



FEDERAL ELECTION COMMISSION

BJ005889

July 6, 1994

MEMORANDUM

TO: RONALD M. HARRIS
CHIEF, PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
COMMITTEE ON ARRANGEMENTS FOR THE 1992
REPUBLICAN NATIONAL COMMITTEE

Attached please find a copy of the final audit report on Committee on Arrangements for the 1992 Republican National Convention which was approved by the Commission on June 23, 1994.

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
Report Analysis Division
FEC Library

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REPORT OF THE AUDIT DIVISION
ON

**Committee on Arrangements for the
1992 Republican National Committee**

Approved June 23, 1994



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

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REPORT OF THE AUDIT DIVISION
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**Committee on Arrangements for the
1992 Republican National Committee**

Approved June 23, 1994



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

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1992 REPUBLICAN NATIONAL CONVENTION

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

FINAL AUDIT REPORT
ON THE
COMMITTEE ON ARRANGEMENTS FOR THE 1992
REPUBLICAN NATIONAL CONVENTION

EXECUTIVE SUMMARY

The Committee on Arrangements for the 1992 Republican National Convention (the Committee) registered with the Federal Election Commission on February 12, 1990. The Committee was created for the purpose of conducting the 1992 Presidential nominating convention of the Republican Party. The Committee received \$11,048,000 in federal funds for this purpose.

The Audit was conducted pursuant to 26 U.S.C. §9008(g).

The findings of the audit were presented to the Committee at an exit conference at the conclusion of the Audit fieldwork and in the interim audit report approved by the Commission on December 14, 1993. The Committee responded to the findings contained in the interim report on March 1, 1994. The comments and other information received from the Committee have been included in the findings in this report.

The final audit report requires the Committee to repay \$47,411 to the U.S. Treasury. Of this amount \$26,273 has been repaid to date.

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

Failure to Itemize Debts and Obligations - 2 U.S.C. §434(b)(8) and 11 CFR 104.11(a). Committees are required to list selected debts on each disclosure report. The audit identified 13 obligations totaling \$394,318 which were not disclosed. In response to a recommendation in the interim audit report, the Committee filed schedules disclosing the debts.

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Excessive Contributions from Staff - 11 CFR 116.5. Funds for travel and other expenses advanced by individuals and subsequently reimbursed by a committee are contributions by the person paying the expenses unless specifically exempted by the Commission's regulations. The interim report questioned, as contributions, expenses totaling \$10,202 incurred by one staff member. This amount was reimbursed by the Committee, though not within the required time period. As a result, the amount constituted an impermissible contribution. In response to the interim report the Committee argued that a significant portion of the advances in question were reimbursed by the Committee before the individual disbursed funds in payment. The audit rejected this argument because the date the expenses were incurred is the operative date.

Improper Use of Funds - Payments for Lost Equipment - 11 CFR 9008.6(a)(4) and 9008.10(d). The audit identified net payments totaling \$27,286 made to vendors to replace leased equipment that was lost. The audit staff concluded that the losses were not reasonable and should be viewed as improper use of funds. On December 7, 1993, the Commission determined that no repayment was required.

Unspent Portion of Fund Payment - 11 CFR 9008.10(e). If any portion of the federal grant remains unspent after all expenses are paid, the unspent portion must be returned to the U.S. Treasury. The Committee had \$46,375 in unspent funds. To date \$25,237 has been repaid to the U.S. Treasury.

Stale-dated Committee Checks - 26 U.S.C. 9008(h) and 11 CFR 9007.6. Finally, the Committee is required to pay to the U.S. Treasury \$1,036, the total amount of checks outstanding which had not been cashed. The Committee has repaid this amount.

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FEDERAL ELECTION COMMISSION

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REPORT OF THE AUDIT DIVISION
ON THE
COMMITTEE ON ARRANGEMENTS FOR THE 1992
REPUBLICAN NATIONAL CONVENTION

I. Background

A. Audit Authority

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This report is based on an audit of the Committee on Arrangements for the 1992 Republican National Convention (the Committee), 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 involved is held.

In addition to examining the receipt and use of Federal funds, the audit seeks to determine if the committee has materially complied with the limitations, prohibitions and disclosure requirements of the Federal Election Campaign Act of 1971, as amended.

