



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

February 11, 2002

**MEMORANDUM**

TO: RON M. HARRIS  
PRESS OFFICER  
PRESS OFFICE

FROM: JOSEPH F. STOLTZ *JFS*  
ASSISTANT STAFF DIRECTOR

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON  
THE 2000 DEMOCRATIC NATIONAL CONVENTION COMMITTEE,  
INC.

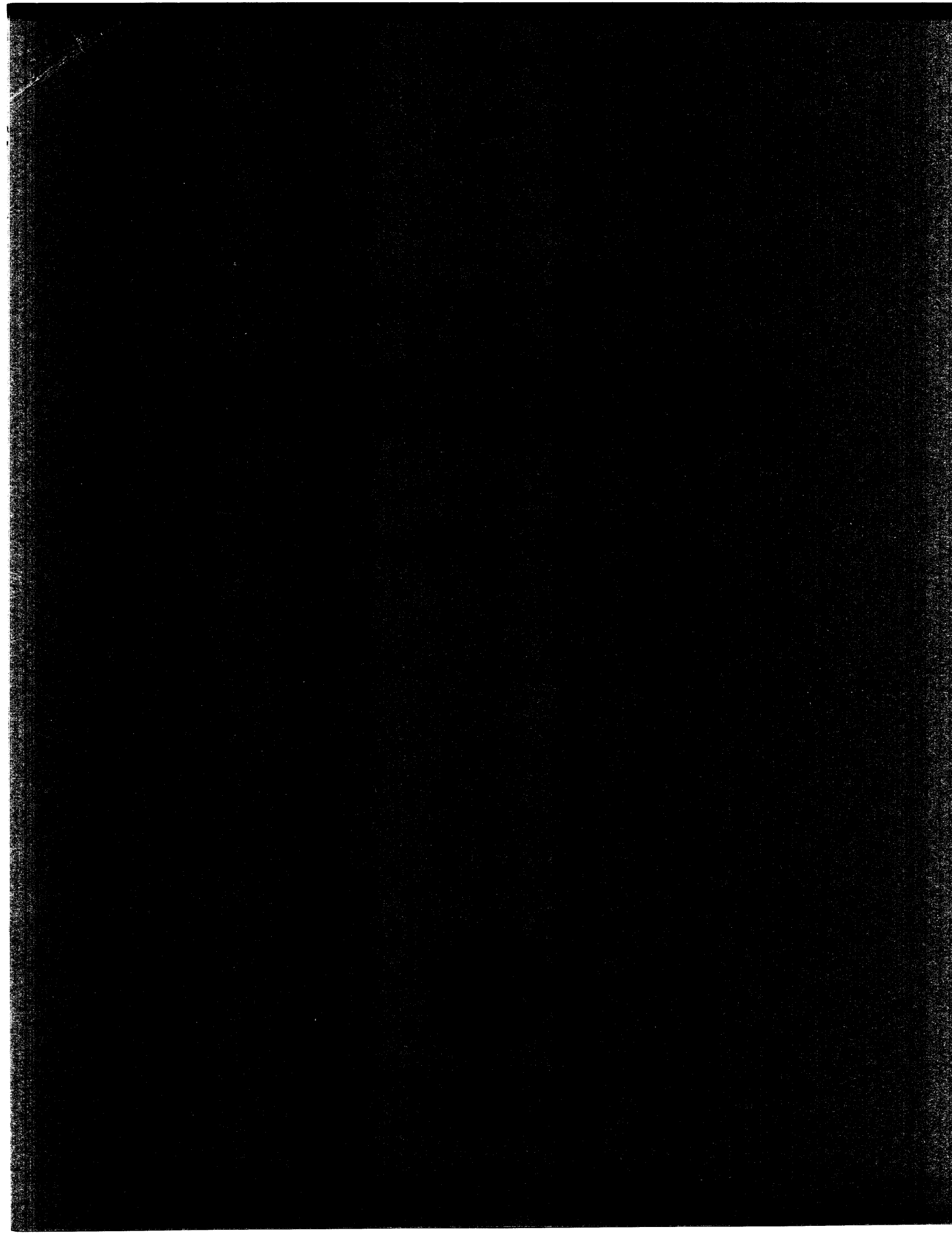
Attached please find a copy of the final audit report and related documents on the 2000 Democratic National Convention Committee, Inc. that was approved by the Commission on January 31, 2002.

