Ineligibility - July 15, 1992

Numerator plus Private Contributions Received through  
Date of Ineligibility

\$4,068,269

= .449142

\$4,068,269 + \$4,989,592

Thus, the repayment ratio for non-qualified campaign expenses is 44.9142%.

B. Apparent Non-Qualified Campaign Expenses-  
Undocumented Disbursements

Section 9032(9) of Title 26 of the United States Code defines, in part, the term "qualified campaign expense" as a purchase or payment incurred by a candidate or his authorized committee, in connection with his campaign for nomination for election, and neither the incurring nor payment of which constitutes a violation of any law of the United States or of any law of any state in which the expense is incurred or paid.

Section 9038.2(b)(3) of Title 11 of the Code of Federal Regulations states the Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents, were not documented in accordance with 11 CFR 9033.11. The amount of any repayment sought under this section shall be determined by using the formula set forth in 11 CFR 9038.2(b)(2)(iii).

Section 9033.11(a) of Title 11 of the Code of Federal Regulations states, in part, that each candidate shall have the burden of proving that disbursements made by the candidate or his authorized committee(s) are qualified campaign expenses.

The Audit staff's review of selected disbursements from the national accounts identified a payment to Left Bank Productions for \$20,000 that was not supported by a receipt, bill or invoice. This payment was made by wire transfer. The associated documentation did not identify the purpose.

The Audit staff also reviewed disbursements made from the Committee's state accounts and identified 15 disbursements, totaling \$12,839, which were not documented in accordance with 11 C.F.R. §9033.11. Based on Committee annotations or lack thereof, these disbursements can be categorized as follows:

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- ° Expense Reimbursement/Reimbursement - five (5) disbursements, totaling \$4,317, to individuals, for which notations on the canceled check indicate only expense reimbursement or reimbursement. Committee records contained no invoices or travel vouchers for these disbursements.
- ° No Purpose - ten (10) payments to individuals and vendors, totaling \$8,522 for which no purpose was available. No documentation was available for these disbursements beyond the canceled checks provided for eight of these items.

At the exit conference Committee representatives were made aware of inadequately documented disbursements and provided schedules detailing these items. Committee representatives stated that they would attempt to obtain the additional documentation required.

In the interim audit report, the Audit staff recommended that the Committee submit documentation which demonstrates that these expenses are qualified campaign expenses. The interim audit report also stated that absent such a demonstration, the Audit staff would recommend that the Commission make an initial determination that the Committee was required to make a pro rata repayment of \$14,749 ( $\$32,839 \times .449142$ ) to the United States Treasury pursuant to 26 U.S.C. §9038(b)(2).

The Committee's response to the interim audit report contained an invoice to support the expenditure to Left Bank Productions. In addition, documentation was provided with respect to four expenditures from state accounts. Based on the Audit staff's review, the documentation submitted materially resolved this matter.

C. Matching Funds Received in Excess of Entitlement

Section 9038.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that a candidate who has received payments from the matching payment account shall pay the United States Treasury any amounts which the Commission determines to be repayable under this section.

Section 9038.2(b)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that the Commission may determine that certain portions of the payments made to a candidate from the matching payment account were in excess of the aggregate amount of payments to which such candidate was entitled. Examples of such payments include payments made to the candidate after the candidate's date of ineligibility where it is later determined that the candidate had no net outstanding campaign obligations as defined in 11 C.F.R. §9034.5.

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Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 days of the candidate's date of ineligibility, the candidate shall submit a statement of net outstanding campaign obligations which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs. Subsection (b) of this section states that the total of outstanding campaign obligations shall not include any accounts payable for non-qualified campaign expenses.

In addition, 11 C.F.R. §9034.1(b) states, in part, that if on the date of ineligibility a candidate has net outstanding campaign obligations as defined under 11 C.F.R. §9034.5, that candidate may continue to receive matching payments provided that on the date of payment there are remaining net outstanding campaign obligations.

Governor Brown's date of ineligibility was July 15, 1992. The Audit staff reviewed the Committee's financial activity through March 31, 1993 and reported activity through March 31, 1994, as well as analyzed winding down costs, and prepared the Statement of Net Outstanding Campaign Obligations ("NOCO") which appears below:

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BROWN FOR PRESIDENT  
Statement of Net Outstanding Campaign Obligations  
as of July 15, 1992  
as determined March 31, 1994 by the Audit staff

| <u>Assets</u>  |                   |
|--|-------------------|
| Cash   | \$998,386         |
| Accounts Receivable  | 281,986 <u>1/</u> |
| Capital Assets   | <u>43,080</u>     |
| TOTAL ASSETS   | \$1,323,452       |
| <u>Obligations</u>   |                   |
| Accounts Payable Qualified<br>Campaign Expenses                            | (245,486)         |
| Press Payables<br>(See Finding III.D.)                                     | (51,233)          |
| U.S. Treasury for Stale-dated Checks                                       | (1,334)           |
| Profit from Press Reimbursements<br>Due U.S. Treasury (See Finding III.D.) | (15,974)          |
| Winding Down Costs Actual <u>2/</u><br>(7/16/92 through 3/31/93)           | (874,651)         |
| Reported Winding Down Costs <u>3/</u><br>(4/1/93 through 3/31/94)          | (141,758)         |
| Winding Down Costs Estimated <u>4/</u><br>(4-1-94 to 9-30-94)              | <u>(42,700)</u>   |
| TOTAL OBLIGATIONS  | (\$1,373,136)     |
| NOCO (DEFICIT)/SURPLUS   | (\$49,684)        |

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Footnotes to NOCO Statement

- 1/ This amount increased significantly as a result of the Committee's reported receipt of refunds/rebates, mostly press reimbursements, totaling about \$206,000 for the period 4-1-93 to 3-31-94. The interim audit report had presented accounts receivable of \$76,025 (collected from 7-16-92 through 3-31-93) and (outstanding) press receivables of \$14,168.
- 2/ This amount excludes \$1,050 in non-qualified campaign expenses.
- 3/ Subject to audit verification.
- 4/ Since estimates were used in computing this amount, the Audit staff will review the Committee's disclosure reports and records to compare the actual figure with the estimates and prepare adjustments as necessary.

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Shown below are adjustments to the NOCO deficit resulting from an analysis of private contributions, interest and matching funds received after 7-15-92, based on the most current information available.

|  |                  |
|--|------------------|
| Net Outstanding Campaign Obligations (7-15-92)         | (\$49,684)       |
| Interest Received (7-16-92 to 8-3-92)                  | 29               |
| Net Private Contributions Received (7-16-92 to 8-3-92) | 3,781            |
| Matching Funds Received (8-4-92)                       | <u>171,126</u>   |
| Amount Received in Excess of Entitlement as of 8-4-92  | <u>\$125,252</u> |

As presented in Finding III.C. of the interim audit report, the candidate's audited NOCO statement reflected a deficit as of 7-15-92 of \$36,870. On August 4, 1992, the Committee received \$171,126 relative to Matching Fund Request #8. The deficit on August 3, 1992 was calculated to be \$33,060. Therefore, the Committee was determined to have received \$138,066 (\$171,126 - \$33,060) in matching funds in excess of its entitlement. On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,674 based on preliminary figures generated by the Audit staff during the fieldwork inventory stage of the audit process.

In the interim audit report, the Audit staff recommended that the Committee demonstrate that it had not received matching funds in excess of its entitlement. The interim audit report also stated that absent such a showing, the Audit staff would recommend that the Commission make an initial determination that the Committee make a repayment to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1).

In response to the interim audit report, the Treasurer states the Audit staff's analysis showing that matching funds were received in excess of entitlement is incorrect and offers that "[w]inding down costs estimated from 4/1/93 - 9/30/93 should have been \$142,700 as is evidenced by the actual amounts spent during this period." However, the Committee provides no workpapers to support the \$142,700 figure and disclosure reports filed by the Committee indicate only \$66,476 disbursed during this period. Further, the Treasurer fails to consider the impact of refunds/rebates received by the Committee during this same period that were not considered in the interim audit report.

