



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 2, 1999

MEMORANDUM

TO: RON HARRIS
PRESS OFFICER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON THE
SAN DIEGO CONVENTION AND VISITORS BUREAU, INC.

Attached please find a copy of the final audit report and related documents on the San Diego Convention and Visitors Bureau, Inc. which was received by the Commission on August 19, 1999.

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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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

***REPORT OF THE AUDIT DIVISION
ON THE
SAN DIEGO CONVENTION AND VISITORS BUREAU, INC.***

I. BACKGROUND

A. AUDIT AUTHORITY

This report is based on an audit of the San Diego Convention And Visitors Bureau, Inc. (Convis), 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 11 CFR §9008.54 which states that the Commission shall conduct an examination and audit of each host committee registered under 11 CFR §9008.51.

B. AUDIT COVERAGE

The audit covered the period from March 1994, the date Convis began making disbursements to promote the suitability of the City of San Diego as the site of the Republican National Convention, through April 1997.

C. COMMITTEE ORGANIZATION

The 1996 Republican National Convention was held in San Diego, California on August 12, 1996 through August 15, 1996. It was funded by the 1996 Committee on Arrangements for the Republican National Convention (COA), San Diego Host Committee/Sail to Victory San Diego '96 (San Diego Host Committee), Convis and the City Civic Events Fund.

Convis registered with the Federal Election Commission on September 4, 1996, as a host committee as specified by 11 C.F.R. §9008.51. The Treasurer for the period audited was Dr. Joyce Gattas. On November 12, 1998, Mr. Reint Reinders assumed that position. Convis maintains offices in San Diego, CA, Washington, D.C., and Chicago, IL. Convis' records are maintained in San Diego, CA.

Convis was incorporated in California on October 20, 1954 exclusively for non-profit purposes. It was formed with the "goal of developing, promoting and

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maintaining a healthy convention and visitor industry in the San Diego region". Convis is an ongoing organization through which the City of San Diego is promoted as a location for conventions and other events. It is supported largely by its members, city and county transient occupancy taxes, and the Port of San Diego.

For fiscal year 1996 (July 1, 1995 through June 30, 1996) Convis generated about \$11,200,000 in revenues, mainly from city and county appropriations and disbursed approximately \$11,200,000, primarily related to attracting and hosting conventions and marketing the City of San Diego as a convention location and travel destination. Essentially, from the same sources and for the same purposes, \$11,500,000 in revenues and \$11,600,00 in disbursements were recorded for fiscal year 1997 (July 1, 1996 through June 30, 1997). During these two fiscal years, approximately \$1,622,500 was spent in connection with the 1996 Republican National Convention (the Convention), in addition \$108,500 was spent in connection with the Convention prior to July 1, 1995.

In March of 1994, Convis joined the City of San Diego in its efforts to attract the Convention. As part of their normal course of business, Convis initially made disbursements to promote the suitability of the city. On December 12, 1995, COA released a media advisory stating the Convention would be held in San Diego, CA. Convis then continued to assist the City of San Diego and the San Diego Host Committee in their preparations for the Convention.

Convis was responsible for the collection of donations and program fees paid by participants for the Youth Fund Program (Youth Fund), as well as, the payment of related expenses. This program provided an opportunity for persons (16-25 years old) to participate in the Convention as convention pages and delegation aides. The program fees, which represent about two-thirds of the cost of the program, were paid by participants in exchange for lodging, meals and events.

D. AUDIT SCOPE AND PROCEDURES

The audit of Convis included testing of the following general categories:

1. The receipt of donations from prohibited sources, those from outside of the San Diego Metropolitan Area (See Finding III.B.);
2. proper disclosure of receipts to include the itemization of those receipts when required, as well as, the completeness and accuracy of the information disclosed (See Finding III.A.);
3. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information

- disclosed (See Finding III.A.);
4. review of the disbursements to determine compliance with the requirements of 11 CFR §9008.52(c)(See Finding III.B.);
 5. the accuracy of total reported receipts, disbursements and cash balances;(See Finding III.A.)
 6. adequate recordkeeping for convention related transactions;
 7. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of committee records is conducted prior to the audit fieldwork. This inventory is conducted to determine if the auditee's records are materially complete and in an auditable state. Based on our review of records presented, it was concluded that the records were materially complete and fieldwork began immediately.