B. Audit Coverage

The audit covered the period March 26, 1990, the date the Republican National Committee executed a loan agreement on behalf of the Committee, through December 31, 1992. In addition, certain financial activity was reviewed through February 28, 1994 to determine any amounts due to the United States Treasury. During the audit period the Committee reported an opening cash balance of \$-0-, total receipts of \$11,688,647, total disbursements of \$11,396,346, and a closing cash balance on December 31, 1992 of \$292,301.1/

1/ All figures in this report have been rounded to the nearest dollar.

C. Campaign Organization

The Committee registered with the Federal Election Commission on February 12, 1990, as a National committee of the Republican Party. The Treasurers for the period audited were William McManus from February 12, 1990 to January 31, 1991, and Alec Poitevint from January 31, 1991 to the present. During various portions of the period audited the Committee maintained offices in Washington, D.C., Alexandria, VA, and Houston, TX. The Committee records are currently maintained in Alexandria, VA.

To manage its financial activity, the Committee used five bank accounts which included two operating accounts from which most disbursements were made, a payroll account, and two accounts which maintained credit balances. Federal funds were deposited into an operating account. The Committee made approximately 4600 disbursements.

The Committee received \$11,048,000 in federal funds. This amount represents the full entitlement established at 26 U.S.C. §9008(b).

D. Audit Scope and Procedures

The audit included a review of the following general categories:

1. Compliance with statutory limitations with respect to the receipt of contributions and loans (see Finding II.B.);
2. compliance with the statutory requirements regarding the receipt of contributions from prohibited sources;
3. the itemization and proper disclosure of receipts, as well as the completeness and accuracy of the information disclosed;
4. the itemization and proper disclosure of disbursements when required, as well as the completeness and accuracy of the information disclosed;
5. proper disclosure of debts and obligations (see Finding II.A.);
6. the accuracy of total reported receipts, disbursements, and cash balances as compared to Committee bank records;
7. adequate recordkeeping for Committee transactions;

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- 8. the financial position with respect to any unexpended funds (see Finding III.C.);
- 9. compliance with requirements concerning expenditures for convention expenses (see Finding III.B.);
- 10. compliance with spending limitations; and
- 11. other audit procedures that were deemed necessary in the situation.

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

II. Findings and Recommendations - Non-repayment Matters

A. Reporting Requirements - Itemization of Debts and Obligations

Section 434(b)(8) of Title 2 of the United States Code requires that the amount and nature of outstanding debts and obligations owed by or to a political committee be disclosed. Sections 104.11(a) and (b) of Title 11 of the Code of Federal Regulations state, in relevant part, that debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. A debt or obligation, the amount of which is over \$500 shall be reported as of the date on which the debt or obligation is incurred, except that any obligation incurred for rent, salary or other regularly recurring administrative expense shall not be reported as a debt before the payment due date.

The Audit staff reviewed selected debts and obligations and determined that the Committee did not disclose 13 obligations to nine vendors totaling \$394,318 for the following periods: January 10 1991 Quarterly (one for \$10,510); April 10 1992 Quarterly (one for \$13,475); July 10 1992 Quarterly (nine for \$331,248); and October 10 1992 Quarterly (two for \$39,085).

At the Exit Conference the Committee was provided with a schedule of the undisclosed debts. The Committee representative stated that the Committee was as diligent as possible regarding debts.

The Committee outlined the following procedures and problems involved with debt reporting: 1) All invoices in-house on the last day of a reporting period were paid on that day, and

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unpaid bills in-hand on the day before the report was prepared were reported as debts; 2) many invoices dated close to the end of a reporting period were received after - often many months after - the report due date; 3) estimating debts would be misleading to the public; and 4) the 10-day cutoff for debt reporting for convention committees does not provide enough time to obtain the necessary invoices to prepare the debt schedules. Further the Committee representative suggested that in the alternative "Each committee could be required to report all procedures used for reporting debts and obligations and explain to the public that unknown debts do exist, but the amounts are unknown ..." The Committee agreed to file amended Schedules D.

The Audit staff notes that the undisclosed debts were extinguished during each subsequent reporting period.

In the interim audit report the Audit staff recommended that within 30 calendar days of service of that report the Committee file amended Schedules D to disclose the obligations noted above.

In its response to the interim report the Committee expressed appreciation and support for the concept of compliance with the debt and obligations reporting regulations, and objected to being "...found to have failed to comply..." with these regulations, "...when prompt payment of all invoices weekly, and full payment of all invoices at the end of each reporting period, left remaining only misleading and inaccurate estimates...to report."