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The Audit staff's review of the Committee's response to the interim audit report, as well as disclosure reports filed by the Committee for the period 4/1/93 through 3/31/94, resulted in the revised NOCO presentation above. This NOCO statement reflects a deficit on July 15, 1992 of \$49,684. The deficit on August 3, 1992 was calculated to be \$45,874.

On August 4, 1992, the Committee received \$171,126 in matching funds. Therefore, the Committee received \$125,252 (\$171,126 - \$45,874) in matching funds in excess of its entitlement. Offset against this amount is the preliminary repayment of \$97,674 noted above.

Recommendation #1

The Audit staff recommends that the Commission make an initial determination that the Committee make a repayment of \$125,252 to the United States Treasury pursuant to 26 U.S.C. §9038(b)(1). On August 31, 1992, the Committee submitted a repayment check in the amount of \$97,674.

D. Apparent Excessive Press Reimbursements

Sections 9034.6(a) and (b) of Title 11 of the Code of Federal Regulations state, in part, that if an authorized committee incurs expenditures for transportation, ground services and facilities made available to media personnel, such expenditures will be considered qualified campaign expenses subject to the overall spending limitation at 11 C.F.R. §9035.1(a). Further, if reimbursement for such expenditures is received by a committee, the amount shall not exceed either: The individual's pro rata share of the actual cost of the transportation and services made available; or a reasonable estimate for the individual's pro rata share of the transportation and services made available.

An individual's pro rata share is calculated by dividing the total number of individuals to whom such transportation and services are made available into the total cost of transportation and services. The total amount of reimbursements received from an individual shall not exceed the actual pro rata cost of the transportation and services made available to that person by more than 10%.

Section 9034.6(d)(1) of Title 11 of the Code of Federal Regulations provides, in relevant part, that the committee may deduct from the amount of expenditures subject to the overall expenditure limitation of 11 CFR 9035.1(a) the amount of reimbursements received in payment for the actual cost of transportation and services described in paragraph (a) of this section. This deduction shall not exceed the amount the committee has expended for the actual cost of transportation and services provided. The committee may also deduct from the overall expenditure limitation an additional amount of reimbursements

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received equal to 3% of the actual cost of transportation and services provided under this section as the administrative cost to the committee of providing such services and seeking reimbursement for them. If the committee has incurred higher administrative costs in providing these services, the committee must document the total cost incurred for such services in order to deduct a higher amount of reimbursements received from the overall expenditure limitation.

In addition, 11 C.F.R. §9034.6(d)(1) also states that amounts reimbursed that exceed the amount actually paid by the committee for transportation and services provided to media personnel under paragraph (a) of this section plus the amount of administrative costs permitted by this section up to the maximum amount that may be received under paragraph (b) shall be repaid to the Treasury.

After repeated requests for the necessary records, the Audit staff requested, by memorandum dated November 20, 1992, that subpoenas be prepared by the Office of General Counsel to the Committee and Charter Services, Inc. for the production of records as follows:

- ° a vendor statement (account summary of amounts billed and payments received);
- ° Invoices detailing each flight origination and destination, to include, but not be limited to:
- ° invoices, bills, etc. for the aircraft for each leg of each trip;
- ° invoices, bills for any other costs associated with each leg of each trip to include catering, beverages, ground transportation, meals, press filing facilities, lodging, etc.;
- ° a flight manifest for each leg of each trip showing every person traveling (except the flight crew) by name and any associated organization;
- ° working papers, computer files, etc., showing the derivation of amounts billed to the press for each leg of each trip;
- ° copies of bills issued to the press for each leg of each trip; and,
- ° records of amounts received in reimbursement for travel on the Committee charter or other aircraft, from each person for each leg of each trip.

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Prior to the issuance of the subpoenas, the Committee and Charter Services, Inc. provided some of the requested material. Detailed billing statements, which show the costs of each leg of each flight as well as any food costs, were not available from Charter Services, Inc. after April, 1992. At that time, the Committee assumed this function. The Committee stated that they maintained a computerized billing system complete with leg analyses and manifests; the Committee further asserts the disc containing this information is missing. In addition, Charter Services, Inc. advised the Audit staff that they acted as a "middle-man" between the Committee and the airplane charter companies; and therefore, did not maintain any manifests detailing passengers with respect to each flight leg.

Absent a cost figure and passenger manifests for each flight, the Audit staff was unable to assess the Committee's compliance under 11 C.F.R. §9034.6.

At the Exit Conference the Audit staff reiterated its request for documentation of the Committee's procedures for handling travel billings to and reimbursements from the Press, specifically the Committee's computations/worksheets for determining amounts billed.

A request was forwarded to the Office of General Counsel, May 6, 1993, requesting enforcement of the subpoena with respect to the Committee as it relates to the press billing documentation still required. In addition, a request was included to prepare subpoenas to two individuals identified during fieldwork as associated with the Committee's press billing and reimbursement system.

Subsequent to this request, the Committee submitted additional documentation with respect to press billings. The Office of General Counsel agreed to delay subpoena enforcement in order to allow the Audit staff to evaluate the submitted materials.

Our review of these additional documents indicated that total reimbursements from the press were significantly below the overall amount the Audit staff determined could have been billed by the Committee. Although workpapers were not provided detailing the Committee's calculations of amounts billed to the press, available documents indicated the Committee intended to simply bill each press organization at 110% of cost. The Audit staff's review of amounts billed to press organizations was limited to the available documentation. Our limited review indicated that the amounts billed were reasonable. Finally, the Audit staff was aware of press receivables totaling only \$14,168, which, if collected, would not alter our conclusion.

The interim audit report recommended no further action with respect to this matter.

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However, as a result of our review of recent disclosure reports filed by the Committee, the Audit staff noted that the Committee had received additional reimbursements from the press, totaling \$188,645, during the period April 1, 1993 through March 31, 1994. This greatly exceeded the amount of press receivables (\$14,168) contained in available Committee records and presented by the Audit staff on the interim audit report NOCO statement.

The Audit staff re-evaluated the Committee's press billings and reimbursements, incorporating these additional reimbursements (\$188,645). Based upon available manifests and the cost of transportation/services provided to the press, the Audit staff calculated the amount that could be billed to the press (cost plus 10%) to be \$251,020. The Audit staff identified press reimbursements received through March 31, 1994, totaling \$302,253.

Therefore, the Committee appears to have received reimbursements from the press totaling \$51,233 (\$302,253 - \$251,020), in excess of the maximum billable amount under 11 C.F.R. §9034.6(b). As such, these must be refunded to the press. The Audit staff has recognized this amount (\$51,233) as a payable on the NOCO presentation at Finding III.C.

In addition, the Audit staff used the revised analysis to determine if the Committee had profited from press reimbursements.

The analysis identified amounts paid by the Committee for transportation and services provided to the press totaling \$228,200. Under 11 C.F.R. §9034.6(d)(1), the actual cost of transportation and services provided plus the administrative costs permitted by this section (3%, unless a greater amount is documented) would be \$235,046 ( $\$228,200 \times 1.03$ ); and, the maximum amount of reimbursement that may be received (cost plus 10%) is \$251,020.

As a result, the Audit staff determined that the Committee received press reimbursements in the amount of \$15,974 ( $\$251,020 - 235,046$ ), representing amounts in excess of that actually paid by the Committee for transportation/services provided to media personnel and, therefore, subject to payment to the U.S. Treasury.

It should be noted that the Audit staff's determination of amounts to be refunded to the press (\$51,233) and of the amount payable to the Treasury (\$15,974) does not consider costs for at least 11 flights for which no manifests or billing information have been provided by the Committee. Should the documentation be located for these flights, the analysis of amounts due the press and the U.S. Treasury would be significantly different.

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Recommendation #2

The Audit staff recommends that the Commission make an initial determination that the Committee is required to make a payment of \$15,974 to the United States Treasury pursuant to 11 C.F.R. §9034.6(d)(1). In addition the Audit staff recommends that the Commission determine that the Committee is required to refund, on a pro rata basis \$51,233 to the Press.