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

Unlike the San Diego Host Committee, Convis was not dedicated exclusively to supporting the Convention, but rather to both continuing its traditional role and limited Convention related activities. As a result of this dual role, the audit of Convis was limited to those functions that in some way related to the Convention. The recommendations below deal only with the Convention related functions.

III. AUDIT FINDINGS AND RECOMMENDATIONS

A. FAILURE TO REPORT RECEIPTS AND DISBURSEMENTS

Section 9008.52 of Title 11 of the Code of Federal Regulation states, in part, a host committee includes any local organization, such as a local civic association, business league, chamber of commerce, real estate board, board of trade or convention bureau: Which is not organized for profit; whose net earnings do not inure to the benefit of any private shareholder or individual; and whose principal objective is the encouragement of commerce in the convention city, as well as the projection of a favorable image of the city to convention attendees.

Further, 11 CFR 9008.51 states, in relevant part, each host committee shall register with the Commission within 10 days of the date on which the political party chooses the convention city. Further each host committee is required to file a disclosure report on the earlier of 60 days following the last day the convention is in session or 20 days prior to the presidential general election. Thereafter, disclosure reports shall be filed

quarterly until the host committee ceases reportable activity. The reports shall disclose all receipts and disbursements, including in-kind contributions, made with respect to a presidential nominating convention.

When Convis registered with the Commission, it filed letters describing its role in the 1996 Republican Convention and one report that did not conform to the requirements cited above. This report noted transfers to the San Diego Host Committee but, did not itemize any other transactions related to Convis' other convention activity. However, copies of checks received in connection with the Youth Fund were filed with the Commission in response to correspondence from the Commission's Reports Analysis Division.

In addition to its other convention related activities, Convis was approached by COA to take part in broadcasting the Convention. In a July 15, 1996 memorandum from Convis' President to its Executive Committee, it is explained that in exchange for sponsoring the coverage, Convis would be allowed sufficient time to air programming or commercials which promoted San Diego. The minutes of a July 29, 1996 Convis Board of Directors meeting explains that the RNC had sponsors ready to underwrite \$1.3 million in costs. The same document notes that Amway had already contributed \$1.3 million to "promote San Diego as part of the convention." The Amway donation was deposited by Convis on July 18, 1996. On July 23, 1996, Convis transferred \$1.2 million to National Media, Inc. On August 2, 1996, Convis hand-delivered a letter to William Greener, COA Convention Manager, discussing its withdrawal from participation in the Convention broadcast. In an August 9, 1996 letter to the president of National Media, Inc., Convis explained that since the broadcast would be without commercial interruption, there could be no promotion of the City of San Diego. Convis requested a refund from National Media, Inc. and subsequently transferred the money back to Amway, Inc. on August 13, 1996. None of these transactions were reported by Convis.

Other receipts in connection with the Convention consisted of: Youth Fund receipts of approximately \$123,000; Youth Fund program fees (\$325 and \$45 paid by participating individuals nationwide); city and county transient occupancy taxes; hotel commissions received pursuant to an agreement that stated 1996 rates would be commissionable at an amount not to exceed 5% and payable to the host committee to defray convention costs; local donations; and, reimbursement from the San Diego Convention Center Corporation for site selection expenses.

An analysis of Convis receipts and disbursements related to the Convention is presented below:

1. Receipts

Total amount of Receipts		\$1,737,028
Youth Fund Receipts	\$366,875	
Transient Occupancy Tax Dollars	655,650	
Hotel Commission Rebates	607,270	
Local Donors	3,000	
San Diego Convention Center Corporation, Inc.	104,233	
Amount Received from Amway	1,320,000	
Amount Refunded to Amway	<u>(1,320,000)</u>	
Correct Reportable Receipts		<u>\$1,737,028</u>

2. Disbursements

Operating disbursements were comprised of expenses paid on behalf of the Youth Fund, expenses related to promoting the City of San Diego as the Convention site, transfers to the San Diego Host Committee, housing services including brochures, basic convention "meet and greet" services, and information center activities.

