

November 1994

BATTLE OF NORMANDY FOUNDATION

Uncertainties Surround Its Future Viability





Accounting and Information
Management Division

B-259129

November 4, 1994

Congressional Requesters and Congressional Committees

As required by the World War II 50th Anniversary Commemorative Coins Act (Public Law 102-414), this report presents the results of our audit of the use of \$3 million in U.S. Treasury coin surcharge proceeds by the Battle of Normandy Foundation for the creation of the United States Armed Forces Memorial Garden in Normandy, France. The Battle of Normandy Foundation is a private, nonprofit organization formed in 1985 to honor America's World War II veterans and teach future generations about the war. In addition to the Memorial Garden, the Foundation's activities have included providing financial support for a World War II memorial museum in Normandy; sponsoring a Normandy scholar program which educates university students in the history of World War II and the Battle of Normandy; and the planned creation of a Wall of Liberty in Normandy to honor World War II veterans involved in the European theater of operations.

The Foundation has generally funded its operations through donations solicited from veterans, private citizens, and corporations. From its inception through December 31, 1993, the Foundation had received \$14.7 million in total funding, including \$3 million provided by the U.S. Treasury in accordance with the World War II Commemorative Coins Act. Other funding through 1993 came primarily from corporate and membership contributions, including \$1.5 million for the Wall of Liberty project.

Results in Brief

The Foundation has experienced significant managerial and financial problems. Specifically, the Foundation has been plagued with upper management problems, recently having to appoint its fourth president in 6 months and change the leadership of its Board of Directors. Also, the Foundation's liabilities substantially exceed its assets. Unless the Foundation obtains sufficient current and future funding and achieves and maintains management stability, it is uncertain whether it can pay the current and future costs of operating and maintaining the Memorial Garden, and whether other projects, such as the Wall of Liberty, will proceed.

Our audit confirmed that the Battle of Normandy Foundation spent the \$3 million it received in 1993 from the U.S. Treasury for the design and

construction of the United States Armed Forces Memorial Garden in Normandy, in accordance with the Coins Act. The total recorded cost of the Memorial Garden through June 30, 1994, was \$3.6 million; however about \$400,000 was still owed to Memorial Garden contractors as of that date. Battle of Normandy Foundation officials concurred with a draft of this report. (See appendix I.)

Background

The Foundation, originally incorporated in Washington, D.C., in 1985 as the U.S. Committee for the Battle of Normandy Museum, is a private nonprofit organization, tax-exempt under section 501(c)(3) of the Internal Revenue Code and is not part of the U.S. government. In published literature, the Foundation has described the purposes of its programs to be (1) honoring America's World War II veterans and (2) teaching future generations the causes and consequences of World War II.

The Foundation's activities, which center around promoting public awareness of the historical significance of America's participation in the liberation of Europe, have included building and promoting the Memorial Garden to commemorate D-Day and the Battle of Normandy; providing financial support for a French-owned and operated World War II memorial museum in the city of Caen, France; circulating newsletters to contributing members of the Foundation; sponsoring a Normandy scholar program, which educates university students in the history of World War II and the Battle of Normandy; and planning and promoting a Wall of Liberty in Normandy to honor World War II veterans involved in the European theater of operations.

On October 14, 1992, the World War II 50th Anniversary Commemorative Coins Act was passed, directing the Secretary of the U.S. Treasury to mint and issue commemorative World War II coins with specified denominations and metallic content. It also directed the Treasury to sell the coins at a price equal to the sum of (1) the face value of the coins, (2) the cost of designing and issuing the coins, and (3) surcharges.

The Coins Act specified that the first \$3 million in surcharges received by the Treasury from the sale of coins be transferred to the Battle of Normandy Foundation and used by the Foundation to create, endow, and dedicate, on the 50th Anniversary of D-Day, a United States D-Day and Battle of Normandy Memorial in Normandy. The Coins Act also specified that the next \$7 million in surcharges received from the sale of coins be made available to the American Battle Monuments Commission for the

purpose of establishing a World War II memorial in or around Washington, D.C. Any amounts received by the Treasury in excess of \$10 million were to be distributed to the two entities in the same 30 percent to 70 percent ratio. The coins were minted and sold by the Treasury and \$3 million was transferred to the Foundation in 1993.

In March 1994, the U.S. Mint reported to the Congress that, through February 1994, \$7.6 million in surcharges had been generated and that it would continue coin sales through June 1994 but was not expecting any significant increase to the overall total. Therefore, additional funds are not expected to be available to the Foundation under the Coins Act.