E. Stale-Dated Committee Checks

Section 9038.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts are necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff reconciled the Committee's reported activity to its bank activity through September 30, 1992. In addition, limited reconciliations were prepared for the period October 1, 1992 through March 31, 1993. This analysis identified a significant number of stale-dated, outstanding checks.

At the exit conference, the Audit staff discussed this matter with Committee representatives. The Committee representatives agreed to review their records and provide any additional information which may resolve these items.

Subsequent to the exit conference the Committee provided the Audit staff with an updated list and documentation resolving some of the stale-dated checks. Based on this information, the Audit staff provided the Committee with a revised schedule of those checks still considered stale-dated.

There remained 17 unresolved stale-dated checks totaling \$4,927.

In the interim audit report, the Audit staff recommended that the Committee: (1) provide copies of any of the checks which have now cleared the bank; (2) inform the Commission of its efforts to encourage the payees to cash the outstanding checks or provide evidence documenting efforts to resolve these items; and (3) submit a check payable to the United States Treasury for the total amount of such checks which are still outstanding.

In its response to the interim audit report, the Committee detailed its efforts to resolve these checks. This

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documentation included letters mailed to vendors to determine if any moneys were still owed to the vendor. Also, included were copies of similarly worded letters sent to follow up the initial mailing, as well as some letters signed and returned by the vendors confirming that no unpaid debt existed. In one instance, a replacement check was issued. Therefore, the Audit staff has reduced the amount of unresolved stale-dated checks to \$1,334.

Recommendation #3

The Audit staff recommends that the Commission make an initial determination that the Committee make a payment of \$1,334 to the United States Treasury pursuant to 11 CFR §9038.6.

IV. Recap of Amounts Due to the United States Treasury

Reflected below are amounts due the United States Treasury as noted in this report:

|                |  |                  |
|----------------|--|------------------|
| Finding III.C. | Matching Funds Received in<br>Excess of Entitlement    | \$125,252        |
| Finding III.D. | Profit from Apparent Excessive<br>Press Reimbursements | \$ 15,974        |
| Finding III.E. | Stale-dated Committee Checks                           | <u>\$ 1,334</u>  |
|                | TOTAL AMOUNT REPAYABLE                                 | \$142,560        |
|                | Less: Repayment received 8-31-92                       | <u>(97,674)</u>  |
|                | REMAINING REPAYMENT AMOUNT                             | <u>\$ 44,886</u> |

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Adjusted Receipts  
(Through March 31, 1994)

|                          | Federal<br>Matching<br>Funds | Individual<br>Contributions<br>Minus Refunds | PAC's and Other<br>Comite Contrib<br>Minus Refunds | Contributions<br>from the<br>Candidate | Candidate<br>Loans Minus<br>Repayments | Other Loans<br>Minus<br>Repayments | Other<br>Receipts | Adjusted<br>Total<br>Receipts |
|--------------------------|------------------------------|--|--|--|--|------------------------------------|-------------------|-------------------------------|
| <b>Democrats</b>         |                              |  |  |  |  |                                    |                   |                               |
| Larry Agran              | \$269,691                    | \$331,631                                    | \$0  | \$500                                  | \$3,000                                | \$1,029                            | \$3,001           | \$608,852                     |
| Jerry Brown              | \$4,239,345                  | \$5,176,336                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$4,693           | \$9,420,374                   |
| Bill Clinton             | \$12,618,130                 | \$24,983,688                                 | \$2,429  | \$0                                    | \$0                                    | \$1                                | \$17,505          | \$37,521,753                  |
| Tom Harkin               | \$2,103,352                  | \$3,080,208                                  | \$415,570  | \$0                                    | \$0                                    | \$0                                | \$14,709          | \$5,613,837                   |
| Bob Kerrey               | \$2,198,284                  | \$3,913,332                                  | \$349,757  | \$0                                    | \$0                                    | (\$1,226)                          | \$5,931           | \$6,466,079                   |
| Lyndon LaRouche          | \$100,000                    | \$1,604,065                                  | \$0  | \$0                                    | \$0                                    | \$0                                | \$21              | \$1,704,086                   |
| Paul Tsongas             | \$3,039,388                  | \$5,072,184                                  | \$3,566  | \$0                                    | \$45,000                               | (\$9,575)                          | \$0               | \$8,150,543                   |
| Doug Wilder              | \$269,026                    | \$508,519                                    | \$750  | \$0                                    | \$0                                    | \$0                                | \$1,039           | \$799,334                     |
| <b>Total Democrats</b>   | <b>\$24,757,216</b>          | <b>\$44,669,941</b>                          | <b>\$772,072</b>                                   | <b>\$500</b>                           | <b>\$48,000</b>                        | <b>(\$9,770)</b>                   | <b>\$46,899</b>   | <b>\$70,284,858</b>           |
| <b>Republicans</b>       |                              |  |  |  |  |                                    |                   |                               |
| Patrick Buchanan         | \$4,999,983                  | \$7,157,808                                  | \$24,750   | \$0                                    | \$0                                    | \$0                                | \$33,936          | \$12,216,477                  |
| George Bush              | \$10,659,513                 | \$27,088,825                                 | \$44,250   | \$0                                    | \$0                                    | \$0                                | \$222,410         | \$38,013,998                  |
| David Duke*              | \$0                          | \$220,715                                    | \$0  | \$0                                    | \$1,000                                | \$0                                | \$0               | \$271,815                     |
| <b>Total Republicans</b> | <b>\$15,659,496</b>          | <b>\$34,467,348</b>                          | <b>\$69,000</b>                                    | <b>\$0</b>                             | <b>\$1,000</b>                         | <b>\$0</b>                         | <b>\$256,346</b>  | <b>\$50,502,290</b>           |
| <b>Other Party</b>       |                              |  |  |  |  |                                    |                   |                               |
| Andre Marrou*            | \$0                          | \$562,770                                    | \$181  | \$116                                  | \$15,000                               | \$0                                | \$0               | \$578,067                     |
| Lenora Fulani*           | \$1,935,524                  | \$2,201,490                                  | \$0  | \$325                                  | (\$1,258)                              | \$1,200                            | \$0               | \$4,137,281                   |
| John Hegelin             | \$353,160                    | \$563,800                                    | \$449  | \$0                                    | \$0                                    | \$5,630                            | \$5,316           | \$928,355                     |
| <b>Total Other Party</b> | <b>\$2,288,684</b>           | <b>\$3,328,060</b>                           | <b>\$630</b>                                       | <b>\$441</b>                           | <b>\$13,742</b>                        | <b>\$6,830</b>                     | <b>\$5,316</b>    | <b>\$5,643,703</b>            |
| <b>Grand Total</b>       | <b>\$42,704,396</b>          | <b>\$82,465,349</b>                          | <b>\$841,702</b>                                   | <b>\$941</b>                           | <b>\$62,742</b>                        | <b>(\$2,940)</b>                   | <b>\$308,561</b>  | <b>\$128,430,851</b>          |
| Perot                    | \$0                          | \$3,905,594                                  | \$0  | \$62,854,955                           | \$2,056,371                            | \$0                                | \$5,807           | \$68,822,727                  |