Total Amount of Disbursements		\$1,731,151
Youth Fund Expenditures	\$363,598	
Site Selection Expenditures	111,947	
Transfers to the San Diego Host Committee	850,000	
Other Host Expenses Pursuant to §9008.52	405,606	
Amount Paid to National Media, Inc.	1,188,000	
Amount Refunded from National Media,	<u>(1,188,000)</u>	
Correct Reportable Disbursements		<u>\$1,731,151</u>

At the exit conference meeting, the Audit staff supplied Convis computer files that contained most of the disbursement information that was to be reported and a portion of the receipt information.

In the Exit Conference Memorandum(ECM), the Audit staff recommended that, within 60 calendar days of service of the ECM, Convis file a comprehensive

amended report, including necessary supporting Schedules A and B, disclosing its convention related receipts and disbursements.

In response to the ECM, Convis explains that COA delegated the function of depositing and issuing checks on behalf of the Youth Program to it. Consequently, "Convis' role in administering the checks was purely ministerial in nature as Convis did not exercise any independent discretion but merely followed directions and procedures outlined by the COA." The staff does not dispute this statement, rather the review of Convis' records confirms it.

Convis asserts COA collected and prepared all checks for deposit by Convis, making a clear distinction between having control over the funds and simply forwarding them to a depository. Because of this arrangement, Convis does not feel that it was required to report these transactions.

Convis further contends it did not exercise any discretion in expending funds from the Youth Fund account. Instead, all funds dispersed were at the direction of the COA, through Request For Purchase orders (RFP). The RFP was required to have certain signatures of COA officers for authorization of a check. Furthermore, Convis argues that its role did not even rise to that of a collecting agent.

"In an analogous setting FEC regulations allow collecting agents to collect and in some instances solicit contributions, and to make certain discretionary disbursements to and from separate segregated funds. Such collection agents are not required to report the transactions they handle as they are not deemed the recipient or source of the payments."

Even if this analogy were apt, it reverses the roles of the entities involved. As Convis stated in its response, COA collected the funds and forwarded them to Convis for deposit in an account that Convis controlled. Consequently, in the collecting agent analogy, COA represents the collecting agent and Convis represents the segregated fund responsible for record keeping, reporting, and compliance.

Convis also compares its role to that of a bank teller. It states that a bank teller receives deposits and issues payments for the account holder, likewise Convis deposited checks and "issued checks as requested with proper authority by the account holder". However, a bank teller does not have control of the customer's account, nor does the teller have signature authority on the account. Convis controlled the account and its officers were the only ones to have signature authority on the account (COA officers did not have signature authority).

Finally, Convis stated in its response that it had initially offered to supplement its disclosure reports over two years ago. Convis refers to a letter filed with the Commission January 8, 1997, explaining the receipts and disbursements relating to the Republican convention and volunteering its assistance to the Commission should it

require further details regarding reportable transactions. The Commission did not pursue further detail at that time. Accordingly, Convis does not feel a fine or late fee for any technical violation found would be appropriate.

The staff acknowledges that the Youth Program was, in large part, controlled by the COA and that Convis' role was that of an administrator. However, it was Convis that had access to the account into which the program fees and other funds were deposited and from which the disbursements were made. It is also noted that since Convis controlled the account and the associated records COA properly did not report the Youth Program transactions.

Although Convis argues that its role in the Youth Fund was ministerial and did not rise to the level that requires it to report the Youth Fund transactions, it complied with the staff's recommendation. Convis also filed reports disclosing the Non-Youth Fund transactions

B. CONVENTION-RELATED EXPENDITURES

Section 9008.8(b)(1) of Title 11 of the Code of Federal Regulations states, in relevant part, expenditures made by the host committee shall not be considered expenditures by the national committee and shall not count against the expenditure limitations provided the funds are spent in accordance with 11 CFR 9008.52.

