



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 23, 1995

ATTENTION DAYBOOK EDITORS:

AUDIT REPORT ON REPUBLICAN STATE COMMITTEE OF DELAWARE

The Federal Election Commission has made available the final audit report on the Republican State Committee of Delaware.

CONTACT: FEC PRESS OFFICE (202) 219-4155, 999 E Street, N.W.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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August 23, 1995

MEMORANDUM

TO: RON M. HARRIS
PRESS OFFICER
PRESS OFFICE

FROM: ROBERT J. COSTA *Rh For RJC 8/23/95*
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
REPUBLICAN STATE COMMITTEE OF DELAWARE

Attached please find a copy of the final audit report and related documents on Republican State Committee of Delaware which was approved by the Commission on August 14, 1995.

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**

**Republican State Committee of
Delaware**

Approved August 14, 1995



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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FINAL AUDIT REPORT
ON
REPUBLICAN STATE COMMITTEE OF DELAWARE
EXECUTIVE SUMMARY

The Republican State Committee of Delaware (the Committee) registered with the Federal Election Commission on November 17, 1983 as State Committee for the Republican Party of Delaware.

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 at the completion of fieldwork on July 15, 1994 and later, in an interim audit report. The Committee's responses to those findings are included in this final audit report.

The following is an overview of the findings contained in the final audit report.

Shared Federal and Non-federal Activities - 11 CFR Sections 106.5 and 102.5(a). Committee reports, as initially filed, did not properly disclose information related to its shared federal and non-federal activities. Certain fundraising activity involving the Governor's Club, expenses related solely to the Committee's federal or non-federal activities, as well as \$212,333 in funding transfers from its non-federal account were either not disclosed or disclosed incorrectly. In response to the interim audit report, the Committee filed amendments which corrected the public record.

It was also noted that the Committee's non-federal account made approximately \$41,000 in transfers above its maximum funding level for shared expenses.

The Committee filed an amendment to recognize an outstanding debt owed to its non-federal account.

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Disclosure of Financial Activity, Contributions and Expenditures - 2 U.S.C. Sections 434(b)(1)-(5). Reported totals for receipts and disbursements were understated by \$214,688 and \$201,299 respectively, for the audit period covering calendar years 1991-92. Beginning and ending cash was also misstated. Further, contributions, totaling \$32,500, were not itemized; and the occupation and name of employer were not disclosed for \$37,600 in contributions which were itemized. Finally, reported entries related to 57 disbursements, totaling \$66,707, were either incomplete or inaccurate.

In response to the interim audit report, the Committee filed amendments which materially corrected the public record.

Receipt of Impermissible Funds - 11 CFR Section 102.6(a)(ii) and (iv). The Committee received \$4,000 from the Republican National State Elections Committee (RNSEC) corporate account.

The Committee refunded this impermissible contribution on May 23, 1995.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

REPORT OF THE AUDIT DIVISION
ON
REPUBLICAN STATE COMMITTEE OF DELAWARE

I. Background

A. Audit Authority

This report is based on an audit of the Republican State Committee of Delaware (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 investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

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 \$9,490; total receipts for the period of \$1,001,660; total disbursements for the period of \$949,105; and an ending cash balance of \$62,046.

C. Campaign Organization

The Committee registered with the Federal Election Commission on November 17, 1983 and maintains its headquarters in Wilmington, Delaware. The Treasurer of the Committee is Mr. Thomas John Shopa.

To handle its financial activity, the Committee used five bank accounts. The Committee received contributions from individuals and political party committees, as well as transfers from its non-federal account.

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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.F.);
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 (see Findings II.D. and E.);
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.G.);
5. Proper disclosure of campaign debts and obligations;
6. The accuracy of total reported receipts, disbursements and cash balances as compared to bank records (see Finding II.C.);
7. Adequate recordkeeping of campaign transactions;
8. Proper reporting and funding of allocable expenditures (see Findings II.A. and B.); and,
9. Other audit procedures that were deemed necessary in the situation.

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. Shared Federal and Non-federal Activities

Background

Our review encompassed activity related to six bank accounts; five of which were federal accounts and the sixth considered a non-federal account. As provided at 11 CFR 106.5(g)(1)(ii) and 102.5(a)(1), allocation of expenses between federal and non-federal activities by party committees, the Committee maintained two accounts from which expenses allocable

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between federal and non-federal activities were paid. The initial allocation account, opened in January 1991, paid all shared expenses from January 1, 1991 through February 28, 1991. Beginning March 1, 1991 this allocation account paid only the shared payroll expenses. The second allocation account, opened in March 1991, paid all shared expenses, except payroll, for the period March 1, 1991 through December 31, 1992.