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\$ 128,430,851

Brown for President  
FINAL AUDIT REPORT

Adjusted Receipts  
(Through March 31, 1994)

|                          | Federal<br>Matching<br>Funds | Individual<br>Contributions<br>Minus Refunds | PAC's and Other<br>Comte Contrib<br>Minus Refunds | Contributions<br>from the<br>Candidate | Candidate<br>Loans Minus<br>Repayments | Other Loans<br>Minus<br>Repayments | Other<br>Receipts | Adjusted<br>Total<br>Receipts |
|--------------------------|------------------------------|--|---|--|--|------------------------------------|-------------------|-------------------------------|
| <b>Democrats</b>         |                              |  |   |  |  |                                    |                   |                               |
| Larry Agran              | \$289,691                    | \$331,631                                    | \$0   | \$500                                  | \$3,000                                | \$1,029                            | \$3,001           | \$608,852                     |
| Jerry Brown              | \$4,239,345                  | \$5,176,336                                  | \$0   | \$0                                    | \$0                                    | \$0                                | \$4,693           | \$9,420,374                   |
| Bill Clinton             | \$12,518,130                 | \$24,983,688                                 | \$2,429   | \$0                                    | \$0                                    | \$1                                | \$17,505          | \$37,521,753                  |
| Tom Harkin               | \$2,103,352                  | \$3,080,206                                  | \$415,670   | \$0                                    | \$0                                    | \$0                                | \$14,709          | \$5,613,837                   |
| Bob Kerrey               | \$2,198,284                  | \$3,913,332                                  | \$349,757   | \$0                                    | \$0                                    | (\$1,225)                          | \$5,931           | \$6,466,079                   |
| Lyndon LaFouche          | \$100,000                    | \$1,604,065                                  | \$0   | \$0                                    | \$0                                    | \$0                                | \$21              | \$1,704,086                   |
| Paul Tsongas             | \$3,039,388                  | \$5,072,164                                  | \$3,568   | \$0                                    | \$45,000                               | (\$9,575)                          | \$0               | \$8,150,543                   |
| Doug Wilder              | \$289,026                    | \$508,519                                    | \$750   | \$0                                    | \$0                                    | \$0                                | \$1,039           | \$799,334                     |
| <b>Total Democrats</b>   | <b>\$24,757,216</b>          | <b>\$44,669,941</b>                          | <b>\$772,072</b>                                  | <b>\$500</b>                           | <b>\$48,000</b>                        | <b>(\$9,770)</b>                   | <b>\$46,899</b>   | <b>\$70,284,856</b>           |
| <b>Republicans</b>       |                              |  |   |  |  |                                    |                   |                               |
| Patrick Buchanan         | \$4,999,983                  | \$7,157,608                                  | \$24,750  | \$0                                    | \$0                                    | \$0                                | \$33,936          | \$12,216,477                  |
| George Bush              | \$10,658,513                 | \$27,088,825                                 | \$44,250  | \$0                                    | \$0                                    | \$0                                | \$222,410         | \$38,013,998                  |
| David Duke*              | \$0                          | \$220,715                                    | \$0   | \$0                                    | \$1,000                                | \$0                                | \$0               | \$271,815                     |
| <b>Total Republicans</b> | <b>\$15,658,496</b>          | <b>\$34,467,348</b>                          | <b>\$69,000</b>                                   | <b>\$0</b>                             | <b>\$1,000</b>                         | <b>\$0</b>                         | <b>\$256,346</b>  | <b>\$50,502,290</b>           |
| <b>Other Party</b>       |                              |  |   |  |  |                                    |                   |                               |
| Andre Marrou*            | \$0                          | \$562,770                                    | \$181   | \$116                                  | \$15,000                               | \$0                                | \$0               | \$578,067                     |
| Lenora Fulani*           | \$1,935,524                  | \$2,201,490                                  | \$0   | \$325                                  | (\$1,258)                              | \$1,200                            | \$0               | \$4,137,281                   |
| John Hagelin             | \$353,160                    | \$583,800                                    | \$449   | \$0                                    | \$0                                    | \$5,630                            | \$5,316           | \$928,355                     |
| <b>Total Other Party</b> | <b>\$2,288,684</b>           | <b>\$3,328,060</b>                           | <b>\$630</b>                                      | <b>\$441</b>                           | <b>\$13,742</b>                        | <b>\$6,830</b>                     | <b>\$5,316</b>    | <b>\$5,643,703</b>            |
| <b>Grand Total</b>       | <b>\$42,704,396</b>          | <b>\$82,465,349</b>                          | <b>\$841,702</b>                                  | <b>\$941</b>                           | <b>\$62,742</b>                        | <b>(\$2,940)</b>                   | <b>\$308,561</b>  | <b>\$126,430,851</b>          |

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20542

*Transmitted to  
4/25/94*

April 28, 1994

**MEMORANDUM**

TO: Robert J. Costa  
Assistant Staff Director  
Audit Division

THROUGH: John C. Surina  
Staff Director

FROM: Lawrence M. Noble  
General Counsel

Kim Bright-Coleman  
Associate General Counsel

Lorenzo Holloway  
Assistant General Counsel

Rhonda J. Vosdinger  
Attorney

SUBJECT: Proposed Final Audit Report on Brown for President  
(LRA #440/AR #94-5)

The Office of General Counsel has reviewed the proposed Final Audit Report on Brown for President ("the Committee") submitted to this Office on March 7, 1994.1/ The following memorandum provides our comments on the proposed report. If you have any questions concerning our comments, please contact Rhonda J. Vosdinger, the attorney assigned to this audit.

We have comments on findings II.E.1., II.E.2., III.B., and III.E. We concur with the findings in the proposed Final Audit Report which are not discussed separately.

1/ Since the proposed Final Audit Report does not include any matters exempt from public disclosure under 11 C.F.R. § 2.4, we recommend that the Commission's discussion of this document be conducted in open session.

ATTACHMENT 3  
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I. CONTRIBUTIONS RESULTING FROM STAFF ADVANCES AND EXTENSIONS OF CREDIT (II.E.1., II.E.2.)

The Office of General Counsel concurs with the Audit Division's findings regarding excessive contributions in the form of staff advances and extensions of credit by a labor organization. The Committee's method of using staff advances did not satisfy the requirements of section 116.5. The credit cards were used to pay for other campaign expenses in addition to personal travel and subsistence. The Committee did not always reimburse the cardholders within 60 days as required by the regulations; reimbursement took anywhere from 0 to as much as 137 days. Personal credit cards were used to pay for others' expenses. Therefore, the Committee's use of staff advances resulted in contributions to the Committee.

We disagree with the Committee's contention that section 116.5 is unfair to "grass roots" candidates who, because they have less name recognition or political position, are forced to rely on committee supporters for credit.<sup>2/</sup> Section 116.5 was promulgated specifically to address the situation where campaign staff do not have access to committee credit cards. Explanation and Justification for 11 C.F.R. § 116.5, 55 Fed. Reg. 26,382 (June 27, 1989) (The Commission noted in its underlying rationale that "campaign committees may not want to provide credit cards to their field workers."). Therefore, the Committee must comply with 11 C.F.R. § 116.5 even if it is forced to rely on Committee supporters for credit.

In addition, it appears the Committee did not reimburse Local 1199 (Drug, Hospital & Health Care Employees Union) ("the Union") for use of its facilities within a commercially reasonable time in the amount of the normal and usual rental charge. 11 C.F.R. § 114.9(d). In March-April, 1992, the Union incurred expenses totaling \$57,195.97 on behalf of the Committee for rent, printing, advertising, telephones, and other miscellaneous items in connection with the New York primary. The Union did not bill and the Committee did not reimburse the Union for these expenditures until October 1992.

This use of the Union's facilities may have resulted in a contribution to the Committee. 11 C.F.R. § 114.9(d). Although the Committee made efforts to pay the Union for the services and accommodations it provided, the Committee did not reimburse the

<sup>2/</sup> We rejected a similar argument raised by the Lenora B. Fulani for President Committee.

Union for over 6 months after the expenses were incurred.<sup>3/</sup> The Committee did not demonstrate that waiting more than 6 months to reimburse the Union was commercially reasonable. Further, the Committee failed to provide any information to demonstrate the rental charge was the normal and usual amount pursuant to 11 C.F.R. § 114.9.

**II. APPARENT NON-QUALIFIED CAMPAIGN EXPENDITURES -- UNDOCUMENTED EXPENDITURES (III.B.)**

The Audit staff found that the Committee's response to the Interim Audit Report materially resolved the 16 undocumented disbursements totaling \$32,839. The Committee's response consisted of documentation to account for \$22,798 and a promise to submit documentation relating to an additional \$3,743.93. The Committee's response did not address the remaining \$6,351.07.