Section 114.1(a)(2)(viii) of the Code of Federal Regulations states, the terms contribution and expenditure shall not include activity permitted under 11 C.F.R. §§9008.9, 9008.52 and 9008.53 with respect to a presidential nominating convention.

Section 9008.12(b)(7) of Title 11 of the Code of Federal Regulations states, in relevant part, the Commission may seek repayment, or may initiate enforcement action, if the convention committee knowingly helps, assists or participates in the making of a convention expenditure by the host committee not in accordance with 11 CFR 9008.52 or 9008.53, or the acceptance of a contribution by the host committee from an impermissible source, such as a non-local business.

Section 9008.52(c) of Title 11 of the Code of Federal Regulations states, in part, that local businesses (excluding banks), local labor organizations, and other local organizations or individuals may donate funds or make in-kind donations to a host committee to be used for the following: to defray those expenses incurred for the purpose of promoting the suitability of the city as a convention site; to defray those expenses incurred for welcoming the convention attendees to the city, such as expenses for information booths, receptions, and tours; to defray those expenses incurred in facilitating commerce, such as providing the convention and attendees with shopping and entertainment guides and distributing the samples and promotional material specified in 11 CFR 9008.9(c); to defray the administrative expenses incurred by the host committee,

such as salaries, rent, travel, and liability insurance; and to provide the national committee use of an auditorium or convention center and to provide construction and convention related services for that location such as: construction of podiums; press tables, false floors, camera platforms; additional seating; lighting, electrical, air conditioning and loudspeaker systems; offices; office equipment; and decorations.

Further, donations may be used to defray the cost of various local transportation services, including the provision of buses and automobiles; to defray the cost of law enforcement services necessary to assure orderly conventions; to defray the cost of using convention bureau personnel to provide central housing and reservation services; to provide hotel rooms at no charge or a reduced rate on the basis of the number of rooms actually booked for the convention; to provide accommodations and hospitality for committees of the parties responsible for choosing the sites of the conventions; and to provide other similar convention-related facilities and services.

Section 9008.8(b)(3) of Title 11 of the Code of Federal Regulations states, expenditures made by presidential candidates from campaign accounts, by delegates, or by any other individual from his personal funds for the purpose of attending or participating in the convention or convention related activities, including, but not limited to the costs of transportation, lodging and meals, or by State or local committees of a political party on behalf of such delegates or individuals shall not be considered expenditures made by or on behalf of the national party, and shall therefore not be subject to the overall expenditure limitations of this section.

Section 9008.7(a)(4) of Title 11 of the Code of Federal Regulations states, in relevant part, "Convention expenses" include all expenses incurred by or on behalf of a political party's national committee or convention committee with respect to and for the purpose of conducting a presidential nominating convention or convention-related activities. Subsection (viii) of this regulation states that convention expenses include entertainment activities which are part of the official convention activity sponsored by the national committee, including but not limited to dinners, concerts, and receptions.

As noted above, the COA sponsored the Youth Fund, which provided an opportunity for young persons to participate in Convention activities. Students nationwide applied to the program beginning in May of 1996. Upon acceptance to the program, the student paid a fee to cover such expenses as housing, transportation, catering, production and other related activities. Program fees collected totaled approximately \$240,000. As would be expected, most participants were not from the San Diego area. Consequently, most of the associated receipts were from persons outside the San Diego metropolitan area. The level of control exercised by COA in administration of the Youth Fund, meets the requirements of 11 CFR 9008.12 (b)(7) for a repayment by COA should any of the Youth Fund expenses be determined to be convention expenses.

As explained above, COA delegated the handling of all financial transactions to Convis. COA outlined specific accounting procedures to govern the funds

associated with this program. Checks were deposited into a separate Youth Fund bank account, maintained by Convis. Invoices were forwarded from either San Diego Host Committee or COA to Convis with authorizing signatures. These expenditures were then paid from the Youth Fund bank account.