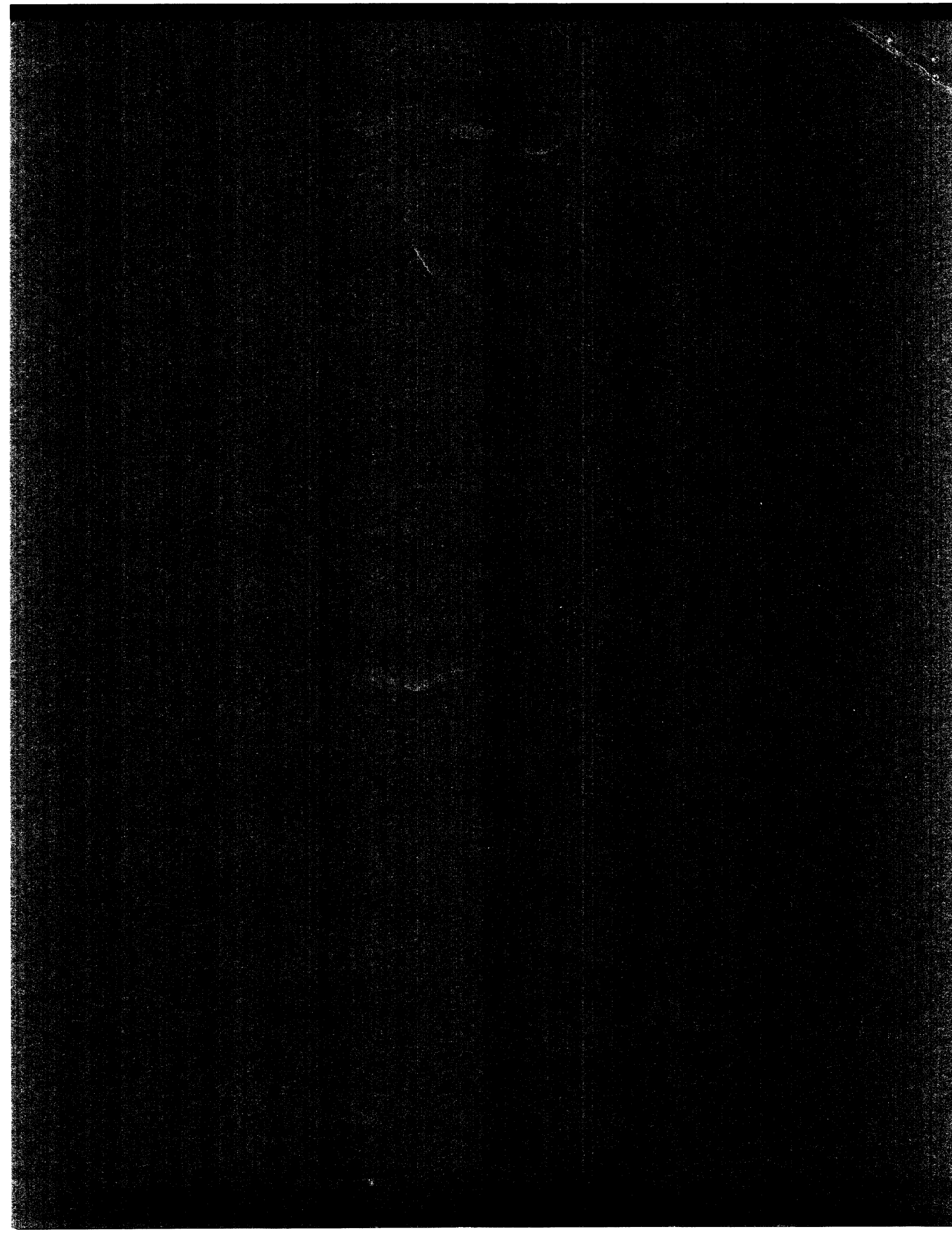
Informational copies of the report have been received by all parties involved and the report may be released to the public on February 11, 2002.