Since this matter has been materially resolved, this Office agrees with the finding in the proposed report. However, we note that the promised documentation has not been submitted. This information should have been submitted within the time prescribed for disputing or commenting on the Interim Audit Report. 11 C.F.R. § 9038.1(c)(2). The Committee's mere promise to submit supporting documentation does not satisfy the Committee's burden to demonstrate the expenses were qualified campaign expenses. See 11 C.F.R. § 9033.11(a). Therefore, you should revise the proposed report to delete the statement "The Committee's response notes that '[l]etters are out representing another \$3,743.93 and when documentation is received, it will be forwarded to the FEC.'"

**III. STALE-DATED CHECKS (III.E.)**

The proposed Final Audit Report includes a finding that there are no remaining unresolved stale-dated checks. This conclusion was reached despite the fact that the Committee failed to provide information for all of the unresolved stale-dated checks noted in the Interim Audit Report. Specifically, checks totaling \$1,333.80 were not resolved nor addressed by the Committee.

The Office of General Counsel disagrees with this finding. The Commission's regulations require committees with outstanding checks to inform the Commission of its efforts to locate the payees, if such efforts have been necessary, and its efforts to encourage the payees to cash the outstanding checks. 11 C.F.R. § 9038.6. In informal discussions between this Office and the Audit Division, you noted that the Final Audit Report would be

<sup>3/</sup> However, the Committee argues that it requested several times that the Union send the bill to the Committee so that it could be paid. The Union explained that the delay in submitting the bill to the Committee was the result of several mislaid invoices in the accounting department and no bill was submitted to the Committee until these bills were recovered.

Memorandum to Robert J. Costa  
Proposed Final Audit Report on  
Brown for President (LRA #440/AR #94-5)  
Page 4

revised to include a separate finding recommending the Committee make a repayment to the United States Treasury in the amount of the remaining unresolved stale-dated checks. The separate finding will clarify the Committee's repayment obligation resulting from the unresolved stale-dated checks. 11 C.F.R. § 9038.6.

950/019000

ATTACHMENT 3  
Page 36 of 36

We Be People...

Received in  
Audit 6/24

JUN 21 4 03 PM '94

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Robert J. Costa  
Federal Elections Commission  
Washington DC 20463

Dear Mr. Costa:

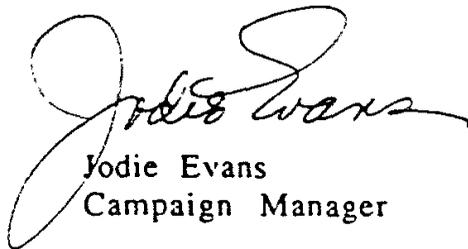
We received your final audit report and do have a dispute with your finding. I include with this letter backup for our dispute. I would also be happy to make an oral presentation in an open session.

To summarize what is enclosed: We were sent the audit pages by Alex Boniewicz that show what press travel expenses you were not allowing because they lacked manifests. The manifests for these expenditures are attached.

Our capital assets are listed at \$43,080. We also dispute this most of the items have been sold and must be overvalued for what we have remaining. The detail of that is attached.

Please contact me if you have any questions.

Sincerely,

  
Jodie Evans  
Campaign Manager

ATTACHMENT 4  
Page 1 of 13

BROWN FOR PRESIDENT

2121 Cloverfield Boulevard, Suite 120 ♦ Santa Monica, California 90404-5277

tel# (310) 449-1992 fax# (310) 449-1903



95070193001

#1: March 6, 1992. 5 reporters.

ABC - Noelle Montgomery

CNN - Dan Blackburn

NPR - Jo Miglino

LA Times - Jon Peterson

Knight-Ridder - Kristina Huckshorn

#2: March 9, 1992. 6 reporters.

ABC (3) - Noelle Montgomery, Sy Varmen, Ron Ladd

LA Times - Jon Peterson

LA Times - Jon Peterson

NY Times - Karen DeWitt

Chicago Tribune - Colin McMahon

#3: March 10, 1992. 19 reporters.

ABC (5) - Noelle Montgomery, Sy Varmen, Ron Ladd, Linda

Patillo, Diane

Turrell

CBS (3) - Claire Chiapetta, Dick Smith, Timothy Norris

NY Times (2) - Karen DeWitt, photographer

LA Times (2) - reporter, photographer

Gannet - Earl Eldridge

Chicago Tribune - Colin McMahon

Newsday - Martin Kasindorf

Newsweek - photographer

Time - Lester Monroe

USA Today - Leslie Phillips

Wall St. Journal - Jim Perry

Wall St. Journal - Jim Perry

#4: March 29, 1992. 14 reporters.

ABC (2) - Noelle Montgomery, Mary Marsh

CBS (3) - Claire Chiapetta, Akram Hannah, Craig Jarman

CNN (3) - Chuck Condor, Mike Dolsak, Mike Love

Boston Globe - Chris Black

LA Times - Sam Folwood

NBC - Peter Meryesh

NY Times - Richard Berke

Newsday - Martin Kasindorf

freelance - Larry Kaplan

ATTACHMENT 4

Page 2 of 13

950/0193002

#5: March 29, 1992. See above.

#6: April 10, 1992. 11 reporters.

ABC (3) - Noelle Montgomery, Paul Sarris, Joe Steele

CBS (3) Claire Chiapetta, Brian Nolan, Dan Nazimack

AP - Karen Ball

CBS (3) Claire Chiapetta, Brian Nolan, Dan Nazimack

AP - Karen Ball

Copley - Marcus Stern

LA Times - Melissa Healy

NBC - Tom Behrens

Washington Post - Don Baker

#7: April 9, 1992. 11 reporters.

ABC (3) - Noelle Montgomery, 2 crew

CBS (3) - Claire Chiapetta, 2 crew

AP - reporter

Copley - Marcus Stern

LA Times - Melissa Healy

NBC - producer

Washington Post - Don Baker

#8 & #9: April 21, 1992. 7 reporters.

ABC (3) - Noelle Montgomery, Bill Redding, Jay Patterson

CBS - Lars Kongshaugh

ABC (3) - Noelle Montgomery, Bill Redding, Jay Patterson

CBS - Lars Kongshaugh

AP - Karen Ball

LA Times - Jack Cheevers

NBC - Tom Behrens

#10: April 23, 1992. 4 reporters.

ABC - Noelle Montgomery

CBS - Lars Kongshaugh

NBC - Tom Behrens

LA Times - Art Pine

#11: April 25, 1992. 12 reporters.

ABC (4) - Noelle Montgomery, Bill Redding, Jay Patterson, Leo

Meidlinger

CBS (3) Claire Chiapetta, Gabe Stix, Neil Grasso

ATTACHMENT 4

Page 3

of 13

957019303

NBC - Tom Behrens  
Boston Globe - Chris Black  
LA Times - Art Pine  
Boston Globe - Chris Black  
LA Times - Art Pine  
Newsweek - Lisa Quinones  
Washington Post - Dan Balz

95070123004

REF ID: A66111  
PAGE 4 OF 13

Statement of Financial Position  
 as of 12/31/92

Prepared by: A. Anderson  
 Period: 6-30-93  
 Last Period: 3-31-94

| 7/20 Item | (A)     | (B)    | (C)     | (D)    | (E)     | (F)    | (G)     | (H)    | (I)     | (J)    | (K)     | (L)    | (M)     | (N)    | (O)     | (P)    | (Q)     | (R)    | (S)     | (T)    | (U)     | (V)    |
|-----------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|---------|--------|
|           | Balance | Change |

Balance from 7/20 Item: 12/31/92

5 0 0 3 6 1 0 7 6 5 6

5 4 13

Amount for President  
 Amount of Pioneering/Overseer Services  
 File Name: AMPTV2000