All expenditures of the Committee as well as all payments related to the activities of the non-federal account were made from the allocation account, including expenditures made exclusively for federal purposes, exclusively for non-federal purposes, and for shared purposes.

It should also be noted that both allocation accounts, for the most part, operated as zero balance accounts, protected/funded by overdraft protection transfers from the non-federal account. In other words, each allocation account usually had a zero balance; a transfer(s) equal to the total value of checks presented for payment on a given day was made from the non-federal account. The sources of funds deposited in the non-federal account were contributions from individual donors, corporations, and corporate accounts of the national party, the majority of which would not be permissible contributions under the Act.

1. Allocation Ratios for Individual Fundraising Events, Exempt Party Activities, and Shared Direct Candidate Support - Schedule H-2

Section 106.5(a)(2)(ii) of Title 11 of the Code of Federal Regulations states, in part, that 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, that 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. This ratio shall be estimated prior to each such program or event based upon the committee's reasonable prediction of its federal and non-federal revenue from that program or event, and no later than the date 60 days after each fundraising program or event from which both federal and non-federal funds are collected, the committee shall

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adjust the allocation ratio for that program or event to reflect the actual ratio of funds received. If the non-federal account paid more than its allocable share, the committee shall transfer funds from its federal account, as necessary, to reflect the adjusted allocation ratio. If the federal account paid more than its allocable share, the committee shall make any transfers of funds from its non-federal account to its federal account to reflect the adjusted allocation ratio within the 60-day time period established by this paragraph.

Our review of fundraising activities for the period January 1, 1991 through September 30, 1992 indicated that no shared fundraising occurred.

During the period October 1, 1992 through December 31, 1992 however, the Committee conducted mailings for its Governor's Club membership. Previously, all Governor's Club receipts were deposited in the non-federal account. Beginning October 1, 1992, \$23,050 in permissible funds (66% of the total received) were deposited in the federal account.

Therefore, the Committee should have filed a Schedule H-2 for each report during this period, disclosing the Governor's Club fundraising activity and the associated 66/34 allocation ratio.

2. Transfers from Non-Federal Accounts - Schedule H-

Sections 106.5(g)(1)(ii) of Title 11 of the Code of Federal Regulations state, in part, that a committee 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. The committee shall transfer funds from its federal and non-federal accounts to its allocation account in amounts proportionate to the federal or non-federal share of each allocable expense.

During the period January 1, 1991 through December 31, 1992, the Committee reported, on Schedule H-3, receiving transfers, totaling \$619,603, from the non-federal account to fund shared expenses. However, the Audit staff identified \$831,936 in transfers actually made. Consequently, transfers from the non-federal account, totaling \$212,333, were not reported by the Committee (see Findings II.B. Apparent Over-funding by Non-federal Account and II.C. Misstatement of Financial Activity).

3. Disbursements for Shared Activity - Schedule H-4

Section 106.6(e)(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

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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.

During the period January 1, 1991 through December 31, 1992, the Committee reported, on Schedule H-4, disbursements for shared activities totaling \$734,438. All disbursements reported on Schedule H-4 were allocated 25 percent federal and 75 percent non-federal, the allocation ratio disclosed on Schedule H-1 for use in allocating administrative expenses and generic voter drive costs.

As previously noted, the Committee maintained two allocation accounts for use in payment of expenses for shared activities. However, it should be noted that all expenses related solely to non-federal or solely to federal activities were paid by the allocation account(s). For example, expenditures for mailings, the proceeds of which were deposited in a federal account, were made from the allocation account. Coordinated expenditures made pursuant to 2 U.S.C. 441a(d)(2) also were made from the allocation account. On the non-federal side, expenditures for mailings and events, the proceeds of which were deposited in the non-federal account, were also made from the allocation account.

Moreover, expenses related to the Governor's Club mailing conducted in October 1992 were allocated 25 percent federal and 75 percent non-federal rather than the actual 66 percent federal and 34 percent non-federal.

The practices described above resulted in a material misstatement of the amount of actual shared expenses. In addition, our analysis indicated that the non-federal account funded more than its allocable portion of shared expenses (see Finding II.B.).

Based on our review of reports and discussions with Committee personnel, it was apparent that the reporting requirements for Schedules H-2, H-3, and H-4 were not understood fully at the time reports were prepared and filed. However, activity occurring subsequent to the period covered by the audit appears to have been reported correctly, based on our limited review of this activity and discussions with Committee personnel, including its outside consulting firm.

