




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 12, 1996

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA 
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
REPUBLICAN PARTY OF DADE COUNTY

Attached please find a copy of the final audit report and related documents on the Republican Party of Dade County which was approved by the Commission on August 1, 1996.

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

Attachment as stated

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

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**REPORT OF THE AUDIT DIVISION
ON THE**

Republican Party of Dade County

Approved August 1, 1996



**FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, D.C.**

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

FINAL AUDIT REPORT

ON

REPUBLICAN PARTY OF DADE COUNTY *EXECUTIVE SUMMARY*

The Republican Party of Dade County (the Committee) registered with the Federal Election Commission on July 9, 1984.

The audit was conducted pursuant to 2 U.S.C. Section 438(b) which states, that the Commission may conduct audits of any political committee whose reports fail to meet the threshold level of compliance set by the Commission.

The findings of the audit were presented to the Committee at an exit conference held on March 17, 1995 and later in an interim audit report. The Committee's response to those findings are included in this final audit report.

Apparent Over-funding by the Non-federal Account - 11 CFR Sections 106.5(d),(f),(g)(2)(ii) and (iii) The Audit staff reviewed expenses paid from federal and non-federal accounts and identified \$21,498 in shared administrative and event expenses funded impermissibly by the non-federal account in calendar year 1991. The federal account did not start reimbursing the non-federal account until July 1991. At year's end, \$1,357 in expenses remained unreimbursed. In calendar year 1992, the federal account overpaid its share of administrative and event expenses in the amount of \$15,014. In the interim audit report, the Audit staff recommended no further action.

Disclosure of Shared Federal and Non-federal Activities - 11 CFR Sections 104.10(b)(1)(i), (2), and (4), 106.5(a)(2)(ii), (d)(1), (f), and (g)(1). For calendar year 1991, the Committee did not file Schedule H1 disclosing its federal allocation ratio or Schedule H-2 disclosing information related to its Lincoln Day Dinner event.

Also for calendar year 1991, the Committee did not file Schedules H4 to disclose approximately \$7,000 in shared administrative and event expenses paid from its federal account. Further, in calendar year 1991, the non-federal account paid directly to vendors \$50,837 in shared administrative expenses and \$24,774 in shared event expenses not in accordance with 11 CFR 106.5(g)(1).

In calendar year 1992, payments for shared administrative (\$16,389) and shared event (\$3,231) expenses were made from the non-federal account. The majority of these expenses were reported on Schedule H4 as if made from the federal account.

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In response to the interim audit report, the Committee filed amendments which materially corrected the public record. The Committee also stated that it has instituted procedures to ensure that all shared administrative and event expenditures are paid out of the federal account, and that transfers from the non-federal account to reimburse the federal account occur on a regular basis, not less than monthly.

Receipt of Apparent Prohibited Contributions - 2 U.S.C. Section 441b(a), 11 CFR Sections 103.3(b)(4) and 110.1(e)(1) The Committee received three contributions from corporate entities totaling \$3,000. Although refund checks were not issued during the audit period, the Committee maintained sufficient funds in its federal account to make such refunds. In response to the interim audit report, the Committee refunded the contributions to the contributors and provided copies of the canceled refund checks.

Further, the Committee leased office space for its Victory '92 headquarters at a cost of \$21,300. The office space was leased for the period July 1, 1992 through November 4, 1992 from a partnership. The Committee paid \$1,598. The remainder of the cost, \$19,702, represented an in-kind contribution from a partnership, the Figueredo Center Ltd (FCL). The Committee originally reported the in-kind contribution (\$19,702) as received from FCL, then amended its reports to disclose the in-kind contributions as being from Carlos Salman, a partner with FCL.

Since the Committee's Victory '92 program was designed to support the entire Republican ticket, the Audit staff determined that the in-kind contribution should have been allocated between the federal and non-federal accounts based on the ratio derived from the ballot composition (37% federal/63% non-federal). As a result, the federal account's share would have been \$7,290 (\$19,702 x 37%). The Audit staff also determined that the in-kind contribution was from FCL, and that FCL consisted of individual and corporate partners.

Based on additional documentation submitted in response to the interim audit report, it was determined that the profits of the 10 corporate (2 general and 8 limited partners) and 7 individual partners were reduced by the in-kind contribution. As a result, the in-kind contribution (\$7,290) was from prohibited sources. The Committee filed an amended Schedule D which reflected a debt due to the FCL for \$7,290, the federal account's portion of the in-kind contribution.

Apparent Prohibited Contributions to Bush/Quayle '92 General Committee - 2 U.S.C. Section 441a(d)(1) and 11 CFR Sections 110.7(a)(1) and (4), 100.8(b)(16)(i),(iv) and (18)(i). Although the Committee had not demonstrated it had been allocated a portion of the national party's coordinated expenditure limitation, it apparently made expenditures totaling \$2,164 in connection with the Bush-Quayle '92 General Committee (Bush-Quayle General). The expenditures, made in September-October 1992 pursuant to its Victory '92 program involved

- a letter from Jeb Bush to Fellow Republicans (\$820) which discussed the re-election of President Bush and instructions for obtaining an absentee ballot.

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- a radio advertisement (\$550) for which the vendor invoice indicated the ad was to "re-elect Pres. G. Bush;" this ad aired between October 28, 1992 and November 2, 1992; and,
- invitations (\$794) for the opening of a campaign headquarters in Hialeah. The postcard-type invitation contained the "Bush Quayle '92" logo on both sides.