The Coins Act stipulated that the funds were also to be used by the Foundation to encourage and support visits to the memorial by United States citizens, especially students. We are required by the act to audit the Foundation's use of any Treasury funds it receives under the act.

In September 1993, the Foundation obtained approximately 2.5 acres of land adjacent to the World War II memorial museum in Caen, under a 99-year lease with the local government, and the Foundation constructed the Memorial Garden on this land. While the lease calls for a nominal annual rental payment of one French franc, it requires the Foundation to fund the costs of operating and maintaining the Memorial Garden and land for the entire lease term.

In 1993, the Foundation began promoting a Wall of Liberty, which it planned to build in Normandy. For a fee of \$40, the name of an American who served in the European theater of operations (which included Europe, North Africa, and the Mediterranean) is registered for inscription on the still-to-be constructed wall. The Foundation stated that it requested additional financial support for the wall from individuals, corporations, and other foundations in order to register veterans who may be unable to contribute the \$40.

The Foundation has employed independent certified public accountants (CPA) to perform annual audits of its financial statements. The Foundation's independent CPA firm issued its most recent audit report on the Foundation's calendar year 1993 financial statements in late August 1994.

In the summer of 1993, allegations of financial impropriety were made against the Foundation and its then president, Anthony C. Stout, in a series

of articles which appeared in a Washington, D.C., newspaper. These, and certain other allegations which focused on the viability of the Wall of Liberty project, subsequently appeared in the national media.

On July 30, 1993, the Foundation's Board of Directors appointed a special committee to investigate certain allegations, and the committee employed another public accounting firm to assist it by reviewing certain aspects of the Foundation's financial management. In January 1994, the special committee concluded its investigation and reported that the Foundation had met its stated corporate goals and that accusations against Mr. Stout were unsupported.

Objectives, Scope, and Methodology

Under the Coins Act, we are required to audit the transfer of surcharge coin proceeds—and any interest earned thereon—from the Treasury to the Foundation and determine if these funds were used for the design and construction of the Memorial Garden in Normandy.

During our audit of the Memorial Garden, we noted significant financial problems at the Foundation and received congressional inquiries regarding the Wall of Liberty and the Foundation's finances. We, therefore, made additional inquiries regarding the current overall financial condition of the Foundation and the financial condition's impact on operations, including the current and future maintenance of the Memorial Garden and the progress of the wall project. Also, we were asked by congressional committees to follow up on three specific media allegations involving the Foundation.

In carrying out our work, we

- reviewed historical and current Foundation financial information, including audited financial statements, federal income tax returns, minutes of Board of Directors' meetings, pertinent agreements, and other financial reports;
- interviewed current and former Foundation officials regarding financial matters, including management's plans for current and future financial operations;
- obtained from the U.S. Mint, Department of the Treasury, documentation on the payment of surcharge coin proceeds to the Foundation;
- verified selected interest income payments to Foundation bank accounts and performed analytical reviews of selected interest payments through June 30, 1994;

- traced a sample representing over 95 percent of Memorial Garden design and construction costs through June 30, 1994, to payment vouchers, invoices, and construction manager approvals;
- traced selected accounting, legal, and consulting costs for the Memorial Garden through June 30, 1994, to payment vouchers and invoices;
- reviewed the computations and reasonableness of the Foundation's general and administrative overhead allocation rates and selected salary allocations charged to the Memorial Garden project through June 30, 1994;
- examined progress and final construction photographs of the Memorial Garden and interviewed officials at the office of the construction manager in New York City who were responsible for the Memorial Garden construction;
- read the Independent Review Committee's January 7, 1994, report on its investigation and reviewed the work performed by the public accounting firm which assisted the committee;
- interviewed a U.S. Department of Defense official who was referred to in a newspaper article as implying that the Foundation had acted improperly in promoting tours to Normandy; and
- read the travel brochure published by the tour company that contracted with the Foundation.

Since the Foundation received a \$3 million federal award in 1993 for the Memorial Garden, the Foundation's independent CPA firm, in accordance with Office of Management and Budget Circular A-133, reported on the Foundation's internal control structure and its compliance with applicable laws and regulations. We relied on these reports and the work of the CPA firm, and did not perform an independent comprehensive review of the Foundation's overall accounting system or internal controls. We performed our work primarily in Washington, D.C., from September 1993 through August 1994. Our audit was performed in accordance with generally accepted government auditing standards.