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In the Interim Audit Report the Audit staff recommended that, the Committee:

- file amended Schedules H-2 for the period October 1, 1992 through December 31, 1992 disclosing the Governor's Club mailing, the 66% federal/34% non-federal allocation ratio, and the unique event identifier;
- file amended Schedules H-3 for the audit period, disclosing all transfers from the non-federal account;
- file amended Schedules H-4 for the audit period, disclosing only disbursements in payment of the cost of shared administrative and generic voter drive expenses (25/75) and disbursements associated with the Governor's Club mailing (66/34) noted above. All disbursements representing 100% federal or 100% non-federal activity should be deleted; and,
- file amended Schedules B for all 100% federal (line 21b) and all 100% non-federal (line 29) activity previously disclosed on Schedules H-4.

In response to the Interim Audit Report, the Committee filed the recommended schedules on July 19, 1995 that materially corrected the reporting errors for Schedules H-2, H-3 and H-4.

B. Apparent Over-funding by the Non-federal Account

Section 106.5(g)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that any portion of a transfer from a committee's non-federal account to 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.

During the audit period, the Committee's federal accounts transferred \$251,171 to the allocation accounts, while the non-federal account transferred \$189,500 by check and \$642,436 in the form of overdraft protection transfers from the non-federal account.

The Audit staff reviewed all transactions disclosed on Schedule H-4 to determine if the Committee's federal account paid its allocable amount of shared expenditures. It appears that at a minimum, \$40,196 in federal expenses were funded by the non-federal account.

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In the Interim Audit Report the Audit staff recommended that, the Committee demonstrate that the non-federal account did not over-fund its portion of shared expenses or refund the over-funded amount to the non-federal account, and provide documentation in support of the refund.

In response to the Interim Audit Report, the Committee filed a Schedule D disclosing an outstanding debt of \$40,867 to the non-federal account for over payment of its shared expenses. Expenditures associated with the Governor's Club mailing were allocated 25% federal as opposed to the correct federal allocation of 66%. Thus, when these expenditures were properly allocated the amount over-funded by the non-federal account increased from \$40,196 to \$40,867.*/

C. 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 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

Beginning cash on hand was overstated by \$20,211; the Committee reported as cash on hand the balance per bank statement rather than its book balance.

Receipts were understated by \$85,448, primarily due to not reporting \$84,248 in transfers made from the non-federal account to the allocation account.

Disbursements were understated by \$74,503, primarily due to not reporting \$74,543 in disbursements made from the allocation account.

Ending cash on hand was overstated by \$9,267, the net result of the misreporting noted above.

1992

Beginning cash on hand was overstated by \$9,267, carried forward from the 1991 year-end reported balance.

*/ In its July 31 Mid-Year Report (January 1, 1995 through June 30, 1995), the Committee disclosed no debts outstanding.

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Receipts were understated by \$129,240, primarily due not reporting transfers, totaling \$128,085, made from the non-federal account.

Disbursements were understated by \$126,796, primarily due to not reporting \$125,791 in disbursements made from the allocation account.

Ending cash on hand was overstated by \$6,823, the net result of the misreporting noted above.

Committee officials were made aware of these discrepancies during the exit conference and agreed to file the necessary amendments.

In the Interim Audit Report the Audit staff recommended that, the Committee file comprehensive amendments for 1991 and 1992 to correct the reporting deficiencies noted above.

In response to the Interim Audit Report, the Committee filed comprehensive amendments for 1991 and 1992 which corrected the reporting deficiencies.

D. Itemization of Contributions

Section 434(b)(3)(A) of Title 2 of the United States Code states that each report filed under this section shall disclose the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines identification in the case of any individual, as the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Our review of contributions from individuals indicated that 74 contributions, totaling \$32,500, were not itemized as required. The majority of these contributions were received between September 18 and September 21, 1992. The contributions were recorded in the Committee's data base; however, there was no apparent reason as to why the contributions were not itemized on the Committee's report.

This matter was discussed with Committee representatives at the exit conference. At which time the Committee expressed a willingness to file amended disclosure reports.

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In the Interim Audit Report the Audit staff recommended that, the Committee file amended Schedules A to itemize the above contributions.

In response to the Interim Audit Report, the Committee filed amended Schedules A which corrected the itemization errors.

E. Disclosure of Occupation and Name of Employer

Section 434(b)(3)(A) of Title 2 of the United States Code states, that each report shall disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such contribution.

Section 431(13)(A) of Title 2 of the United States Code defines the term "identification" as, in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Section 102.9(d) of Title 11 of the Code of Federal Regulations states, in part, that in performing recordkeeping duties, the treasurer of his or her authorized agent shall use his or her best efforts to obtain, maintain, and submit the required information and shall keep a record of such efforts.

