



# FEDERAL ELECTION COMMISSION

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WASHINGTON, D.C. 20463

## REPORT OF THE AUDIT DIVISION ON THE SHAPP FOR PRESIDENT COMMITTEE

### I. Background

This report covers an audit of The Shapp for President -Committee ("the Committee") undertaken by the Audit Division of the Federal Election Commission to determine whether there has been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(a)(8) of the Act and Section 9038(a) of Chapter 96 of the Internal Revenue Code of 1954. Section 438(a)(8) of the Act directs the Commission "to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this chapter, and with respect to alleged failures to file any report or statement required under the provisions of this chapter, and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under Chapter 95 or Chapter 96 of the Internal Revenue Code of 1954." Section 9038(a) of Chapter 96 provides 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 receive payments under Section 9037."

The Committee registered with the Federal Election Commission on June 25, 1975 as the principal campaign committee for Governor Milton J. Shapp's presidential campaign. The officers of the Committee for the period covered by the audit were Mr. Henry A. Satterwhite, Chairman, and Mr. G. Thomas Miller, Treasurer. The Committee had one authorized state committee, the Florida Shapp for President Committee. This Committee was authorized by the Shapp for President Committee on December 9, 1975, and it registered with the Commission on January 2, 1976. The officers of this Committee for the period audited were Ms. Louise Tayler, Chairman, and Mr. Roger Friedland, Treasurer.



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The audit covered the period June 26, 1975, through June 30, 1976. During this period the Shapp for President Committee reported beginning cash of -0-, total receipts of \$913,755.57, total expenditures of \$907,334.01 and closing cash of \$6,421.56. The Florida Shapp for President Committee reported beginning cash of -0-, total receipts of \$62,210.00, total expenditures of \$62,210.00 and closing cash of -0-.

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

## II. Findings and Conclusions

### 1. Disclosure of Principal Campaign Committee

Section 432(e)(1) of Title 2, United States Code requires a candidate for Federal office to designate a political committee as his principal campaign committee. Part 101.2(a) of the Commission's Regulations requires in part that a candidate disclose this designation within thirty (30) days after he becomes a candidate.

A pre-audit review of Commission records failed to disclose such an authorization. Officials of the Shapp for President Committee were able to produce a letter dated June 20, 1975, from Governor Shapp to Mr. Miller, the Committee Treasurer, designating this Committee as the principal campaign committee but the Committee did not know if it had been filed.

#### Recommendation

The staff recommended that this letter be filed with the Commission. This letter, with a FEC Form 2, was subsequently filed with the Commission on August 9, 1976. Since the Candidate has now filed the appropriate information, no further action is recommended.

### 2. Timely Filing of Reports

Section 434(a)(3) of Title 2, United States Code, states in part that the Commission may require monthly reporting by Presidential candidates and their committees. On January 19, 1976, the Commission directed such committees to file monthly reports.

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A review of Commission records revealed that the Florida Shapp for President Committee failed to file reports due on May 10, June 10, and July 10, 1976. During the field work the Committee was informed of these missing reports.

Recommendation

Subsequently, on August 5, 1976, the Commission received the report due on May 10, 1976. This report showed no cash-on-hand and no debts and obligations outstanding. On August 16, 1976, Mr. Roger Friedland, Treasurer of the Florida Shapp for President Committee, filed a termination letter with the Commission stating the May 10, 1976 report was the final report of the Committee. Since the Committee has now filed all reports due, no additional action is recommended.

3. Disclosure of Depositories

Section 433(b)(9) of Title 2, United States Code, requires a political committee to disclose in its Statement of Organization all banks, safety deposit boxes, or other depositories used. Section 433(c) of Title 2, United States Code, requires a political committee to report any changes in information previously submitted in a Statement of Organization within ten days following the change.

Our review disclosed that the Shapp for President Committee maintained an account at the New England Merchants National Bank, Boston, Massachusetts, which was neither disclosed in the original Statement of Organization, nor in any amendments to that Statement.

Recommendation

It was our recommendation that an amended Statement of Organization be filed to disclose this information. On August 23, 1976, the Commission received an amendment to the Statement of Organization containing this information. Since the Committee has filed an amendment to disclose this information no further action is recommended.

4. Forgiveness of Debts and Obligations

Section 431(e)(4) of Title 2, United States Code requires in part that, although not a contribution, accounting services rendered to a political committee, solely for the purpose of ensuring compliance with the provisions of the Act, shall be reported.

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A review of the Committee records indicated that accounting services for compliance with the Act, performed for the Committee and previously billed, were forgiven on May 18, 1976. This forgiveness amounted to \$3,258.50.

Recommendation

We recommended that an amendment to the June 10, 1976 report be filed to disclose this forgiveness. On August 23, 1976, the Commission received an amendment to the June 10, 1976, report containing this information. Since the Committee has filed an amendment to disclose this information no further action is recommended.

5. Disclosure of Debts and Obligations

Section 434(b)(12) of Title 2, United States Code, requires in part that a committee report continuously the amount and nature of debts and obligations owed and the circumstances and conditions under which the debt or obligation is extinguished.