The Committee's response to the interim audit report did not demonstrate that the expenditures were not made on behalf of Bush-Quayle General nor exempt from the definition of expenditure pursuant to 11 CFR §§100 8(b)(16) or (18).

Misstatement of Financial Activity - 2 U.S.C. Sections 434(b)(1), (2) and (4). Reported totals for receipts and disbursements were overstated by \$11,658 (net) and \$14,942 (net) respectively, for the audit period covering calendar years 1991-92. Ending cash was also misstated. In response to the interim audit report, the Committee filed amendments for each reporting period in 1991 and 1992, which materially corrected the reporting deficiencies.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

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**REPORT OF THE AUDIT DIVISION
ON
REPUBLICAN PARTY OF DADE COUNTY**

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of the Republican Party of Dade County (the Committee), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended (the Act). The audit was conducted pursuant to section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

B. AUDIT COVERAGE

The audit covered the period January 1, 1991 through December 31, 1992. During this period, the Committee reported a beginning cash balance of \$6,315; total receipts for the period of \$125,684; total disbursements for the period of \$127,931; and an ending cash balance of \$6,191.¹

C. COMMITTEE ORGANIZATION

The Committee registered with the Federal Election Commission on July 9, 1984 and maintains its headquarters in Coral Gables, Florida. The Treasurers of the Committee during the period covered by the audit were David Southwell from January 1, 1991 through March 28, 1991, Luis Amzuriceta from March 29, 1991 through August 22,

¹ Totals do not foot due to reporting errors (see Finding II E). Figures in this report are rounded to the nearest dollar.

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1991, Ernesto Martinez-Gil from October 28, 1991 through December 9, 1992 and Jorge Rodriguez-Chomat from December 10, 1992 through the end of the audit period. The Committee's current Treasurer is Mr. Andrew E. Grigsby.²

To manage its financial activity, the Committee maintained two checking accounts. Committee receipts were composed of contributions from individuals and transfers from its non-federal account.

D. AUDIT SCOPE AND PROCEDURES

The audit included testing of the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations;
2. the receipt of contributions from prohibited sources (see Finding II.C.);
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed;
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. proper disclosure of committee debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records (see Finding II.E.);
7. adequate recordkeeping of committee transactions;
8. proper reporting and funding of allocable expenditures (see Findings III.A. and B.), and;
9. other audit procedures that were deemed necessary in the situation. (see Finding II.D.)

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² Mr. Grigsby was not the Treasurer during the audit period, therefore, he was unable to comment with respect to certain matters noted during the audit. Further, for the period August 23, 1991 through October 27, 1991 there was no treasurer of record.

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

II. AUDIT FINDINGS AND RECOMMENDATIONS

A. APPARENT OVER-FUNDING BY THE NON-FEDERAL ACCOUNT

Section 106.5(d)(1) of Title 11 of the Code of Federal Regulations states, in part, that all state and local party committees except those covered by paragraph (d)(2) of this section shall allocate their administrative expenses and costs of generic voter drives according to the ballot composition method

Section 106.5(f) of Title 11 of the Code of Federal Regulations states, in part, if federal and non-federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising according to the funds received method.

Section 106.5(g)(2)(iii) of Title 11 of the Code of Federal Regulations states any portion of a transfer from a committee's non-federal account to its federal account or its allocation account that does not meet the requirements of paragraph (g)(2)(ii) of this section shall be presumed to be a loan or contribution from the non-federal account to a federal account, in violation of the Act.

Section 106.5(g)(2)(ii) of Title 11 of the Code of Federal Regulations states, in part, that for funds transferred from a committee's non-federal account to its federal account or its allocation account, the committee must itemize in its reports the allocable activities for which the transferred funds are intended to pay and that such funds may not be transferred more than 10 days before or more than 60 days after the payments for which they are designated are made

1 Shared Fundraising Event

Receipts from the Lincoln Day Dinner, held on May 7, 1991, totaled \$42,724. The Committee deposited \$13,300 or 31% of total receipts into its federal account. However, the federal account paid only \$6,982 or 22% of total expenses (\$31,755) associated with this event. As a result, the federal account underpaid its share of the fundraising expenses by \$2,862 ($\$31,755 \times 31\% - 6,982$)

2 Shared Administrative Expenses

The Audit staff calculated \$51,112 in administrative expenses for calendar year 1991. The federal account paid \$275 (54%) and the non-federal account paid \$50,837 (99.46%). The correct allocation percentage for administrative expenses, based on the ballot composition method, was 37% federal and 63% non-federal.

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Therefore, the federal account should have paid \$18,911 (\$51,112 x 37%) and the non-federal account \$32,201 (\$51,112 x 63%). As a result, the federal account underpaid its share of administrative expenses by \$18,636 (\$18,911 - 275).

Accordingly, \$21,498 (\$18,636 from A.2. + 2,862 from A.1.) in federal expenses were funded impermissibly by the non-federal account.

The federal account did not start reimbursing the non-federal account until July 5, 1991. During the period July 5, 1991, through December 31, 1991, the Committee made transfers from its federal account to the non-federal account, totaling \$20,141. At year's end, \$1,357 (\$21,498 - 20,141) in expenses remained unreimbursed by the federal account.

During the period January 1, 1992 through August 1, 1992, both federal and non-federal accounts made payments, directly to vendors, for shared administrative expenses. Subsequent to August 1, 1992, the federal account paid all such expenses. In the calendar year (1992), the federal account overpaid its share of administrative expense by \$12,389 as well as its share of event expenses by \$2,625.