Section 104.7(a) and (b) of Title 11 of the Code of Federal Regulation states, in part, that if best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act. The treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by a written request or by an oral request documented in writing to obtain such information from the contributor. For purposes of 11 CFR 104.7(b), such effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, and name of employer) which request informs the contributor that the reporting of such information is required by law.

The Audit staff conducted a review of receipts to determine if the required information, for receipts required to be itemized, was adequately disclosed. It was noted that 74 itemized contributions, totaling \$37,600, did not contain the contributor's occupation and name of employer. Further, solicitation materials made available for review did not contain a request for the occupation and/or name of employer.

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The Committee was informed of this matter during the exit conference and agreed to file amended disclosure reports.

In the Interim Audit Report the Audit staff recommended that, the Committee contact all contributors who did not provide the required contributor information and file amended Schedules A to correct the public record.

In response to the Interim Audit Report, the Committee filed amended Schedules A which materially disclosed the requested information for contributor occupation and name of employer.

F. Receipt of Impermissible Funds

Section 102.6(a)(ii) of Title 11 of the Code of Federal Regulations states that transfers of funds may be made without limit on amount between or among a national party committee, a State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated.

Section 102.6(a)(iv) of Title 11 of the Code of Federal Regulations states that transfers under paragraphs (a)(1)(i) through (iii) shall be made only from funds which are permissible under the Act.

The Audit staff's review of contributions from party committees revealed that on October 2, 1992 the Committee received \$4,000 from the Republican National State Elections Committee (RNSEC). Accompanying this contribution was a letter, from the RNSEC, stating the check was drawn on its non-corporate account. However, an inspection of the check copy indicated that it was drawn on the RNSEC's corporate operating account. It should be noted that the RNSEC did not make another contribution to the Committee or to the Committee's non-federal account during this period.

This matter was brought to the Committee's attention during the audit. The Committee expressed a willingness to refund this contribution.

In the Interim Audit Report the Audit staff recommended that, the Committee provide evidence that the contribution was not funded from corporate sources, or refund the \$4,000 to the RNSEC and provide evidence of the refund.

In response to the Interim Audit Report, the Committee submitted to the Audit staff a photocopy of a \$4,000 check dated May 23, 1995 payable to RNSEC.

G. Disclosure of Expenditures

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 a committee operating expense, together with the date, amount, and purpose of such operating expenditure.

Section 104.3(b)(3)(i)(A) and (B) of Title 11 of the Code of Federal Regulations states, in part, that purpose means a brief statement or description of why the disbursement was made. Examples of statements or descriptions which meet the requirements include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursements, and catering costs. However, statements or descriptions such as advance, election day expenses, other expenses, expenses, expense reimbursements, miscellaneous, outside services, get-out-the-vote and voter registration would not meet the requirements of 11 CFR 104.3(b)(3) for reporting the purpose of an expenditure.

During the Audit staff's review of disbursements, it was noted that the Committee did not provide adequate disclosure for 30 itemized disbursements, totaling \$35,280. The Committee repeatedly used "Event Expense or Event Supplies" as the purpose for payments made to the U.S. Postmaster, American Express, direct mail companies, and to many other vendors. In addition, the Committee provided incorrect dates, amounts, and incomplete addresses for 27 other disbursements, totaling \$31,427.

The Committee representatives were informed of this matter during the exit conference. It was the Committee's opinion that "event expense" was adequate.

In the Interim Audit Report the Audit staff recommended that, the Committee file amended Schedules B to properly disclose these disbursements.

In response to the Interim Audit Report, the Committee filed Schedules B which materially corrected the public record.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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August 16, 1995

Mr. Thomas J. Shopa, Treasurer
Republican State Committee of Delaware
2 Mill Road
Wilmington, DE 19806

Dear Mr. Shopa:

Attached please find the Final Audit Report on Republican State Committee of Delaware. The Commission approved the report on August 14, 1995.

The Commission approved Final Audit Report will be placed on the public record on August 23, 1995. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. 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 toll free at (800) 424-9530.

Sincerely,

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

Celebrating the Commission's 20th Anniversary

YESTERDAY TODAY AND TOMORROW
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CHRONOLOGY

REPUBLICAN STATE COMMITTEE OF DELAWARE

Audit Fieldwork	6/6/94 - 7/15/94
Interim Audit Report to the Committee	5/3/95
Response Received to the Interim Audit Report	7/19/95
Final Audit Report Approved	8/14/95

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