Overall Financial Condition

The Foundation has experienced significant managerial, financial, and internal control problems, and its liabilities substantially exceed its assets. The Foundation's precarious financial condition casts doubt on whether it can continue its operations.

Financial management problems at the Foundation were acknowledged in the January 1994 report of the special committee which investigated media allegations against the Foundation and Mr. Stout. In a November 1993 report, the public accounting firm which assisted the Foundation's special

committee, identified internal control weaknesses and recommended improving the Foundation's internal controls governing financial management. Financial management problems included weak internal controls over transactions between the Foundation and its now former president, Anthony C. Stout, and a lack of formal written policies and procedures for travel and expense reimbursements.

The committee report recommended specific management changes including that a full-time chief executive be employed as president in place of Mr. Stout, who had generally held the position on a part-time, unsalaried basis, and that Mr. Stout be elected Chairman of the Foundation's Board of Directors or its Executive Committee. The Foundation announced 26 steps to resolve identified problems, including plans to require formal Board approval of all related party transactions, the adoption of formal written travel and expense reimbursement policies, and the hiring of a full-time president.

Following the committee's report, the Foundation experienced turnover in its management and leadership. Mr. Stout resigned as president in February 1994 and was elected by the Board as Chairman of the Foundation's Executive Committee. The Foundation hired a new full-time president; however, he resigned the position after 3 months and another new president was hired. The Foundation's executive director resigned in April 1994. In June 1994, about the time of the D-Day commemoration and the dedication of the Memorial Garden, several Foundation staff members were suspended after publicly attributing Foundation financial difficulties to Mr. Stout's interference and financial mismanagement. At the same time, the Foundation's recently-hired president also resigned. Mr. Stout resigned as Chairman of the Executive Committee in late June, but remained on the Board of Directors.

In July 1994, the Foundation announced a major management restructuring which included electing two new co-chairmen of the Board of Directors, appointing a new president (the Foundation's fourth since February) and a new chief financial officer, and rehiring of the executive director who had resigned in April. In addition, the Foundation announced that Mr. Stout had resigned from the Board of Directors. Foundation management told us that it had formulated a business plan designed to place the Foundation on a financially viable course and that it had developed a list of operational reforms to correct deficiencies in the Foundation's corporate governance and financial management.

The Foundation's recently issued 1993 audited financial statements show that as of December 31, 1993, it had accumulated a financial deficit of about \$727,000. The notes to the financial statements stated that the Foundation has been the subject of controversy in certain newspaper articles and that this has affected fund-raising.

In July 1994, Foundation officials gave us a document which disclosed that the Foundation's liabilities continued to substantially exceed its assets. The document also showed that of the approximately \$2.5 million in contributions it had received for its Wall of Liberty project, about \$1.1 million had been used by the Foundation to pay for other projects' costs and operating expenses.

Based on the information contained in Foundation financial records and reports, and interviews with Foundation officials, it appears that unless the Foundation obtains significant amounts of new donations or other sources of funding, now and in the future, the Foundation will not be able to meet its financial and operational responsibilities related to the Memorial Garden. Also, the precarious financial condition casts doubt on whether other projects, such as the Wall of Liberty, will proceed.

Use of Coins Act Proceeds to Construct Memorial Garden

Our audit showed that the Treasury transferred \$3 million in surcharge coin proceeds to the Foundation on June 21, 1993. These funds were deposited in Foundation bank accounts, and as of June 30, 1994, interest of \$73,152 had been earned. Our audit also showed that total design, construction, and other costs of the Memorial Garden recorded by the Foundation through June 30, 1994, were \$3.6 million, and the \$3.0 million received from the U.S. Treasury in Coins Act surcharge proceeds, plus interest earned thereon, were used toward funding these costs. As of June 30, 1994, the Foundation's recorded cost included about \$400,000 still owed to Memorial Garden contractors.

In September 1993, the Foundation began construction of the Memorial Garden and dedicated it in a D-Day commemoration ceremony on June 5, 1994. The Memorial Garden is located in the city of Caen, adjacent to a World War II museum known as Le Memorial. The museum is operated by a French nonprofit organization whose majority shareholder is the city of Caen, and one of the Foundation's projects has been to provide financial support to the museum. The Memorial Garden occupies approximately 2.5 acres and consists of a granite fountain shaped like a pair of hands, symbolizing the giving of American lives to save the European allies. The

fountain contains a “Wall of States,” which is a display of stones native to the 50 states and several U.S. territories. On the stones are engraved seals, flags, or military emblems. A waterfall flows from the fountain into a pond. The stone walkway approach to the Memorial Garden winds through a grove of trees and is bordered by flowering shrubs and ornamental grasses.