It was explained to the Committee that all shared expenses should be initially paid by a federal account pursuant to 11 CFR §106.6(e)(1)(i) and (ii). The Treasurer stated he was not aware of the above, but the federal account currently pays all shared expenses and receives reimbursements from the non-federal account. The Committee was provided copies of all related workpapers.

In the interim audit report, the Audit staff recommended no further action, since the federal account overpaid its share of 1992 administrative and event expenses by \$15,014 and underpaid such expenses by only \$1,357 in 1991.

B. DISCLOSURE OF SHARED FEDERAL AND NON-FEDERAL ACTIVITIES

Background

Our review encompassed activity related to two bank accounts; one of which was a federal account and one a non-federal account. During the audit period, the Committee did not establish an allocation account, nor did it initially pay all shared expenses from the federal account and receive reimbursements from the non-federal account. Further, the Committee did not file Schedules H1, H2, H3, or H4 during calendar year 1991. In calendar year 1992, the Committee filed all Schedules H

1. Allocation for Shared Federal and Non-federal Administrative Expenses - Schedule H1

Section 104-10(b)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that in the first report in a calendar year disclosing a

disbursement for administrative expenses or generic voter drives, the committee shall state the allocation ratio to be applied to these categories of activity and the manner in which it was derived.

Section 106.5(d)(1) of Title 11 of the Code of Federal Regulations states, in part, that all state and local party committees except those covered by paragraph (d)(2) of this section shall allocate their administrative expenses and costs of generic voter drives, as described in paragraph (a)(2) of this section, according to the ballot composition method.

The Committee was required to file Schedule H1 disclosing its federal allocation ratio. Using the ballot composition for the 1992 general election, the Audit staff calculated the correct allocation for administrative expenses as 37% federal and 63% non-federal. As previously stated, the Committee did not file a Schedule H1 for the calendar year 1991. The Committee correctly filed Schedule H1 for calendar year 1992.

2 Allocation Ratios for Fundraising Events, Exempt Party Activities, and Shared Direct Candidate Support - Schedule H2

Section 106.5(a)(2)(ii) of Title 11 of the Code of Federal Regulations states committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to this section for the direct costs of a fundraising program or event including disbursements for solicitation of funds and for planning and administration of actual fundraising events, where federal and non-federal funds are collected by one committee through such program or event.

Section 106.5(f) of Title 11 of the Code of Federal Regulations states, in part, if federal and non-federal funds are collected by one committee through a joint activity, that committee shall allocate its direct costs of fundraising, as described in paragraph (a)(2) of this section, according to the funds received method. Under this method, the committee shall allocate its fundraising costs based on the ratio of funds received into its federal account to its total receipts from each fundraising program or event.

Section 104.10(b)(2) of Title 11 of the Code of Federal Regulations states, in part, that in each report disclosing a disbursement for the direct costs of a fundraising program or an exempt activity, the committee shall assign a unique identifying title or code to each such program or activity and shall state the allocation ratio calculated for the program or activity.

As previously stated, on May 7, 1991, the Committee held a shared fundraising event, the Lincoln Day Dinner. Receipts for this event totaled \$42,724. The federal account's share of receipts totaled \$13,300 or 31%. Expenditures for this event were made during the period March 22, 1991 through May 10, 1991. Therefore, the Committee should have filed a Schedule H2 for each reporting period wherein an event

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expenditure occurred, disclosing the Lincoln Day Dinner event, the associated 31/69 allocation ratio and a unique identifier.

3. Reporting of Shared Activity - Schedule H4

Section 106.5(g)(1) of Title 11 of the Code of Federal Regulations states, in part, committees that have established separate federal and non-federal accounts under 11 CFR 102.5(a)(1)(i) or (b)(1)(i) shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities; or pay the entire amount of an allocable expense from its federal account and transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense.

Section 104.10(b)(4) of Title 11 of the Code of Federal Regulations states, in part, a political committee that pays allocable expenses in accordance with 11 CFR 106.5(g) or 106.6(e) shall also report each disbursement from its federal account or separate allocation account in payment for a joint federal and non-federal expense or activity

a. As previously stated, in calendar year 1991 the Committee did not file any Schedules H4. The federal account paid \$275 in shared administrative expenses and \$6,982 in shared event expenses. The Committee reported these transactions on Schedule B instead of Schedule H4.

b. In calendar year 1991 the non-federal account paid directly to vendors \$50,837 in shared administrative expenses and \$24,774 in shared event expenses. Funds expended from the non-federal account to pay shared administrative and/or event expenses were not reported

c. In calendar year 1992, payments for shared administrative (\$16,389) and event (\$3,231) expenses were made from the non-federal account. The majority of these expenditures were reported on Schedule H4 as if made from the federal account. Although the expenditures were not made from a federal account as required by 11 CFR §106.5(g)(1), for disclosure purposes such payments should be itemized as memo entries on Schedule H4.