During a review of Convis' Youth Fund disbursement records, payments to vendors totaling \$50,316 were identified that could be considered convention expenses, rather than items noted as permissible host committee expenses at 11 CFR §9008.52(c). The majority of these expenses related to housing and catered food for participants, with the remainder attributed to hotel rooms and entertainment.

The hotel rooms were for persons associated with the Convention and for persons conducting the Youth Fund program, not for the participants themselves. While the regulation does allow Convis to provide rooms at no charge or at a reduced rate, this is only applicable when it is based upon the total number of rooms booked for the convention. There is no evidence that the rooms provided are based on some number of others rooms booked.

Therefore, the program fees could have been viewed as donations from persons outside the San Diego metropolitan area and the noted costs as impermissible host committee expenses and in-kind contributions by Convis to COA.

In the ECM, the Audit staff recommended that within 60 calendar days of receipt of this memorandum, Convis demonstrate that:

- The program fees collected are not from persons outside the San Diego metropolitan area, should not be considered donations pursuant to 11 CFR §9008.52(c), or are otherwise permissible host committee receipts:
- The disbursements noted above are permissible host committee expenses pursuant to 11 CFR §9008.52(c), do not represent the use of "donations" to a host committee, or are otherwise permissible disbursements.

Convis asserts COA collected and prepared all checks for deposit by Convis, making a clear distinction between having control over the funds and simply forwarding them to a depository. Convis contends that this arrangement obviates the need for it to determine whether funds deposited complied with applicable law. Rather this was the responsibility of COA before forwarding the funds.

Convis believes the transfer of funds does not constitute a transfer of value and therefore should not be characterized as an in-kind contribution. They refer to Advisory Opinions 1986-22 and 1985-28. These Advisory Opinions deal with the legality of a corporation offering rebates to political committees in the normal course of business and the requirements of the corporation to report the rebates. The situations in

the Advisory Opinions are not analogous. However, in the Advisory Opinions the Commission determined that the political committees were required to report any cash value received from the rebates, while the corporations had no reporting obligation.

Although these receipts and disbursements must be reported by Convis, the staff concludes that the program fees paid by the participants do not represent "donations" that must be from local businesses and individuals. Rather these fees¹ were paid pursuant to Section 9008.8(b)(3), which provides that disbursements made from a person's personal funds to attend or participate in a convention or convention related activities do not count against the convention committee's expenditure limit. Furthermore, the non-local businesses that provided funds so that youths could participate in the convention were apparently not motivated by election-influencing purposes, but either charitable or promotional purposes and therefore these receipts are consistent with the purposes of 11C.F.R. §9008.52.

Similarly, the disbursement of these fees for the service provided primarily to the payers of the fees, are expenditures that are similar to welcoming the convention attendees to the city pursuant to 11 C.F.R. §9008.52(c)(1)(ii). Because of the obvious needs of youths for additional supervision or security, their attendance at the convention may have been impossible without the facilities and services provided by the Youth Fund. Moreover, Section 9008.8(b)(3) provides that expenditures made by an individual from his or her personal funds for the purpose of attending or participating in the convention or convention related activities are not subject to the convention's committee expenditure limitation.

The Commission voted to receive this report without any determination on the merits of the analysis of the facts or the interpretation of the law contained herein.

¹ Some of the fees were paid by the participants' parents. However, disbursements made by a youth's parents so that the youth may attend a convention are sufficiently similar to "expenditures made by... individuals from his or her personal funds" referenced in 9008.8(b)(3) so that, in this setting, the regulation can apply to the parents' disbursements as well.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 28, 1999

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: James A. Pehrkon
Staff Director

FROM: Lawrence M. Noble
General Counsel

Kim Bright-Coleman
Associate General Counsel

Lorenzo Holloway
Assistant General Counsel

J. Duane Pugh Jr.
Attorney

SUBJECT: Audit Report of San Diego Convention and Visitors Bureau (LRA 515)

I. INTRODUCTION

On September 1, 1998, the Commission determined that the San Diego Convention and Tourist Bureau, Inc., d/b/a San Diego Convention and Visitors Bureau ("ConVis") acted as a host committee¹ for the 1996 Republican National Convention² and

¹ The San Diego Host Committee/Sail to Victory '96 also acted as a host committee for the 1996 Republican National Convention. The Commission approved an Audit Report on the San Diego Host Committee on April 23, 1998.