The Foundation’s direct and indirect costs for the Memorial Garden recorded as of June 30, 1994, are shown in table 1.

Table 1: Schedule of Costs for Memorial Garden Recorded Through June 30, 1994

Construction	\$2,421,752
Design	586,881
Accounting and legal costs	82,086
Consultants	57,279
General and administrative costs	413,730
Total	\$3,561,728

Construction costs include the (1) cost and sculpturing of granite, (2) material and labor for concrete and forms for the fountain and other structures, and (3) landscaping. Design costs consist of the services provided by American and French architects. Accounting and legal costs include legal services from a French law firm, and consultants’ costs include those for photographs and security of the construction site. General and administrative costs consist primarily of travel costs and Foundation overhead charged to the project.

The costs of the Memorial Garden have exceeded the amounts provided by the Coins Act, and additional Memorial Garden funding came, or needs to come, from other sources. Because of the Foundation’s current financial condition, it is uncertain whether the Foundation will be able to fund future costs of operating and maintaining the Memorial Garden.

Media Allegations

Congressional requesters asked us to follow up on three of the several allegations which initially appeared in a Washington, D.C., newspaper.

Allegation one: The Foundation spent most of its revenues from 1986 to 1992 for purposes not related to its stated program activities.

The Foundation, as a private, nonprofit corporation chartered in the District of Columbia, is required to conduct its activities in accordance with the District of Columbia Nonprofit Corporation Act and the Internal Revenue Code for tax exempt organizations. However, the Internal Revenue Service and the District of Columbia do not specify spending criteria for nonprofit organizations.

The Council of Better Business Bureaus, which promotes ethical practices and promulgates operating standards for charitable organizations, suggests that organizations such as the Foundation annually spend at least 50 percent of their revenues on program activities directly related to their stated purpose. The National Charities Information Bureau, which promotes informed giving and a vigorous and responsive philanthropic sector, suggests in its standards that a charitable organization spend at least 60 percent of its annual expenses for program activities.

The Foundation's audited financial statements for 1986 through 1992, the period covered by the allegation, and other financial records, such as tax returns, showed that the Foundation had spent approximately 63 percent of its revenues—61 percent of its expenses—for its stated program activities, such as member services, museum support, and the Normandy scholar program. For 1993, the Foundation's financial statements showed that the cost of program activities were about 83 percent of its revenues or 76 percent of its expenses.

Allegation two: The Foundation inappropriately promoted tours to Normandy in 1993.

It was alleged that the Foundation had inappropriately engaged a private tour company to assist it in promoting tours to Normandy in connection with the commemoration of the 50th anniversary of D-Day. Specifically, the allegation stated that the Foundation had been engaging in unethical and possibly illegal activities to promote the tours.

The Coins Act, under which the Foundation received \$3 million in surcharge coin funds, specifically called on the Foundation to create and dedicate a Normandy memorial and to encourage and support visits to the memorial by U.S. citizens, especially students. The Foundation, through competitive means, contracted with a travel agency for the purpose of facilitating travel services for Foundation members and others who planned to attend the commemorative events for the 50th anniversary of D-Day.

At the request of the Department of Defense's 50th Anniversary of World War II Commemoration Committee, the Army's Office of General Counsel provided an opinion regarding the Foundation's tour promotion activities. That opinion stated that the Foundation may designate whomever it wishes as its tour company, so long as the Foundation does not imply that the U.S. Government has made the designation. The travel brochure published by the tour company engaged by the Foundation makes no such implications and refers to the Battle of Normandy Foundation, indicating that the Foundation is a nonprofit organization coordinating a private-sector initiative for the 50th anniversary of D-Day.

Allegation three: Anthony C. Stout's private company, GIM Corp., owed rent to the Foundation for space it occupied under a sublease and in 1991, while Foundation president, Mr. Stout had the Foundation's records altered to substitute the rent receivable with a GIM Corp. pledge for contributions that would not be honored.