Workpapers detailing the above were provided to the Committee. The Treasurer was not aware of this matter but agreed to file amended reports

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In the interim audit report, the Audit staff recommended the Committee:

- with respect to Section 1., file Schedule H1 for the first reporting period in 1991, disclosing the 37% federal/63% non-federal allocation ratio for shared administrative expenses;
 - with respect to Section 2., file Schedules H2 for the period March 1991 through May 1991, disclosing the Lincoln Day Dinner event, the 31% federal/69% non-federal allocation ratio, and a unique event identifier;
 - with respect to Section 3.a., file amended Schedules B for 1991, deleting the previously reported expenditures for shared administrative and event expenses, and file Schedules H4 to disclose such expenditures including their respective allocation ratios and unique identifiers;
 - with respect to Section 3.b., file memo Schedules H4 for 1991 to include all shared expenditures made from the non-federal account, including their respective allocation ratios and unique identifiers; and,
 - with respect to Section 3.c., file amended Schedules H4 for 1992, converting the Schedule H4 report entries related to shared expenditures made from the non-federal account to memo entries.
- Lastly, the Audit staff recommended the Committee detail in writing the changes it has implemented to comply with the requirements of 11 CFR §106.5(g)(1) as well as any other comments it believes relevant to this matter.

In response to the interim audit report, the Committee filed amended reports disclosing on Schedule H1 its allocation ratio of 37% (federal) for shared administrative expenses and disclosing on Schedule H2 the allocation ratio of 31% federal/69% non-federal, and a unique event identifier for the Lincoln Day Dinner.

The Committee also amended Schedules B and H4 and filed memo Schedules H4 for 1991 and 1992, all of which materially corrected the reporting errors noted above

Further, the Committee stated

"the party is instituting procedures to ensure that all expenditures for generic party building and/or voter registration activities are paid out of the federal account primarily through education of the treasurer. Transfer of funds from the state account (the Committee refers to their non-federal account as the state account) to reimburse the Federal account for the state's

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portion of expenditure is being conducted on a regular basis, not less than monthly, for these regular administrative expenses and on an as appropriate basis in connection with fundraising activity. The requirements for maintaining proper expenditures and reimbursements will be reduced to writing prior to a change in treasurers this fall."

C. RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, and that a candidate, political committee or any other person is prohibited from accepting a contribution from a corporation.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

Sections 110.1(e)(1) and (2)(i) of Title 11 of the Code of Federal Regulations state a contribution by a partnership shall be attributed to the partnership and to each partner in direct proportion to his or her share of the partnership profits, according to instructions which shall be provided by the partnership to the political committee or candidate; or by agreement of the partners, as long as only the profits of the partners to whom the contribution is attributed are reduced (or losses increased).

1 Direct Contributions

The Audit staff's review of contributions indicated that the Committee received three contributions from apparent corporate entities totaling \$3,000. The corporate status and current standing of the business entities were verified with the Florida Secretary of State

Although refund checks have not been issued, the Committee maintained sufficient funds in its federal account during the audit period to make such refunds. The Treasurer was provided a schedule of the above contributions and agreed to take corrective action

2 In-kind Contribution

a The Committee leased office space for its Victory '92 headquarters at a cost of \$21,300. The office space was leased for the period July 1, 1992 through November 4, 1992, from the Figueredo Center Ltd (FCL), a partnership. The

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Committee paid \$1,598. The remainder of the cost, \$19,702, was originally reported as an in-kind contribution from FCL. The Committee amended its reports to disclose an in-kind contribution from Carlos Salman.³

Based on information developed during fieldwork FCL had at least three partners. CSR Inc. is its general partner, Frascate Inc. is its managing general partner, and Carlos Salman is its limited partner. Further, it appears CSR Inc. stands for Carlos Salman Realty, Inc.⁴ The corporate status and current standing of both entities were verified with the Florida Secretary of State

Absent documentation which demonstrates that the personal profits and/or losses of Carlos Salman, as partner, or any other individual partner were affected, and the profits and/or losses of any corporate partners were not affected by the above transactions, the in-kind contribution was made from prohibited sources. CSR Inc. and/or Frascate Inc

According to written procedures relative to Victory '92 activities, Victory '92 is a project of the Republican Party of Florida designed to support the entire Republican ticket. It is a volunteer effort that helps all GOP candidates through the use of generic messages, party building programs and legally permissible non-allocable projects

Accordingly, the value of the in-kind contribution should be allocated between the Committee's federal and non-federal accounts based on the ratio derived from the ballot composition (37% federal/63% non-federal). As a result, the federal account's share would be \$7,290 ($\$19,702 \times 37\%$).

In Advisory Opinion 1992-33 the Commission addressed the matter of a committee accepting in-kind corporate donations for allocable administrative and event expenses. The Commission concluded that

"national party committee may accept corporate in-kind donations in connection with fundraising activities, but only if one of two conditions is met: (1) the amount of the Federal share of goods or services is paid to the non-federal account in advance or on receipt, or (2) sufficient funds to pay for the Federal share of goods or services have been transferred to a

³ The Reports Analysis Division requested that the Committee disclose the names of the partners who contributed in excess of \$200. The Treasurer made a written request to Carlos Salman in an effort to obtain the names of the partners. According to the Treasurer, the in-kind contribution was not from FCL but from Mr. Salman as an individual.

⁴ Information provided by Dun & Bradstreet Information Services - Business Information Report

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non-federal account in advance under the following circumstances.”
(emphasis in original)

“To meet the latter condition, the committee must, in essence, prepay or escrow an amount of funds that corresponds to the value of the Federal share of the expenses associated with in-kind donations that will be received. The committee must make good faith estimates of the amount of such in-kind donations that are expected and transfer a sufficient amount of funds from the committee’s Federal account to a non-federal account to cover the Federal share of the expenses associated with the in-kind donations actually received.”