² The Republican National Convention was held in San Diego, California from August 12 through 15, 1996. The 1996 Committee on Arrangements for the Republican National Convention's Audit Report was issued by the Commission on June 25, 1998. The Audit Report includes a determination that the 1996 Committee on Arrangements for the Republican National Convention (the "Convention Committee") and the Republican National Committee must repay \$1,772,643 to the United States

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authorized an audit of ConVis as required by 11 C.F.R. § 9008.54. The Office of General Counsel has reviewed the proposed Audit Report of ConVis, which was submitted to this Office on May 25, 1999.³ This memorandum presents our comments on the proposed Audit Report. If you have any questions concerning our comments, please contact Duane Pugh, the attorney assigned to this review.

We concur with the proposed Audit Report's finding: Failure to Report Receipts and Disbursements (III, A.). ConVis amended its report in an effort to comply with the Exit Conference Memorandum recommendations. However, ConVis contends that it was not required to report the receipts and disbursements because its role was purely ministerial so that its participation did not result in reportable receipts or disbursements. This Office disagrees with ConVis's position because ConVis: accepted funds, deposited those funds into certain bank accounts, controlled exclusively those accounts, and disbursed funds from those accounts, all of which was in connection with the 1996 Republican National Convention. Accordingly, the receipts and disbursements must be reported by ConVis as required by 11 C.F.R. § 9008.51(b).⁴

II. CONVENTION-RELATED EXPENDITURES (III, B.)

As part of its activities in connection with the 1996 Republican National Convention, ConVis administered a Youth Program Fund. The Youth Program Fund served as a depository of funds for the Young Voters Program, which allowed persons who were 16 to 25 years old to participate in the Convention as convention pages and delegation aides. Participants in the Young Voters Program came from throughout the United States and paid program fees in exchange for lodging, meals and events. To carry out its responsibilities related to the Young Voters Program, ConVis maintained and controlled a Youth Program Fund account; ConVis received and deposited \$366,875 into

Treasury. The Repayment Determination in that Audit Report is currently before the Commission in an Administrative Review. The Commission may issue an additional repayment determination where there exist facts not used as the basis for any previous determination. 11 C.F.R. §§ 9007.2(f) and 9008.12(c). The Commission must notify the Republican National Committee of any repayment determinations not later than three years after the last day of the Presidential nominating convention, which was August 15, 1996. 11 C.F.R. § 9008.12(a)(2).

³ Because the proposed Audit Report concerns the audit of a host committee, we recommend that the Commission consider this document in open session in accordance with 11 C.F.R. §§ 9008.54, 9007.1(e)(1) and 9038.1(e)(1). Consideration of the proposed Audit Report is not entitled to an exemption under the Government in the Sunshine Act. See 11 C.F.R. § 2.4.

⁴ The proposed Audit Report also notes transactions between ConVis, Amway Corporation and National Media, Inc. that were related to broadcasting the Convention. These transactions were previously addressed by the Commission in MUR 4428, in which the Commission found no reason to believe that ConVis violated any statute or regulation within the Commission's jurisdiction for the reasons described in the complaint in MUR 4428. See Certification, MUR 4428 (Dec. 28, 1998).

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this account, and it made disbursements of \$363,598 from this account. Of the receipts, the participants' program fees accounted for approximately \$240,000.