On June 9, 1993 the Committee filed amended schedules which corrected the public record.

B. Excessive Contributions from Staff or Other Individuals

Section 116.5(b) of Title 11 of the Code of Federal Regulations states that the payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of, a candidate or a political committee is a contribution unless the payment is exempted from the definition of contribution under 11 C.F.R. §100.7(b)(8). If the payment is not exempted under this section, it shall be considered a contribution by the individual unless the payment is for the individual's transportation expenses incurred while traveling on behalf of a candidate or political committee of a political party or for usual and normal subsistence expenses incurred by an individual, other than a volunteer, while traveling on behalf of a candidate or political committee of a political party; and, the individual is reimbursed within sixty days after the closing date of the billing statement on which the charges first appear if the payment was made using a personal credit card, or within thirty

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In the interim audit report the Audit staff recommended that within 30 calendar days of service of that report, the Committee either demonstrate that no contribution occurred with respect to these expense reimbursements, or offer any other information or mitigating circumstances that are believed to be relevant to the issue.

In response to the interim report the Committee outlined the sequence of incurrences and reimbursements, and advanced the following reasoning to support their contention that the Commission take no further action with respect to this matter.

1. The Committee found no relevance between staff reimbursements and Section 441a(a) cited in the interim report.
2. Regarding one portion of the reimbursement (\$5,151) the Committee: Stated that it "...had no knowledge of the billing date of the credit card statement in order to comply with the 60 day rule..."; noted that the overage period was 11 days for \$5,151 in reimbursements for personal travel and subsistence; and stated that this reimbursement was only one of many issued to individuals.
3. The Committee submits that "...there is no contribution for the volunteers' meals [\$5,051] ...[s]ince the individual was tendered payment on 11/18/92, prior to any disbursement for these meals by the individual...".

With regard to Section 441a(a) the Audit staff acknowledges that this citation as it appeared in the interim report is not relevant to a Convention committee.

The Audit staff does not consider the 11-day overage period cited by the Committee or the lack of knowledge concerning the billing date of the credit card statement to be materially relevant to the issue. In any event, the Audit staff determined that the personal travel and subsistence expenses for this individual (\$5,151) were outstanding between 71 and 111 days, not 71 as calculated by the Committee. The portion paid by credit card was outstanding between 71 and 105 days. The expenses for volunteers' meals (\$5,051) were outstanding for 90 and 92 days.

The Committee's contention, that the reimbursement for volunteers' meals is not a contribution because the individual was reimbursed by the Committee before he disbursed funds for these meals, is without merit. Pursuant to 11 C.F.R. §100.7 a

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"contribution" is defined to include a loan, advance, or anything of value. The contribution was made when the obligation was incurred for the provision of food on 8/18/92 and 8/20/92. The operative date is the date of incurrence not the date of payment.

Furthermore, it is not clear when the invoices for food were actually paid by the individual. Within the letter dated 9/15/92 discussed above, the individual stated with reference to providing food for the volunteers: "The paid invoices for expenses are included". The Committee provided copies of two non-negotiated checks, drawn on the individual's account and dated well after the 9/15/92 letter:

1. Check #2659 dated 11/25/92 in payment for two "Charge Sale" invoices totaling \$3,441 and dated 8/18/92 and 8/20/92.
2. Check #2671 dated 12/4/92 in payment for one "Net 10 Days" invoice dated 9/9/92 for services provided on 8/20/92.

The Committee has provided no additional information relative to this finding and the analysis as presented in the interim audit report is unchanged.

III. Findings and Recommendations - Repayment Matters

A. Stale-dated Committee Checks

Section 9008(h) of Title 26 of the United States Code states that the Commission shall have the same authority to require repayments from the national committee of a political party as it has with respect to repayments from any eligible candidate under section 9007(b).

Section 9007.6 of Title 11 of the Code of Federal Regulations states that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts have been 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 March 31, 1993 and identified 10 stale-dated checks totaling \$3,719.