As previously stated in Finding II.A., the federal account overpaid its share of administrative and event expenses in calendar year 1992 by \$15,014.⁵ The Audit staff considered the value (\$7,290 - approximately \$1,779 monthly) of the federal account’s share of the in-kind contribution to have been received on the first of each month (July through October). Accordingly, the Audit staff calculated the federal account’s position with respect to overpayment of shared expenses as of the first of each month. Our analysis indicated that the federal account did not pay its share of the in-kind contribution in advance and, therefore, did not meet either of the conditions set forth in Advisory Opinion 1992-33.

b. It appeared, based on information available during audit fieldwork, that Mr. Salman (a Dade County Co-chair for Bush/Quayle '92) paid additional Victory '92 expenses totaling \$4,058. The Committee reimbursed Mr. Salman and/or FCL for these expenses. However, it was not clear if these expenditures were originally paid from Mr. Salman’s personal funds or from funds controlled by FCL.

These matters were discussed with Committee officials at the exit conference and on October 27, 1995. A schedule of the apparent prohibited contributions was provided.

In the interim audit report, the Audit staff recommended the Committee

- demonstrate that the contributions, noted in C.1. above, were not from prohibited sources or refund the contributions.

- provide documentation to demonstrate that the in-kind contribution, noted in C.2.a above, was not from prohibited sources. This documentation

⁵ The majority of the overpayment did not occur until October 1992 when all administrative expenses were paid by the federal account.

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should include the partnership agreement for the Figueredo Center Ltd. in order to determine the nature of the entity and to identify all of the general and limited partners. Further, the documentation should include information on the partnership status of the individual(s) to whom the in-kind contribution was attributed, and documentation to demonstrate how the profits or losses of both individual and corporate partners were affected;

demonstrate that the contributions, noted in C.2.b. above, were not from prohibited sources, to include documentation that Victory '92 expenses, totaling \$4,058, were paid from personal funds of Carlos Salman as opposed to funds of Figueredo Center Ltd.;

The Audit staff also recommended that absent a demonstration that the above contributions were not from prohibited sources, the Committee refund the contribution and provide evidence (front and back of the negotiated checks) for all payments; and, if funds are not available to refund the prohibited contributions, disclose on Schedule D a debt owed to each contributor

In response to the interim audit report, the Committee stated that the direct contributions, noted in C.1., consisted of three checks, each in the amount of \$1,000, which did not appear to be corporate checks on their face, but rather, referenced the individual's profession, such as architect.⁶ The Committee also stated the checks were deposited into the federal account by mistake.

The Committee refunded the contributions to the contributors and provided copies (front only) of the refund checks.

With respect to the in-kind contribution from the partnership, discussed at C.2.a., the Committee provided a copy of a Department of the Treasury Internal Revenue Service Form 1065, U.S. Partnership Return of Income with supporting schedules pertaining to FCL for tax year 1992. The Committee also provided a copy of FCL's Agreement and Certificate of Limited Partnership

Based on the information provided, the Audit staff determined that FCL was comprised of two General Partners which are corporations and 15 Limited Partners (eight corporations and seven individuals). The documentation demonstrated that

⁶ Two of the three checks contained a business name followed by either Inc. or Corporation. On the third check, an individual's name was followed by Architect and General Contractor

Copies (front and back) of the negotiated refund checks have subsequently been provided

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the profits of all corporate partners (general and limited) were affected by this transaction.⁸ Consequently, the in-kind contribution (\$7,290) was from prohibited sources (see Advisory Opinion 1980-132).

The Committee filed an amended Schedule D which reflected a debt due to FCL for \$7,290, the federal portion of the in-kind contribution.

With respect to the expenses noted in C.2.b. (\$4,058), the Committee provided an affidavit from Mr. Salman, wherein he stated that he paid Judy Sable \$1,500 for a Victory '92 consulting fee and was later reimbursed by the Committee. Copies of three checks from Mr. Salman's personal checking account used to pay Ms. Sable were also provided. Mr. Salman further stated that he paid additional expenses on behalf of the Committee, totaling \$960, from his personal account which were also reimbursed by the Committee. Mr. Salman stated the rental payment of \$1,598 was paid directly to FCL by the Committee, thus the contribution [initially viewed as \$4,058] should be adjusted by the \$1,598.

The documentation demonstrated that the above contributions, totaling \$2,460 (\$4,058 - 1,598), were not from prohibited sources and did not exceed Mr. Salman's contribution limit.

D. APPARENT PROHIBITED CONTRIBUTIONS TO BUSH/QUAYLE '92 GENERAL COMMITTEE

Section 441a(d)(1) of Title 2 of the United States Code states notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection

Sections 110 7(a)(1) and (4) of Title 11 of the Code of Federal Regulations state, in part, that the national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party. The national committee of a political party may make expenditures authorized by this section through any designated agent, including State and subordinate party committees

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The documentation also indicates that one individual appears to be a foreign national and that three corporate partners appear to be foreign partners

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Sections 100.8(b)(16)(i) and (iv) of Title 11 of the Code of Federal Regulations state, in part, that the payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connections with volunteer activities on behalf of any nominee(s) of such party is not an expenditure, provided that: (1) such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising and (2) such materials are distributed by volunteers and not by commercial or for-profit operations

Section 100.8(b)(18)(i) of Title 11 of the Code of Federal Regulations states, in part, that payment by a state or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the President and Vice-Presidential nominee(s) of that party is not an expenditure for the purpose of influencing the election of such candidates provided that such payments is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising

The national party's coordinated expenditure limitation for the 1992 general election for the office of President was \$10,331,703. The Republican National Committee reported, as of December 31, 1993, spending \$10,330,965 towards the limitation.