Attachment as stated

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







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**REPORT OF THE AUDIT DIVISION  
ON THE  
2000 DEMOCRATIC NATIONAL  
CONVENTION COMMITTEE, INC.**

**Approved January 31, 2002**



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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**REPORT OF THE AUDIT DIVISION  
ON THE  
2000 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.**

**EXECUTIVE SUMMARY**

The 2000 Democratic National Convention Committee, Inc. (DNCC) registered with the Federal Election Commission on July 30, 1998, as a national convention committee of the Democratic Party. The Treasurers for the period audited were Carol Pensky from inception to March 26, 1999, at which time Andrew Tobias became Treasurer and continues to serve in that capacity. During the audit period, the DNCC maintained offices in Washington, D.C. and Los Angeles, CA. The DNCC records are maintained in Washington, D.C. The audit was conducted pursuant to Section 9008(g) of Title 26 of the United States Code, which directs the Commission to conduct an examination and audit of the payments for presidential nominating conventions no later than December 31 of the calendar year in which the presidential nominating convention is held. The two audit findings summarized below were presented to the DNCC at an exit conference held on March 29, 2001 and later in the preliminary audit report. DNCC's response to the findings is contained in the audit report.

**DETERMINATION OF NET OUTSTANDING CONVENTION EXPENSES AND AMOUNTS SUBJECT TO THE SPENDING LIMITATION** – 26 U.S.C. §9008(b); 11 CFR §§9008.8(a)(1), 9008.10(g) and 9008.12(b)(5) & (c). The NOCE as calculated by the Audit staff in the preliminary audit report showed unspent funds, or an amount spent that was less than the limitation, of \$22,969. The unexpended amount was slightly higher than DNCC's calculation of \$19,896 that had been repaid on July 2, 2001. In response to the preliminary audit report, the DNCC provided a revised NOCE indicating that an additional \$4,751 in unspent funds was due to the United States Treasury and made a repayment in the that amount.

**STALE-DATED CHECKS** – 11 CFR §9008.16. The audit identified 11 stale-dated checks, totaling \$11,688. In its response to the preliminary audit report, the DNCC stated that five checks had been voided and were included in the unspent funds calculation. The DNCC submitted a payment to the United States Treasury of \$7,820 representing the amount due for the stale-dated checks.





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

***REPORT OF THE AUDIT DIVISION  
ON THE  
2000 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.***

**I. BACKGROUND**

**A. AUDIT AUTHORITY**

This report is based on an audit of the 2000 Democratic National Convention Committee, Inc. (DNCC), 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 9008(g) of Title 26 of the United States Code which directs the Commission to conduct an examination and audit of the payments for presidential nominating conventions no later than December 31 of the calendar year in which the presidential nominating convention is held.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the DNCC has materially complied with the limitations, prohibitions and disclosure requirements of the Act.

**B. AUDIT COVERAGE**

The audit covered the period from July 16, 1998, the date of the first financial transaction in DNCC's bank accounts, through December 31, 2000. In addition, certain financial activity was reviewed through September 30, 2001 to determine any amounts due to the United States Treasury. The DNCC reported an opening cash balance of \$-0-, total receipts of \$13,888,484, total disbursements of \$12,897,133, and a closing cash balance on December 31, 2000 of \$991,351.

**C. COMMITTEE ORGANIZATION**

The DNCC registered with the Federal Election Commission on July 30, 1998, as a national (convention) committee of the Democratic Party. The Treasurers for the period audited were Carol Pensky from inception to March 26, 1999, at which time Andrew Tobias became Treasurer and continues to serve in that capacity. During the audit period, the DNCC maintained offices in Washington, D.C. and Los Angeles, CA. The DNCC records are maintained in Washington, D.C..

The DNCC used six bank accounts to handle its financial activity. From these accounts it made approximately 4,700 disbursements. The DNCC received \$13,512,000 in federal funds which represents the full entitlement established at 26 U.S.C. §9008(b).

**D. AUDIT SCOPE AND PROCEDURES**

The audit of the DNCC covered the following general categories as appropriate:

1. the receipt of contributions from prohibited sources;
2. the receipt of contributions or loans in excess of the statutory limitations;
3. proper disclosure of receipts including the itemization of receipts when required, as well as, the completeness and accuracy of the information disclosed;
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. proper disclosure of DNCC debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to DNCC bank records;
7. adequate recordkeeping for DNCC transactions;
8. accuracy of the Statement of Net Outstanding Convention Expenses filed by DNCC to disclose its financial condition (Finding II.A.);
9. compliance with requirements concerning expenditures for convention expenses (Finding II.B.);
10. the DNCC's compliance with spending limitations; and,
11. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of the DNCC's records was conducted prior to the audit fieldwork. This inventory is conducted to determine if the records are materially complete and in an auditable state. Based on the review of records presented, 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 report in an enforcement action.