The proposed Audit Report analysis of the Youth Program Fund concerns both its receipts and disbursements. The proposed Report notes that some of the receipts were from outside the San Diego metropolitan area, which is contrary to 11 C.F.R. § 9008.52(c)(1). The analysis concludes that the receipts from outside the San Diego metropolitan area should not be viewed as donations subject to 11 C.F.R. § 9008.52(c)(1), but instead should be viewed as "other receipts." The proposed Report identifies expenditures from the Youth Program Fund account of \$50,316 that were not for permissible host committee activity similar to the examples listed in 11 C.F.R. § 9008.52(c)(1). The proposed Report concludes that these expenditures are not subject to 11 C.F.R. § 9008.52(c)(1), but instead are classified as "other expenditures."

As a preliminary matter, this Office recommends that the discussion of applicable Commission regulations be expanded to include three additional regulations. The proposed finding should discuss 11 C.F.R. §§ 114.1(a)(2)(viii), 9008.8(b)(1), and 9008.12(b)(7) in order to address the legal significance of host committees' operating in accordance with section 9008.52(c). Activity permitted under section 9008.52 is not a contribution or expenditure for the purposes of 11 C.F.R., Part 114. 11 C.F.R. § 114.1(a)(2)(viii). Host committee funds spent in accordance with section 9008.52 shall not count against the convention committee's expenditure limitation. 11 C.F.R. § 9008.8(b)(1). If a host committee disbursement for a convention expense is not in accordance with section 9008.52 or if a host committee accepts a donation from a source not permitted by section 9008.52, and if the convention committee knowingly helped, assisted or participated in the host committee's action, then the Commission may seek repayment from the convention committee or initiate an enforcement action. 11 C.F.R. § 9008.12(b)(7). Additionally, the proposed Audit Report should state that it is clear that the Convention Committee knowingly helped, assisted or participated in ConVis's actions. The proposed Audit Report presents facts that establish that the Convention Committee directed ConVis's actions in connection with the Youth Program Fund, but it should also state specifically that the requirement in 11 C.F.R. § 9008.12(b)(7) has been satisfied.

A. Youth Program Fund Receipts

The Office of General Counsel agrees with the Report's conclusion that the Youth Program Fund receipts were not contributions to the Convention Committee and therefore not subject to its expenditure limitation. However, this Office disagrees with the Report's conclusion that ConVis's receipts in connection with the Youth Program are "more correctly classified as 'other receipts.'" Furthermore, this Office disagrees with the Report's apparent conclusion that a host committee's "other receipts" are not within the scope of 11 C.F.R. § 9008.52(c), which requires that host committees receive their funds

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from local sources. These funds were used by a host committee in connection with the 1996 Republican National Convention. The convention financing regulations do not contemplate another category of host committee receipt of funds in connection with a convention that is not within the scope of 11 C.F.R. § 9008.52(c).⁵ Therefore, the receipt and expenditure of funds must comply with the requirements of 11 C.F.R. § 9008.52(c) in order to qualify for the exemptions of 11 C.F.R. §§ 114.1(a)(2)(viii) and 9008.8(b)(1).

Nonetheless, this Office believes that the receipts are not attributable to the convention committee's expenditure limitation. Section 9008.8(b)(3) provides that disbursements made to attend or participate in a convention or convention related activities do not count against the convention committee's expenditure limit, without regard to their geographic origin. Some of the fees were paid by the participants' parents. However, disbursements made by a youth's parents so that the youth may attend a convention are sufficiently similar to "expenditures made by . . . individuals from his or her personal funds" referenced in 11 C.F.R. § 9008.8(b)(3) so that the regulation can apply to the parents' disbursements as well.

ConVis's receipts also came from "businesses," which may include corporations. As the participating youths were from across the country, the funds also came from non-local businesses. Disbursements by non-local businesses, including corporations, were apparently to permit the youth to attend the convention and were not in connection with the election of any of the party's candidates to be the party's presidential nominee. The Commission's basis for permitting local corporations to provide funds to host committees was its presumption that such actions would be "solely for bona fide advertising or promotional purposes, rather than political purposes, the Commission did not consider this activity to be prohibited by 2 U.S.C. § 441b." *See* 44 Fed. Reg. 63,037 (1979).⁶ Thus, because the non-local businesses that provided program fees so that youths could participate in the convention were apparently not motivated by election-influencing purposes, but either charitable or promotional purposes, this Office believes that the corporate receipts are consistent with the purposes of 11 C.F.R. § 9008.52.