Although the Committee had not demonstrated it had been allocated a portion of the national party's coordinated expenditure limitation, it made expenditures totaling \$3,653 apparently in connection with the Bush-Quayle '92 General Committee, Inc (Bush-Quayle General)⁹ The expenditures, made in September/October 1992 pursuant to its Victory '92 program, were reported on Schedules H4 for printing, postage, radio and print media advertisements and are discussed below

- The Committee paid for an advertisement placed in the magazine De Frente. The cover of the magazine pictures Bill Clinton and George Bush. The inset stated we announced that Perot is not arriving and that we believe that Bush will win by a comfortable margin. The text of the ad was not available for review

- A letter from Jeb Bush to Fellow Republicans initially discussed re-electing President Bush. It further stated, if you are unable to go the polls November 3rd, an absentee ballot could be obtained by returning the enclosed card. The vendor's invoice (Global Printing Co.) listed charges for the letter, folding letters, envelopes and cards. No additional information relative to its mailing was made available

⁹ Included is a radio ad at the cost of \$1,440. The Committee paid \$550. The Audit staff could not determine if the remaining \$890 had been paid.

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- The text of a radio advertisement was not made available, however, the vendor invoice indicated the ad was to "re-elect Pres. G. Bush" and aired from October 28, 1992 through November 2, 1992.

- Invitations were printed and mailed for the opening of a campaign headquarters in Hialeah. The postcard-type invitation contained the "Bush Quayle '92" logo on both sides.

As previously stated, Victory '92 programs were designed to support the entire Republican ticket by engaging in exempt activities. However, it appeared that the expenditures noted above were made in connection with Bush-Quayle General and did not qualify as exempt activities pursuant to 11 CFR §100.8(b)(16).

The Committee representatives were informed of the apparent prohibited nature of the expenditures and provided with a schedule of this activity at the exit conference. The Treasurer was not aware of this matter but agreed to take the necessary corrective action.

In the interim audit report, the Audit staff recommended that the Committee provide evidence which demonstrated:

- the expenditures were not made in connection with Bush-Quayle General, to include documentation to support the payment of the additional \$890 cost made with respect to the radio ad noted above. In addition, the Committee should provide the text of the radio ad, as well as, the text of the advertisement placed in the magazine De Frente, and.

- the expenditures for the activity described above were exempt pursuant to 11 CFR §100.8(b)(16)

In response, the Committee provided a copy of the magazine De Frente and stated that the article concerned the personal efforts of Doctor Alberto Cardenas. The Committee did not consider the cost of the article to be an expenditure on behalf of Bush-Quayle General.

With regards to the Jeb Bush letter, the Committee stated "The FEC has taken a position that the letter was not generic and reimbursement of this amount is being sought from Bush/Quayle."

With regards to the radio ad, the Committee provided an affidavit from Mr Cardenas, who stated

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"On or about October 27, 1992, a contract was negotiated with Carlos D'Amant Public Relations & Advertising for the broadcast of generic political ads to be broadcasted by WSUA, Radio Suave in Miami, Florida."

Mr. Cardenas further stated that the Committee agreed to pay \$550 for the ads. The invoice for \$1,440 was incorrect, and the Committee only paid the initially agreed amount. A transcript was requested at the time payment was tendered but it was never provided. Lastly, he stated, "Radio Suave is no longer in business and it has been impossible to procure a transcript of the ads aired by them in October 1992."

With regards to the invitations concerning the opening of a campaign headquarters in Hialeah, the Committee responded that the invitations were "inaccurately described as Bush/Quayle Headquarters". The Committee further stated "The committee is attempting to have this sum reimbursed by Bush/Quayle should the FEC determine that such is appropriate".

It appears that the article in the magazine De Frente was not made in connection with Bush-Quayle General. The magazine featured a picture of an individual and a caption merely stating he was working for the re-election of President Bush and to become a state committee official. However, the Committee did not demonstrate that the expenditures for the Jeb Bush letter (\$820), the radio advertisement (\$550), and the invitations/postage related to opening of the Hialeah office (\$794), all totaling \$2,164, were not in connection with Bush-Quayle General nor exempt pursuant to 11 CFR §100.8(b)(16) or (18).

The Jeb Bush letter discussed the re-election of President Bush and instructions for obtaining an absentee ballot. The vendor invoice for the radio ad indicated the ad was to "re-elect Pres G. Bush". Neither expense is exempt from the definition of expenditure because they are not campaign materials used in connection with volunteer activities. In the case of the letter, it appears the letter was produced by a commercial vendor and distributed by direct mail (11 CFR §100.8(b)(16)(i)). The radio advertisement was broadcasted on radio during the period 10/28/92 through 11/2/92. As a result, neither expense is exempt from the definition of expenditure under 11 CFR §100.8(b)(18).

Lastly, the postcard-type invitation for opening a campaign office contained the "Bush/Quayle '92" logo on both sides. Since the invitations were not distributed by volunteers, they are not exempt from the definition of expenditure pursuant to 11 CFR §100.8(b)(16).

E. MISSTATEMENT OF FINANCIAL ACTIVITY

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning

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of the reporting period and the total amount of all receipts and all disbursements for the reporting period and calendar year.

The Audit staff's reconciliation of the Committee's reported activity to its bank activity revealed that material misstatements occurred with respect to reports filed covering calendar years 1991 and 1992.