## **II. AUDIT FINDINGS AND RECOMMENDATIONS - AMOUNTS DUE TO THE U.S. TREASURY**

### **A. DETERMINATION OF NET OUTSTANDING CONVENTION EXPENSES AND AMOUNTS SUBJECT TO THE SPENDING LIMITATION**

Section 9008(b) of Title 26 of the United States Code states that the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts that, in the aggregate, shall not exceed \$4,000,000 as adjusted by the consumer price index. The DNCC's entitlement for the 2000 nominating convention was \$13,512,000.

Section 9008.8(a)(1) of Title 11 of the Code of Federal Regulations states, in part, the national committee of a major party may not incur convention expenses with respect to a Presidential nominating convention which, in the aggregate, exceed the amount to which such committee is entitled under 11 CFR 9008.4 and 9008.5.

Section 9008.10(g) of Title 11 of the Code of Federal Regulations states, in part, that a convention committee shall file, no later than sixty days after the last day of the convention, a statement of that committee's net outstanding convention expenses.

Section 9008.12(b)(5) of Title 11 of the Code of Federal Regulations states that if any portion of the payment under 11 CFR 9008.4 remains unspent after all convention expenses have been paid, that portion shall be returned to the Secretary of the Treasury. The national committee or convention committee shall make an interim repayment of unspent funds based on the financial position of the committee as of the end of the ninth month following the last day of the convention, allowing for a reasonable amount as determined by the Commission to be withheld for unanticipated contingencies. The interim repayment shall be made no later than 30 calendar days after the end of the ninth month following the last day of the convention.

Section 9008.12(c) of Title 11 of the Code of Federal Regulations states the Commission will follow the same repayment determination procedures, and the committee has the same rights and obligations as are provided for repayment determinations involving publicly funded candidates under 11 CFR 9007.2(c) through (h).

The 2000 Democratic National Convention ended on August 17, 2000. The DNCC filed a Statement of Net Outstanding Convention Expenses (NOCE), as of October 1, 2000. In response to the preliminary audit report, the DNCC filed a revised NOCE, as determined at January 23, 2002, shown below. The Audit staff reviewed

financial activity through September 30, 2001; analyzed winding down costs, and determined that the revised NOCE numbers submitted by the DNCC materially agree with our calculations.

**2000 Democratic National Convention Committee, Inc.**  
**Statement of Net Outstanding Convention Expenses**  
As of October 1, 2000, as determined at January 23, 2002

Assets

Cash on Hand	\$986,889
Capital Assets	\$25,230
Accounts Receivable	\$75,637
Total Assets	\$1,087,756

Obligations

Qualified Convention Expenses	(\$1,030,297) (a)
Amount Payable to DNC (Democratic National Committee)	(\$32,812) (b)
Total Obligations	<u>(\$1,063,109)</u>
Net Outstanding Convention Expenses	\$24,647
Less Interim Repayment of July 2, 2001	(\$19,896)
Less Interim Repayment of December 26, 2001	<u>(\$4,751)</u>
Amount Repayable to United States Treasury	<u><u>\$0</u></u>

FOOTNOTES TO NOCE

(a) As of May 31, 2001, the DNCC does not expect any further winding down costs.

(b) The DNCC did not return to the vendor a quantity of leased computer equipment. The vendor sued both the DNCC and the DNC seeking payment for the equipment, rent for the period after the equipment was due to be returned, interest, and legal fees. The reimbursement for the equipment and the rent was listed at \$81,785. A settlement was reached for \$75,000 less a credit for returned equipment leaving a balance of \$72,812. This amount was paid by the DNC to the vendor. Subsequently the DNC received \$40,000 from an insurance claim filed by the DNCC and the remaining \$32,812 is due to the DNC. Under 11 CFR 9008.3(a)(2) and (3), the DNC should have transferred the funds to the DNCC so that the convention expense could have been made from the DNCC account and then DNC should have been reimbursed by the DNCC for the entire amount.