The pre-audit review indicated a debt of \$9,983.59 owed to a vendor in the report covering the period March 1, through March 31, 1976. The report for the period April 1, through April 30, 1976 failed to disclose this debt owed or the circumstances under which the debt was extinguished.

A committee official explained that this creditor handled all the advertising for the campaign. The creditor would bill the campaign monthly, listing all expenses incurred and credits for payments, refunds and adjustments. Based on the creditor's April statement, the Committee felt that this debt had been liquidated through their previously reported payments and the credits to the accounts for advertising refunds and adjustments. Since they felt the debt was extinguished, they did not include it on their Schedule C debts and obligation statement for the period April 1, through April 30, 1976. Since no payment was made, they felt there was nothing additional to disclose.

Committee officials further advised that at the time of the audit they had received a bill from this creditor showing the outstanding balance at approximately \$14,000.00. The Committee was disputing this billing under the assumption that the debt had been extinguished.

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The Audit staff recommended to the Committee that they disclose this debt, although in dispute, on their current filings. We further advised that they annotate this disclosure to indicate their dispute with this creditor. Since the exact status of the debt was unknown at the time of the audit, no recommendation for amending previously filed reports was made. A review of the records relating to this creditor did reflect billings and credits resulting in a balance due by the Committee of \$14,766.58.

Recommendation

The Committee staff, during the audit, did agree to report this debt and to report any changes which might occur until it was fully extinguished. On August 12, 1976, the Commission received the Committee's report for the period July 1, through July 31, 1976. This report did disclose the amount of debt as \$14,766.58 and contained an explanation of the circumstances resulting in the omission of this debt from the April report. No further action is recommended.

III. Repayment of Presidential Primary Matching Payments

Section 9033(b) of Title 26, United States Code, states in part that a candidate shall certify to the Commission that he has received matching fund payments, which in the aggregate exceed \$5,000 in contributions from residents of at least 20 states and the aggregate contributions with respect to any person does not exceed \$250, in order to be eligible to receive matching fund payments.

Section 9038(a) of Title 26, United States Code, requires the Commission to conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received payments under Section 9037.

Section 9038(b)(1) of Title 26, United States Code, provides that if the Commission determines that any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount of payments to which such candidate was entitled under Section 9034, it shall notify the candidate, and the candidate shall pay to the Secretary or his delegate an amount equal to the amount of excess payments.

On January 29, 1976, the Commission certified to the Secretary of the Treasury that Governor Milton J. Shapp was entitled to payments in the amount of \$100,000 <sup>1/</sup> based on documentation submitted by him to the Commission pursuant to Section 9033 of Title 26, United States Code.

1/ The Commission certified a total entitlement of \$299,066.21.

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Documentation submitted to the Commission during the period November 17, 1975, through January 23, 1976, included the candidate's certification letter stating that he had received matching contributions which in the aggregate exceeded \$5,000 in contributions from each of 20 states.

In the normal course of carrying out its supervisory responsibilities, the Commission conducted a thorough examination and audit of the qualified campaign expenses of Governor Shapp and his authorized committees. As a result of this examination, evidence was found that certain persons and an apparent corporation had made contributions in the names of others. These contributions were among those submitted as evidence that the candidate had qualified for matching funds.

The Commission's examination focused on interviews with listed contributors and an analysis of Shapp for President Committee records. This examination disclosed that in at least five of the twenty states used by the candidate in his "threshold submission," certain contributions were included for which the funds had not been provided by the purported contributors. If these improperly included payments are subtracted from the total threshold submission for each of the five states, the candidate failed to meet the threshold requirements in those five states. Even if the matching contributions in the remaining fifteen states were all counted, the candidate did not meet the twenty state threshold requirement.

Based on the above-mentioned evidence disclosed in the Commission's audit and examination, the Commission found on May 12, 1977, that Governor Milton Shapp did not receive matching contributions which in the aggregate exceeded \$5,000 in contributions from residents of each of at least 20 states. The Commission further found that he was not entitled to the matching fund payments certified by the Commission.

On the basis of its findings the Commission determined that all matching payments received by Governor Shapp were in excess of the amount of payments to which he was entitled. The Commission therefore directed Governor Shapp to pay to the Secretary of the Treasury an amount equal to the \$299,066.21 in Federal matching payments he received. On July 19, 1977 the Commission received a check from Governor Milton J. Shapp for \$299,066.21 as repayment of the Federal matching funds he had received.

Other audit findings relating to the repayment are under continuing consideration subject to the confidentiality requirements of Section 437g of Title 2, United States Code.

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Recommendation

Since the entire amount of funds received has been repaid, no further repayment is necessary.

IV. Auditor's Statement

It is the opinion of the Audit staff that the Shapp for President Committee did not conduct their activities in conformity with the Federal Election Campaign Act of 1971, as amended, nor with the provisions of Chapter 96 of Title 26, United States Code. However, -except for the matters specifically noted in this report, the reports of the Shapp for President Committee fairly present the financial activity of the Committee for the period covered by the audit.

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SEPARATOR