1991

Receipts were understated by \$7,266, due to not reporting contributions/receipts totaling \$7,366 and not reporting properly a \$100 contribution drawn on non-sufficient funds.

Disbursements were understated by \$5,177, due to not reporting \$5,141 in transfers to the non-federal account and also not reporting \$36 in bank service charges.

Ending cash on hand was understated by \$2,089, resulting from the reporting errors noted above.

1992

Beginning cash on hand was understated by \$2,089, carried forward from the 1991 reporting errors.

Receipts were overstated by \$18,924, primarily due to reporting transfers (\$18,951) from the non-federal account which were never made.

Disbursements were overstated by \$20,119, primarily due to reporting \$18,913 in disbursements made from the non-federal account.

Ending cash on hand was understated by \$3,284, resulting from the reporting errors noted above.

The Committee was provided schedules of the above reporting errors at the exit conference. The Treasurer stated he was aware the reports were incorrect. The reported transfers from the non-federal account were artificial and were his attempt to bring the reports into compliance with reporting requirements.

In the interim audit report, the Audit staff recommended that the Committee file amended reports for 1991 and 1992 to correct the reporting errors noted above.

In response, the Committee filed amendments for each reporting period in 1991 and 1992, which materially corrected the reporting deficiencies.

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

June 26, 1996

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FEDERAL ELECTION
COMMISSION
AUDIT DIVISION

MEMORANDUM

TO: Robert J Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel

BY: Kim Bright-Coleman *KBC*
Associate General Counsel

Rhonda J Vosdingh *RJV by KBC*
Assistant General Counsel

Matthew J Tanielian *MT*
Law Clerk

SUBJECT: Proposed Final Audit Report on Republican Party of Dade County (LRA # 487)

The Office of General Counsel has reviewed the proposed Final Audit Report on Republican Party of Dade County ("Committee") submitted to this Office on May 17, 1996. The following memorandum summarizes our comments on the proposed report. This Office concurs with the findings of the proposed report not discussed separately in the following memorandum. If you have any questions concerning our comments, please contact Matthew Tanielian.

Since the proposed Final Audit Report does not include matters exempt from public disclosure under C.F.R. § 24, we recommend the Commission's discussion of this document be conducted in open session.

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FEDERAL ELECTION COMMISSION

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I. RECEIPT OF APPARENT PROHIBITED CONTRIBUTIONS (I.L.C.)

The proposed Final Audit Report addresses an in-kind contribution of \$19,702 made by Figueredo Center, Ltd. ("FCL"), a limited partnership consisting of corporate and non-corporate partners. The in-kind contribution was in the form of office space leased by the Committee from FCL. The Office of General Counsel concurs with the proposed report's preliminary finding that \$7,290 of the contribution should have been allocated to the Committee's Federal Account. See 11 C.F.R. § 106.5(d)

In-kind contributions by limited partnerships are permissible if 1) the contribution is attributed only to individual non-corporate partners, and 2) the profits of the non-corporate partners are reduced (or losses increased) in the amount of the contribution, leaving no effect on the profits or losses of any corporate partner. See 11 C.F.R. § 110.1(e), Advisory Opinion ("AO") 1980-132. Thus, no portion of a partnership contribution may be made from the profits of a corporation that is a partner. 11 C.F.R. § 110.1(e). The Interim Audit Report recommended the Committee provide information to demonstrate FCL's contribution was not from prohibited sources

In response to the Interim Audit Report, the Committee provided FCL's limited partnership agreement and FCL's 1992 partnership tax returns. Based on a review of these documents, the Audit Division identified two general partners that are corporations, eight limited partners that are corporations, and seven limited partners that are individuals. The documents also provide additional relevant information concerning the status of the partners. Enrique Nieto Gomez, identified as an individual limited partner in the proposed report, appears to be a foreign national. 2 U.S.C. § 441e, 11 C.F.R. § 110.4(a). Also, three of the corporations, Montalcino N.V., Zoma Corporation N.V., and Salsdale Corporation N.V., appear to be foreign partners.² *Id.* This Office recommends the proposed report be amended to include these facts.

The Committee initially amended its reports to indicate that the in-kind contribution was from Carlos Salman, an individual partner in FCL.³ This amendment, however, did not cure the prohibited nature of the contribution because the office space which made up the in-kind contribution was owned by FCL, not Mr. Salman individually. The documentation supplied by the Committee shows no evidence that the profits or losses of either Mr. Salman or the other individual partners were effected by the contribution. Thus, this Office concurs with the conclusion of the proposed report that the profits of all corporate partners were effected by this transaction and therefore the in-kind contribution of \$7,290 appears to be from prohibited sources

² A corporation organized under the laws of a foreign country is included in the definition of "foreign national." 2 U.S.C. § 441e(b)(1).

³ The amended report was filed in response to a Reports Analysis Division inquiry concerning the identities of the FCL partners.

II. APPARENT PROHIBITED CONTRIBUTIONS TO BUSH-QUAYLE '92 GENERAL COMMITTEE (II.D.)

The Interim Audit Report addressed a series of Committee payments which appeared to be made in connection with the Bush-Quayle '92 general election campaign. The Interim Audit Report concluded that the Committee was not authorized to make expenditures in connection with Bush Quayle '92 under the national party's coordinated expenditure limitation,⁴ and recommended the Committee demonstrate that the payments were not made on behalf of Bush-Quayle '96 or were exempt from the definition of expenditure pursuant to 11 C.F.R. § 100.8(b)(16).⁵ In response to the Interim Audit Report, the Committee argued that the payments were inadvertent or for generic party building activities.