B. Youth Program Fund Expenditures

This Office disagrees with the proposed Audit Report's conclusion that the \$50,316 of Youth Program Fund expenditures were not permissible host committee expenditures similar to those listed in 11 C.F.R. § 9008.52(c)(1)(i) through (xi). In this context, considering the special needs of youths attending a convention, this Office

⁵ However, host committees may accept goods or services from commercial vendors under the same terms and conditions for convention committees. *See* 11 C.F.R. §§ 9008.9 and 9008.52(b).

⁶ Although the host committee regulation has since been amended, *see* 59 Fed. Reg. 33,614 (1994), local businesses remain permitted to contribute to host committees pursuant to 11 C.F.R. § 9008.52(c)(1) and (2).

Memorandum to Robert J. Costa
 Audit of San Diego Convention and Visitors Bureau
 (LRA 515)
 Page 5

believes that the expenditures are sufficiently similar to welcoming convention attendees to the city pursuant to 11 C.F.R. § 9008.52(c)(1)(ii). Because of the obvious special needs of youths for additional supervision or security,⁷ their attendance at the convention may have been impossible without the facilities and services provided by the Young Voters Program. On this basis, the entirety of the Young Voters Program can be considered welcoming the Young Voters Program participants to the convention city.

Section 9008.8(b)(3) of the Commission's regulations provides an additional basis to conclude that the ConVis Youth Program Fund expenditures should not count toward the convention committee's expenditure limitation. That section provides that expenditures made by any individual from his or her personal funds for the purpose of attending or participating in the convention or convention related activities are not subject to the convention committee's expenditure limitation. 11 C.F.R. § 9008.8(b)(3). Thus, the Commission has expressly stated that expenditures made to enable individuals to attend or participate in conventions or convention related activities will not be considered expenditures made on behalf of the convention committee. Recognizing the special needs of youths attending the convention, this Office believes that a broader range of disbursement purposes can be considered necessary "for the purpose of attending or participating in the convention or convention related activities" as provided by 11 C.F.R. § 9008.8(b)(3) for a youth program than would be appropriate for adult convention participants.

⁷ Due to the nature of an event like a major political party's presidential nominating convention, those responsible for youth participation could reasonably conclude that the supervision and security needs were best met by the construction of a dedicated facility like the Youth Pavilion along with employing staff who would need accommodations during the convention. Furthermore, additional catering and entertaining could be required for youths in order to maintain the supervision and security.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 27, 1999

Mr. Reint Reinders, Treasurer
San Diego Convention and Visitors Bureau, Inc.
401 B Street
Suite 1400
San Diego, CA 92101-4237

Dear Mr. Reinders:

Attached please find the Audit Report on the San Diego Convention and Visitors Bureau, Inc.. The Commission received this report on August 19, 1999.

The Audit Report will be placed on the public record on September 2, 1999. Should you have any questions regarding the public release of this report, please contact Ron Harris of the Commission's Press Office at (202) 694-1220.

Any questions you may have related to matters covered during the audit or in the audit report should be directed to Erica D. Holder or Joe Stoltz of the Audit Division at (202) 694-1200 or toll free at (800) 424-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Costa".

Robert J. Costa
Assistant Staff Director
Audit Division

Attachment as stated

22 " 07 " 025 " 3396

CHRONOLOGY

SAN DIEGO CONVENTION AND VISITOR BUREAU, INC.

Audit Fieldwork	10/10/98 — 10/17/98
Exit Conference Memorandum to the Committee	01/21/99
Response Received to the Exit Conference Memorandum	03/23/99
Audit Report Received	08/19/99

22.07.025.397

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