Prepared by: A. Brunsen  
 Created: 6-3-95 Last Revised: 2-18-94  
 Old Location: A1 to K235

| (A)<br>Date of<br>Payment or<br>Date of<br>Project | (B)<br>State | (C)<br>Amount | (D)<br>Service<br>Number | (E)<br>Service<br>Amount | (F)<br>COST | (G)<br>MILE | (H)<br>LSD | (I)<br>DIRE | (J)<br>TRUCK<br>CENT | (K)<br>FOOD | (L)<br>DENTAL<br>(1-2-3-4) | (M)<br>SCHOOL<br>SCHOOL | (N)<br>SCHOOL<br>SCHOOL | (O)<br>SCHOOL<br>SCHOOL | (P)<br>SCHOOL<br>SCHOOL | (Q)<br>SCHOOL<br>SCHOOL | (R)<br>SCHOOL<br>SCHOOL | (S)<br>SCHOOL<br>SCHOOL | (T)<br>SCHOOL<br>SCHOOL | (U)<br>SCHOOL<br>SCHOOL | (V)<br>SCHOOL<br>SCHOOL | (W)<br>SCHOOL<br>SCHOOL | (X)<br>SCHOOL<br>SCHOOL | (Y)<br>SCHOOL<br>SCHOOL | (Z)<br>SCHOOL<br>SCHOOL |  |  |
|--|--------------|---------------|--------------------------|--------------------------|-------------|-------------|------------|-------------|----------------------|-------------|----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|--|--|
| 26-Nov-92  | W-2          | \$10,125.00   | 4785                     | \$10,125.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$19,174.00   | 4778                     | \$19,053.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$10,125.00   | 4785                     | \$10,125.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$19,174.00   | 4778                     | \$19,053.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$10,125.00   | 4785                     | \$10,125.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
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| 26-Nov-92  | W-2          | \$10,125.00   | 4785                     | \$10,125.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
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| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
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| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
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| 26-Nov-92  | W-2          | \$10,125.00   | 4785                     | \$10,125.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$28,393.00   | 4772                     | \$28,393.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$45,364.00   | 4774                     | \$45,364.00              | cashmer     |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |
| 26-Nov-92  | W-2          | \$19,174.00   | 4778                     | \$19,053.00              |             |             |            |             |                      |             |                            |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |                         |  |  |





From the President  
Statement of Fees Billing-Quarter Service  
File Num. 444777000

Prepared by: A. Anderson  
Contract: 6-1-43 Last Period: 3-31-44  
6242 Location: At 10 1015

| (A)             | (B)        | (C)    | (D)      | (E)     | (F)    | (G)   | (H) | (I)  | (J)   | (K)   | (L)      | (M)    | (N)   | (O)   | (P) | (Q)    | (R)   | (S)    | (T)   | (U)    | (V)   |
|-----------------|------------|--------|----------|---------|--------|-------|-----|------|-------|-------|----------|--------|-------|-------|-----|--------|-------|--------|-------|--------|-------|
| Date of Service | Amount     | Number | Location | Service | CHARGE | PLATE | TEL | UNIT | PLATE | FIELD | Contract | RECORD | TRUCK | PHONE | RTV | RECORD | PLATE | RECORD | PLATE | RECORD | PLATE |
| 27-Apr-42       | 119,300.00 | 4087   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 55,500.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 114,711.00 | 4018   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4013   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4015   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4017   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |
| 27-Apr-42       | 14,600.00  | 4012   |          |         |        |       |     |      |       |       |          |        |       |       |     |        |       |        |       |        |       |

957/0193010

Shown for President  
 Account of Press Billings/Portrait Services  
 Filed Name: AMERICAN  
 Prepared by: A. Rosenthal  
 Check(s): 4-3-93 Last Receipt: 3-14-94  
 Old Location: AL to 1035

| (A) date of receipt or (B) date of payment | (C) amount of payment | (D) number of copies | (E) service | (F) check number | (G) check date | (H) check payable to | (I) amount of check | (J) amount of cash | (K) amount of other | (L) amount of total | (M) amount of balance | (N) amount of total | (O) amount of balance |
|--|-----------------------|----------------------|-------------|------------------|----------------|----------------------|---------------------|--------------------|---------------------|---------------------|-----------------------|---------------------|-----------------------|
| 28-Apr-93                                  | 54,215.00             | 4814                 | 44,215.00   |                  |                |                      | 54,215.00           |                    |                     | 54,215.00           |                       | 54,215.00           |                       |
|  |                       | 3256                 | 6840        | 6840             |                |                      |                     |                    |                     |                     |                       |                     |                       |
|  |                       | 1756                 | 510,775.00  | 4645             | 54,975.00      |                      |                     |                    |                     |                     |                       |                     |                       |
| 07-May-93                                  | 54,104.00             | 4850                 | 54,104.00   |                  |                |                      | 54,104.00           |                    |                     | 54,104.00           |                       | 54,104.00           |                       |
| 11-May-93                                  |                       | 4832                 | 54,662.00   |                  |                |                      |                     |                    |                     |                     |                       |                     |                       |
| 11-May-93                                  | 516,831.00            | 4893                 | 512,183.00  |                  |                |                      |                     |                    |                     |                     |                       |                     |                       |
|  |                       | 4854                 | 51,790.00   |                  |                |                      |                     |                    |                     |                     |                       |                     |                       |
|  |                       | 4857                 | 57,320.00   |                  |                |                      |                     |                    |                     |                     |                       |                     |                       |

ATTACHMENT 4  
 PAGE 10 OF 13

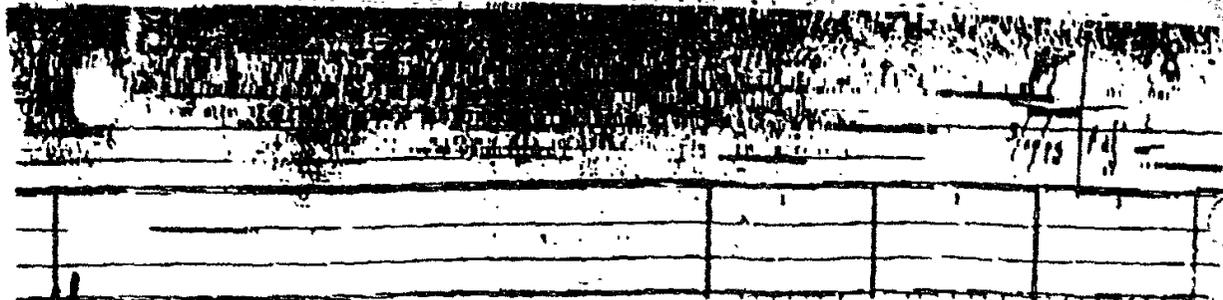
From the President  
 Assessment of Press Billings/Quarterly Services  
 File Name: 08/07/92

Prepared by: A. Boudreau  
 Checked: 6-2-93 Last Period: 1-1-94  
 Grid Location: A1 to H25

| (A)  | (B)       | (C)         | (D)       | (E)        | (F)    | (G)       | (H) | (I)  | (J)   | (K)   | (L)  | (M)  | (N)  | (O)  | (P)  | (Q)  | (R)  | (S)  | (T)  | (U)  |
|--|-----------|-------------|-----------|------------|--------|-----------|-----|------|-------|-------|------|------|------|------|------|------|------|------|------|------|
| Date of Invoice  | Invoice # | Amount      | Invoice # | Invoice #  | CHARGE | PLAN      | LOG | DATE | FLOOR | FLOOR | GRID |
| 15-May-92  | W 12      | \$25,296.00 | 4445      | \$2,007.00 | ad-hoc | 15-May-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| 22-May-92  | W 13      | \$11,147.00 | 4449      | \$4,790.00 | ad-hoc | 22-May-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| 28-May-92  | W 14      |             | 4473      | \$4,103.00 | ad-hoc | 28-May-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| 28-May-92  | W 14      |             | 4474      | \$4,137.00 | ad-hoc | 28-May-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| 30-May-92  | W 14      | \$17,794.00 | 4475      | \$4,094.00 | ad-hoc | 30-May-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| 01-Jun-92  | W 15      | \$7,143.00  | 4476      | \$1,147.00 | ad-hoc | 01-Jun-92 |     |      |       |       |      |      |      |      |      |      |      |      |      |      |
| Add'l. Notes: This represents payments by the press by credit card directly to the courier per measure of Courier Services |           |             |           |            |        |           |     |      |       |       |      |      |      |      |      |      |      |      |      |      |