In a presidential campaign, a national party committee may make coordinated expenditures in connection with the general election campaign of a candidate for President subject to the monetary limit set forth in 2 U.S.C. § 441a(d)(2). 2 U.S.C. § 441a(d)(1). A state or local committee may make a coordinated expenditure in connection with a presidential campaign, but only if it is authorized by the national party and charged against the national committee's coordinated expenditure limitation. AO 1980-87; see 2 U.S.C. §§ 441a(d)(1) and (2), 11 C.F.R. § 110.7(a)(1) and (4). In determining whether a party expenditure for communicative activity is made "in connection with" a general election campaign for purposes of 2 U.S.C. § 441a(d), the Commission asks whether there is depiction of a clearly defined candidate and communication of an electioneering message. See AO 1985-14; AO 1980-119.⁶

This Office concurs with the proposed report's conclusion that the advertisement in the magazine *De Fronte* was not an expenditure by the Committee in connection with Bush-Quayle '92 because it concerned a local party member and contains only a passing reference the Bush campaign.

This Office also concurs with the proposed report's conclusion that the Committee did not demonstrate that the invitations to the opening of the Hialeah campaign headquarters were not made in connection with the Bush-Quayle '92 campaign. The invitations clearly identified the Bush-Quayle '92 campaign using the campaign's logo on both sides of the invitation, and

⁴ Pursuant to 2 U.S.C. § 441a(d)(2), the Republican National Committee coordinated expenditure limit for the 1992 presidential general election was \$10,330,702. As of December 31, 1993, the national committee reported spending \$10,330,965. Consequently, allocation by the national committee of the payments in question would have resulted in the national committee exceeding its authorized coordinated expenditure limit. 2 U.S.C. § 441a(d)(1).

⁵ This Office notes that the proposed report uses the phrase "on behalf of" in analyzing whether the Committee's expenditures were attributable to the Bush-Quayle '92 campaign. We recommend the phrase "on behalf of" be replaced with "in connection with" to correspond to the language of 2 U.S.C. § 441a(d)(1).

⁶ On June 26, 1996, the Supreme Court of the United States issued an opinion concerning party expenditures and the scope of 2 U.S.C. § 441a(d). *Clinton Foundation v. Federal Election Commission*, 514 U.S. 114 (June 26, 1996). This Office is presently reviewing the opinion and will provide supplemental legal comments, if necessary.

appeared to be for the purpose of opening a Bush-Quayle '92 campaign office. The Committee did not provide any documentation to prove its assertion that the invitation "inadvertently and inaccurately" used the name and logo of the Bush-Quayle '92 campaign. Moreover, this Office agrees that the invitations were not exempt from the definition of expenditure because the invitations were not distributed by volunteers. 11 C.F.R. § 100.8(b)(16)(iv)

This Office further agrees that the Committee did not demonstrate that the letter from Jeb Bush to "Fellow Republicans" or the radio advertisement purchased by the Committee were not made in connection with the Bush-Quayle '92 campaign. The Jeb Bush letter explicitly discussed the re-election of President Bush, and the Committee has represented that it is seeking reimbursement from Bush-Quayle '92 for the letter. The invoice of the Committee's radio advertisement specifically noted that it was for "re-elect Pres. G. Bush." The affidavit of Alberto R. Cardenas, stating that the expenditure was for "generic political ads" and that the text of the ads could not be located, does not demonstrate that Bush-Quayle '92 was not part of the advertisement, nor does it explain the discrepancy with the invoice. Moreover, neither of these items is exempt from the definition of expenditure because they are not "campaign materials."
11 C.F.R. § 100.8(b)(16)

In addition, this Office notes that the Jeb Bush letter and the radio advertisement purchased by the Committee are also not exempt from the definition of expenditure as voter registration and get-out-the-vote drives for presidential nominees. See 11 C.F.R. § 100.8(b)(18). The Jeb Bush letter, following a discussion of the re-election of President Bush, requested the recipient to complete the enclosed absentee ballot application if he or she could not go to the polls on November 3rd. Because the letter was processed by a direct mail vendor, it is not exempt. 11 C.F.R. § 100.8(b)(18)(i). Similarly, the Committee's radio advertisement was broadcast on radio, and thus it does not qualify for exemption. *Id.* The Office of General Counsel recommends the proposed report be revised to note that the Jeb Bush letter and Committee radio advertisement are not exempt from the definition of expenditure under 11 C.F.R. § 100.8(b)(18).



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

August 5, 1996

Mr. Andrew Gngsby, Treasurer
Republican Party of Dade County
362 Minorca Ave., #102
Coral Gables, FL 33132

Dear Mr. Gngsby:

Attached please find the Final Audit Report on the Republican Party of Dade County. The Commission approved the report on August 1, 1996.

The Commission approved Final Audit Report will be placed on the public record on August 12, 1996. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155 or toll-free at (800) 424-9530. Any questions you have related to matters covered during the audit or in the report should be directed to Sam Owusu or Tom Nurthen of the Audit Division at (202) 219-3720 or at the above toll free number.

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. Costa", written over a horizontal line.

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

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CHRONOLOGY

REPUBLICAN PARTY OF DADE COUNTY

Audit Fieldwork	2/16/95 - 4/14/995
Interim Audit Report to the Committee	1/23/96
Response Received to the Interim Audit Report	4/11/96
Final Audit Report Approved	8/1/96

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