Foundation records show that while he was the Foundation's president, Anthony C. Stout controlled a company, Government Investment Management Corporation (GIM Corp.), which periodically shared the cost of office space and certain personnel, including a chief financial officer, with the Foundation. Also, at various times, the Foundation and GIM Corp. each paid for expenses incurred by the other and the Foundation recorded receivables or payables to reflect these arrangements, commonly referred to as related party transactions.

It was alleged that in 1991 Anthony C. Stout had the Foundation's records altered to replace a \$108,000 receivable from GIM Corp. with a promise from GIM Corp. to donate \$30,000 a year for 4 years. It was further alleged that the amount of the pledge was subsequently reduced to an insignificant amount, implying that Mr. Stout did not intend to honor it.

Foundation records show that in August 1989, GIM Corp. entered into a sublease agreement with the Foundation, to pay a portion of the Foundation's rent. During the term of the sublease with GIM Corp., the Foundation recorded rental charges to GIM Corp. in its accounting records; however, these charges exceeded the amounts that were to be charged under the sublease. Certain of these charges were not paid and, therefore, contributed to the receivable from GIM Corp. reflected in Foundation accounting records.

Foundation Board minutes indicate that GIM Corp. moved out of the Foundation's offices in July 1991 and that the Foundation's Treasurer adjusted the Foundation's books to reduce the rent due from GIM Corp. Board minutes also reflect the unanimous Board approval of both the Treasurer's adjustments and the cancellation of the sublease with GIM Corp.

Our review confirmed that adjustments made to Foundation records to reduce amounts due from GIM Corp. brought rent charges more in line with the Foundation's sublease agreement with GIM Corp. Foundation records also showed that the reduced receivable amount was subsequently paid by GIM Corp.

In October 1991, Mr. Stout, acting on behalf of GIM Corp., pledged to the Foundation contributions totaling \$120,000 over a 4-year period. In an October 1991 memorandum to the then chief financial officer, Mr. Stout stated that the pledge was made to provide the Foundation with an insurance policy against insufficient income and to accurately portray GIM Corp.'s future financial support to the Foundation. Through December 1993, Foundation records indicate that \$90,000 of the \$120,000 pledge had been paid.

Foundation Comments

Foundation officials, commenting on a draft of this report, stated that it reflects accurately the decisions and actions which brought the Foundation to its present condition. (See appendix I.)

We are sending copies of this report to the Ranking Minority Members of the House and Senate Committees on Veterans' Affairs and other interested parties. Copies will be made available to others upon request.

Please contact me at (202) 512-9489 if you or your staffs have any questions concerning this report. Major contributors to this report are listed in appendix II.

A handwritten signature in black ink that reads "David L. Clark". The signature is written in a cursive style with a large, stylized initial "D".

David L. Clark
Director, Legislative Reviews
and Audit Oversight

Congressional Requesters and Congressional Committees

The Honorable John D. Rockefeller IV
Chairman, Committee on Veterans' Affairs
United States Senate

The Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives

The Honorable Marcy Kaptur
House of Representatives

The Honorable Donald W. Riegle, Jr.
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The Honorable Alfonse M. D'Amato
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The Honorable James A. Leach
Ranking Minority Member
Committee on Banking, Finance and Urban Affairs
House of Representatives

Comments From the Battle of Normandy Foundation



The Battle of Normandy Foundation

October 26, 1994

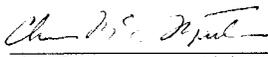
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Relative to your draft report titled BATTLE OF NORMANDY FOUNDATION: Uncertainty Surrounds its Future Viability:

Based on our information of the situation, having effectively been involved in the management process at BNF only during the past three months, we believe your report reflects accurately the present condition of the Battle of Normandy Foundation. And based on our review of the record of past commitments, it is also an accurate reflection of the decisions and actions which brought the Foundation to its present condition.


Harold Burson
Co-Chair


Charles McC. Mathias
Co-Chairman

Battle of Normandy Foundation

Our symbol is the same as that of the great force which landed at Normandy to liberate Europe —
GENERAL EISENHOWER'S ALLIED EXPEDITIONARY FORCES

1730 Rhode Island Avenue, N.W. • Suite 612 • Washington, D.C. 20036
Phone: 202/728-0672 • Fax: 202/728-0619 • Telex: 440328NORMANDY

Major Contributors to This Report

Accounting and
Information
Management Division,
Washington, D.C.

Alan Mandell, Assistant Director
Robert Coufal, Project Manager

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