11036107056





can't sell  
no value → Broken

can't sell almost no  
value

200 + 200

PROPOSED ASSETS

Assets

DISPOSITION

|                            |              |           |
|----------------------------|--------------|-----------|
| Xerox Copier               | see 45/1 (D) | \$ 3,000. |
| Mita Copier                | GS/1 (D)     | 1,000.    |
| Telephone system           |              | 5,000.    |
| Voice Mail system          |              | 5,000.    |
| Tvs. VCRs, Video Equipment |              | 15,000.   |
| Computer (AV)              |              | 25,000.   |

|              |           |
|--------------|-----------|
| still live   | 6000.00   |
| SOLD for 300 | 3-0-      |
| SOLD         | 5,000-    |
|              | 5000.00   |
|              | 15,000.00 |
|              | 50,000.00 |
| less by      |           |
| 400          | 71,800    |
| TOTAL        | 56,000    |

Total Proposed Assets

\$ 54,000.

3200 used  
Quadra 95L

resale value  
is \$3200.

Video equip  
cameras were  
stolen from office by

Michael  
Campbell  
we haven't  
been able  
to find him

28805

0 5 9 7 0 1 9 3 0 1 3

005

6,000.00  
400.00  
400.00  
15,000.00  
50,000.00

71,000.00

71,000.00

0.47  
28,720.00

28,720.00  
71,800.00

43,080.00

see July 5...

**JULES GLAZER**  
BUSINESS MANAGEMENT

444 S OCCIDENTAL BLVD SUITE 421  
LOS ANGELES CA 90057  
(213) 384-7030  
FAX: (213) 384-5548

77-731 LOS ARBOLES  
LA QUINTA CALIFORNIA 92253  
(619) 564-4972

JUN 24 4 09 PM '94

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

June 23, 1994

Robert J. Costa  
Assistant Staff Director  
Audit Division  
Federal Election Commission  
Washington, DC 20463

Dear Mr. Costa:

The Brown for President Committee disagrees with the findings of the final audit report that the committee must repay to the Secretary of the Treasury, \$44,886.00.

We need additional time to gather all legal and factual materials that demonstrate that no repayment is due at this time. All materials will be forwarded to you as soon as possible.

Thank you for your assistance in this matter.

Sincerely,



Kinde Durkee  
Bookkeeper  
Brown for President

050/0198014



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 12, 1994

Jodie Evans, Campaign Manager  
Brown for President  
2121 Cloverfield Boulevard  
Suite 120  
Santa Monica, CA 90404-5277

Dear Ms. Evans:

This is to confirm our telephone conversation of June 28, 1994 regarding the two letters received by the Commission on June 24, 1994, both purporting to respond to the Final Audit Report of the Brown for President Committee ("the Committee"). In addition to the letter (with enclosures) you submitted, we also received a letter signed by Kinde Durkee, the Committee Bookkeeper, dated June 23, 1994.

During our conversation, you said you were not aware that Ms. Durkee had sent a response to the Final Audit Report and that she was not authorized to do so. Because you were not familiar with this letter, you did not know whether Ms. Durkee's statement "We need additional time to gather all legal and factual materials that demonstrate that no repayment is due at this time" contained in the letter was an actual request for an extension of time to respond.

However, you stated that you consider your letter and enclosures to be the Committee's complete response to the Final Audit Report. Therefore, you did not believe an extension of time is necessary. Likewise, because you consider your letter and enclosures to be the complete response to the Final Audit Report, your statement that you "would also be happy to make an oral presentation in an open session" was not meant to be a request to do so. Rather, it is merely an offer to make an oral presentation if the Commission wants more information.

You also mentioned that the Committee cannot sell its assets for the amount listed by the Commission.

Please let me know if you believe the above does not accurately reflect our conversation. We are proceeding under the understanding that your submission is the Committee's official response to the Final Audit Report and that the letter submitted by Ms. Durkee was not authorized by the Committee. We note that the Committee has not made a request for an oral presentation at this time, although it may do so pursuant to 11 C.F.R. § 9038.2(c)(3). However, the Commission's regulations provide that a request for an extension of time must be made at least 7 days prior to the expiration of the time period for which the extension is sought. 11 C.F.R. § 9038.4(c). Any request by the

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Letter to Jodie Evans, Campaign Manager  
Brown for President  
Page 2

Committee for an extension of time to respond to the Final Audit Report's repayment determination was due June 19, 1994. Therefore, the Office of General Counsel will proceed to the preparation of the statement of reasons pursuant to 11 C.F.R. § 9038.2(c)(4). The Office of General Counsel will notify the Commission of its understanding with respect to the Committee's official response, the oral presentation, and the extension of time.

If you have any questions, I may be reached at (202) 219-3690 or (800) 424-9530.

Sincerely,

  
Rhonda J. Vosdinger  
Attorney

950/0193016

ATTACHMENT 6  
Page 2 of 2



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

BJ006037

*Blumberg*

September 16, 1994

MEMORANDUM

TO: Lawrence M. Noble  
General Counsel

THROUGH: John C. Surina  
Staff Director

FROM: Robert J. Costa  
Assistant Staff Director  
Audit Division

SUBJECT: Analysis of Response to the Final Audit Report on  
Brown for President (LRA #440/AR #94-5)

As requested by your memorandum, dated July 5, 1994, the Audit staff has reviewed the the response to the Final Audit Report ("FAR") submitted by Brown for President ("Committee") on June 24, 1994. Our analysis of these documents is presented below. In addition, the Audit staff has attached a revised NOCO Statement based on the Committee's response and disclosure reports filed to date (See Attachment 1).

The Committee's response addresses the following matters as presented in the FAR:

- Apparent Excessive Press Reimbursements (Finding III.D.),  
; and,
- The valuation of Capital Assets within the NOCO Statement.

With respect to Finding III.D., Apparent Excessive Press Reimbursements, the Committee's response states that manifests are attached for flight legs not included in the Audit staff's analysis contained within the FAR. That report recommended that the Committee: (1) be required to pay the U.S. Treasury \$15,974 for amounts received which exceeded actual costs incurred by the Committee; and, (2) refund \$51,233 on a pro-rata basis to the Press for overbillings.

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Based upon the additional manifests submitted by the Committee, the Audit staff calculates the Committee had billable amounts for transportation and services provided to the Press (cost + 10%) totaling \$310,595. In addition, the Audit staff has identified Press reimbursements totaling \$302,253. <sup>1/</sup> Therefore, since billable costs (\$310,395) exceeds the amounts reimbursed by the Press (\$302,253), no refunds to the Press are required.

This revised analysis detailed amounts paid by the Committee for transportation and services totaling \$282,359. Under 11 CFR §9034.6(d)(1), the actual cost of transportation and services provided plus the administrative costs permitted by this section (3%, unless a greater amount is documented) would be \$290,830 ( $\$282,359 \times 1.03$ ). As noted above, the Committee has collected reimbursements totaling \$302,253. As a result, the Audit staff determined that the Committee received Press reimbursements in the amount of \$11,423 ( $\$302,253 - \$290,830$ ), representing amounts in excess of that actually paid by the Committee for transportation/services provided to media personnel and, therefore, subject to payment to the U.S. Treasury.

The attached NOCO Statement has been adjusted by eliminating the account payable due to the Press and by revising the amount payable to the Treasury to \$11,423.