The NOCE as calculated by the Audit staff in the preliminary audit report showed a surplus, or an amount spent under the limitation, of \$22,969 which was slightly higher than DNCC's calculation, revised as of May 31, 2001, showing unspent funds of \$19,896. On July 2, 2001, the DNCC made a repayment to the United States Treasury in the amount of \$19,896.

In the preliminary audit report, the Audit staff recommended that the DNCC provide evidence to demonstrate that either no additional repayment of unspent funds was due or a repayment of a lesser amount was due. Absent such a demonstration, the Audit staff would recommend that the Commission determine that an additional \$3,073 (\$22,969 - \$19,896) is repayable to the United States Treasury, pursuant to 11 CFR §9008.12.

As previously stated, in its response to the preliminary audit report, the DNCC provided a revised NOCE indicating that an additional \$4,751 in unspent funds was due to the United States Treasury. The additional unspent funds resulted from the inclusion of five voided checks that were removed from the stale-dated check finding (See Finding II.B.), the inclusion of one additional payment of a convention expenditure and other minor adjustments. On December 26, 2001, the DNCC made a payment to the United States Treasury in the amount of \$12,571, of which \$4,751 represented the additional unspent funds as calculated by the DNCC.

#### **B. STALE-DATED CHECKS**

Section 9008.16 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts are necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff reconciled the bank activity through May 31, 2001 and identified 11 stale-dated checks, totaling \$11,688.

At a conference held at the end of fieldwork, the Audit staff provided representatives of the DNCC with a schedule of the stale-dated checks. The DNCC representatives agreed to review their records and provide the Audit staff with additional information that may resolve the items.

The preliminary audit report recommended that the DNCC provide evidence that either the checks were not outstanding by providing copies of the front and back of the negotiated checks along with bank statements, or that the stale-dated checks were void by providing either copies of the voided checks with evidence that no obligation exists, or copies of negotiated replacement checks. Absent such information,

the Audit staff would recommend that the Commission determine that stale-dated checks totaling \$11,688 were payable to the United States Treasury.

In its response to the preliminary audit report, the DNCC stated that five checks totaling \$3,914 had been voided. These checks were removed from the stale-dated check total and were included in the unspent funds calculation above in Finding II.A.. The remaining stale-dated checks totaled \$7,774. On December 26, 2001, the DNCC made a payment to the United States Treasury in the amount of \$12,571, of which \$7,820<sup>1</sup> represented the amount due for the stale-dated checks.

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<sup>1</sup> DNCC's check to the United States Treasury included one additional stale-dated check in the amount of \$47 which was not included in the Audit staff's stale-dated check list.





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 5, 2002

Mr. Andrew Tobias, Treasurer  
2000 Democratic National Convention Committee, Inc.  
430 South Capitol St., S.E.  
Washington, DC 20003

Dear Mr. Tobias:

Attached please find the Final Audit Report on the 2000 Democratic National Convention Committee, Inc. The Commission approved the report on January 31, 2002.

Should the Committee wish to dispute the Commission's determinations, Commission regulations at 11 CFR §9008.12(c) provide the Committee with an opportunity to submit in writing, within 60 calendar days after service of the Commission's notice (March 11, 2002), legal and factual materials to demonstrate that no repayment, or a lesser repayment, is required. In addition to the submission of written materials the Committee may request an opportunity to address the Commission in open session. The request for an oral hearing should identify the repayment matters that will be addressed and the Committee's presentation must be based on the legal and factual materials submitted.

The Commission will consider any written legal and factual materials submitted within the 60 day period when deciding whether to revise the repayment determination. Such materials may be submitted by counsel. If the Committee decides to file a response to the repayment determination, please contact Gregory R. Baker of the Office of General Counsel at (202) 694-1650 or toll free at (800) 424-9530. If the Committee does not dispute this determination within the 60 day period provided, it will be considered final.

The Commission approved Final Audit Report will be placed on the public record on February 11, 2002. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 694-1220. Any questions you have related to matters covered during the audit or in the report should be directed to Bill Antosz or Alex Boniewicz 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 "Joseph F. Stoltz".

Joseph F. Stoltz  
Assistant Staff Director  
Audit Division

Attachment as Stated



## CHRONOLOGY

### 2000 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.

Audit Fieldwork	December 4, 2000 - February 9, 2001
Preliminary Audit Report To Committee	October 29, 2001
Response Received to the Preliminary Audit Report	December 26, 2001
Final Audit Report Approved	January 31, 2002