With respect to the valuation of Capital Assets, the Committee's response disputes the depreciated value presented in the FAR (\$43,080) noting that "most of the items have been sold and must be overvalued for what we have remaining." By way of documentation, the Committee has attached a photocopy of the Audit staff's workpaper deriving the Capital Asset figure annotated with the status of each asset as discussed below:

- The Committee notes that the telephone system (\$3,000) has been sold, but does not provide documentation to support the sale, nor is the sale reflected on Committee disclosure reports filed to date;

<sup>1/</sup> The Committee's July 15 Quarterly Report for 1994 discloses the receipt of \$5,997 in offsets to operating expenditures. However, since no Schedules A-P were provided, the Audit staff is unable to determine if any of these receipts represent Press reimbursements. Committee representatives have been requested to provide this information. Should these offsets to operating expenditures represent receipts from the sale of Capital Assets, the amount of the surplus as determined on the attached NOCO would be overstated and a lesser repayment warranted.

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- The voice mail system (\$3,000) and the Xerox copier (\$3,600) are both described as "broken" and "can't sell no value". However, no documentation has been provided to support this assessment. Absent information detailing whether these assets can be repaired, then sold; and, in the case of the voice mail system, specific model/year information, the Audit staff has no basis to re-assess its valuation of these assets;
- With respect to TVs, VCRs, Video Equipment (\$9,000), the Committee notes "200 + 200" and "video equip & camera were stolen from ofc by Michael Campbell we haven't been able to find him". However, no copies of police reports are provided; nor a list detailing which items were stolen and which remain in the Committee's possession.
- For the Computer (AV), with a depreciated value of \$30,000, the Committee notes "resale value \$3,200." and "Quadra 950", apparently a reference to a model/brand of computer. The Committee's response fails to document the purchase price and the source of its valuation. In addition, the Committee fails to address the other pieces of computer equipment composing the \$50,000 "Computer (AV)" listed as part of the Audit staff's Capital Asset determination. 2/

In view of the lack of documentation supplied by the Committee to support its determinations and valuations, the Audit staff has not revised our valuation of assets as presented on the NOCO Statement contained in the FAR.

During the our analysis of the Committee's response, the Audit staff discovered a computational error in the depreciated valuation of Capital Assets on the NOCO Statement. The error caused an under-valuation of Capital Assets. The correct valuation appears on the attached (revised) NOCO Statement.

As a result of our analysis of the Committee's response as noted above, the Audit staff's revised NOCO Statement reflects a \$17,617 surplus at 7-15-92. 3/ Accordingly, under 26 U.S.C. §9038(b)(3), that portion of amounts received by a candidate

- 2/ To date, the Audit staff has yet to receive from the Committee an itemized listing of the equipment included as part of the asset "Computer(AV)".
- 3/ It should be noted that any documentation received from the Committee to support its asset valuations would impact on this determination.

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from the matching payment account, which remains unexpended after the liquidation of all obligations, shall be subject to pro-rata repayment. In the FAR, the Audit staff calculated the repayment ratio to be 44.9142%. Therefore, the amount of the surplus subject to repayment is \$7,913 ( $\$17,617 \times .449142$ ).

Further, in view of the Committee's surplus position based on the revised NOCO, the Committee's final matching fund payment received after 7-15-92, totaling \$171,126, is now repayable in its entirety. The chart below details the remaining repayment now due from the Committee:

|  |                 |
|--|-----------------|
| Surplus Repayable                                      | \$7,913         |
| Matching Funds in Excess<br>of Entitlement             | \$ 171,136      |
| Profit from Apparent Excessive<br>Press Reimbursements | \$ 11,423       |
| Stale-dated Committee Checks                           | <u>\$ 1,334</u> |
| Total Repayable  | \$ 191,806      |
| Less: Partial Payment<br>Received 8-31-92              | <u>(97,674)</u> |
| Remaining Repayment Amount                             | \$ 94,132       |

Should you have any questions, please contact Alex Boniewicz or Joe Stoltz at 219-3720

Attachment as stated

**BROWN FOR PRESIDENT**

**Statement of Net Outstanding Campaign Obligations at 7-15-92  
As Determined 6-30-94 by the Audit Staff**

\*\*\*\*\*

**ASSETS:**

Cash \$998,385.74

**Accounts Receivable:**

|                  |             |             |
|------------------|-------------|-------------|
| 7-16 to 9-30-92  | \$40,807.79 |             |
| 10-1 to 12-31-92 | \$6,999.84  |             |
| 1-1 to 3-31-93   | \$25,175.73 |             |
| State Accounts   | \$2,990.51  | \$75,973.87 |
|                  |             | -----       |

**Reported Receivables:**

|                                    |              |
|------------------------------------|--------------|
| July Quarterly (4/1/93 - 6/30/93)  | \$0.00       |
| October Quarterly (7/1/93-9/30/93) | \$130,407.00 |
| Yearend (10/1/93-12/31/93)         | \$72,650.00  |
| April Quarterly(1/1/94-3/31/94)    | \$2,955.00   |
| July Quarterly (4/1/94 - 6/30/94)  | \$5,997.00   |

Capital Assets \$48,600.00

**TOTAL ASSETS** \$1,334,968.61

**LIABILITIES:**

**Accounts Payable:**

|                    |                |                |
|--------------------|----------------|----------------|
| 7-16-92 payments   | (\$30,678.64)  |                |
| R. Jones Judgement | (\$5,233.91)   |                |
| 7-17 to 8-31-92    | (\$209,573.01) | (\$245,485.56) |
|                    |                | -----          |

Press Payables \$0.00

U.S. Treasury - Staled Dated Checks (\$1,333.80)

Profit from Press Reimbursements  
Due to U.S. Treasury (\$11,423.31)

**Actual Winddown:**

|                     |                |                |
|---------------------|----------------|----------------|
| 7-16-92             | (\$2,502.96)   |                |
| 7-17 to 8-31-92     | (\$245,170.84) |                |
| September 1992      | (\$129,686.95) |                |
| October 1992        | (\$264,136.86) |                |
| November 1992       | (\$66,754.97)  |                |
| December 1992       | (\$95,836.23)  |                |
| Jan.1 to Mar.31 '93 | (\$58,147.84)  | (\$862,236.65) |
|                     |                | -----          |

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**BROWN FOR PRESIDENT**  
**Statement of Net Outstanding Campaign Obligations at 7-15-92**  
**As Determined 6-30-94 by the Audit Staff**  
 \*\*\*\*\*

|                                    |               |
|------------------------------------|---------------|
| Account Winddown State Accounts    | (\$12,414.48) |
| <b>Proposed Winddown:</b>          |               |
| Quarterly (4/1/93 - 6/30/93)       | (\$34,999.55) |
| Quarterly (7/1/93-9/30/93)         | (\$31,476.00) |
| Year End (10/1/93 - 12/31/93)      | (\$39,292.09) |
| Quarterly (1/1/94-3/31/94)         | (\$35,990.56) |
| Quarterly (4/1/94 - 6/30/94)       | (\$18,766.46) |
| Proposed Winddown (7/1/94-9/30/94) | (\$23,933.54) |

**TOTAL OBLIGATIONS** -----  
(\$1,317,352.00)  
-----

**DEFICIT> OR SURPLUS at 7-15-92** -----  
\$17,616.61

**Repayment Ratio** -----  
0.449142

-----  
\$7,912.36  
-----

950 / 919322

**BROWN FOR PRESIDENT**  
444 OCCIDENTAL BLVD., #421  
LOS ANGELES, CA 90067  
(213) 384-7030

BANK OF LOS ANGELES  
HOLLYWOOD REGIONAL OFFICE  
HOLLYWOOD, CA 90028  
90-3900-1222

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8/31/92

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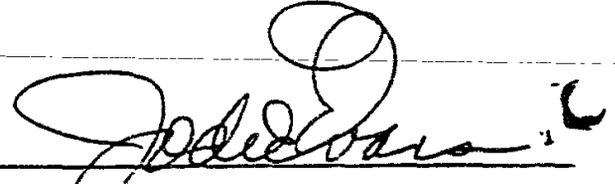
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\$ 97,673<sup>96</sup>

City Seven Thousand Six Hundred Seventy Three<sup>96</sup>/<sub>100</sub> DOLLARS

EMO

Surplus Repayment



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ATTACHMENT 8  
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