At the Exit Conference the Audit staff provided the Committee representatives with a schedule of the stale-dated checks. The Committee representative stated that the Committee would reissue checks and repay the U.S. Treasury the amount of those checks for which payees could not be located. On May 10,

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1993 the Committee provided a list of the stale-dated checks (which was separated into \$2,773 of reissued checks and \$945 of repayable checks) and copies of the reissued checks (front only) along with stop payment documentation for the original checks (both reissued and repayable). The Committee presented a check payable to the U.S. Treasury for \$945 for repayment of the checks not reissued. Finally the Committee stated that copies of the canceled checks would be provided when the reissued checks cleared the bank.

In the interim audit report the Audit staff recommended that within 30 calendar days of service of that report the Committee provide copies (both sides) of the reissued checks totaling \$2,773 to demonstrate that they were negotiated.

Absent this evidence the Audit staff would recommend that the Commission make an initial determination that \$2,773 in outstanding checks are payable to the U.S. Treasury.

In response to the interim report the Committee provided copies of negotiated checks totaling \$2,682, and presented a check payable to the U.S. Treasury for \$91.

Recommendation #1

The Audit staff recommends that the Commission make an initial determination that \$1,036 is repayable to the U.S. Treasury pursuant to 26 U.S.C. §9008(h) and 11 C.F.R. §9007.6.

Repayments totaling \$1,036 were made on May 10, 1993 and March 1, 1994.

B. Improper Use of Funds - Payments for Lost Equipment

Section 9008.6(a)(4) of Title 11 of the Code of Federal Regulations states, in part, that permissible uses of federal funds for convention expenses include, but are not limited to, expenses for preparing, maintaining, and dismantling the physical site of the convention, including rental of the hall, platforms and seating, decorations, telephones, security, and utilities. Section 9008.8(b)(4)(v) states that the convention committee has the burden of proving that expenditures by the convention committee were for purposes of defraying such convention expenses.

Section 9008.10(d) states, in relevant part, if the Commission determines that any amount of any payment to the convention committee under 11 CFR 9008.8(b) was used for any purposes other than the purposes authorized at 11 CFR 9008.6, it shall notify the national committee of the amount improperly used and such national committee shall pay to the Secretary an amount equal to the amount specified.

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During the review of disbursements for equipment leases and purchases the Audit staff noted two payments to vendors for lost equipment buy outs totaling \$33,394. A payment to GE Rental/Lease included the replacement cost (\$4,404) of two laser printers which were not returned as part of nine printers leased during the convention. The second payment, to Motorola for \$28,990, was for electronic equipment (2-way radios and accessories) which was leased during the convention and not returned. Both lease agreements stated that the customer would be responsible for the replacement cost of equipment not returned.

At the Exit Conference the Committee was provided with the payment information on the lost equipment.

With regard to the Motorola equipment the Committee representatives had stated at an interim conference that they had tried to locate the missing equipment and that initially a lot more equipment had been misplaced before it was located and returned to the lessor. The Committee representatives stated that they had been unable to file a police report or recover insurance settlements on the missing items because the Committee could not state with certainty that the equipment was stolen.

At the Exit Conference the Committee further stated that although the equipment was insured, it was not covered because the \$1,000 deductible was applied per incident. The Committee also stated that another vendor was responsible for tracking the equipment and that the Committee had reduced the consulting payment to this vendor by about \$6,100, in part because the vendor failed to adequately monitor the equipment. Finally, the Committee representative opined that the loss of equipment (laser printers and radios) was normal for a convention of this size and that some allowance should be made for it.

The Audit staff verified that a \$6,108 reduction was made to the consultant who the Committee stated was responsible for tracking the radio equipment, and has reduced the loss accordingly. The Committee provided no additional documentation to substantiate its assertions with regard to either insurance coverage or other efforts made to recover the losses.

The Audit staff acknowledges that leased equipment may be damaged or lost and recognizes the qualified nature of an expenditure for normal wear and tear. Accordingly, the Audit staff did not include as improper use of federal funds six payments totaling \$3,275 made to five vendors for the repair or replacement of furniture, or \$7,196 paid to a vendor for the repair of leased golf carts.

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However, the Audit staff is of the opinion that neither the loss of the laser printers nor the loss of radio equipment (as adjusted) is reasonable loss or normal spoilage. Nine printers were leased at a cost of \$1,954; two of these were lost at an additional replacement cost of \$4,404. Radio equipment lease costs totaled \$81,959; the replacement cost for missing equipment increased the expense of this activity by \$22,882 (\$28,990 less \$6,108). The Audit staff concludes that losses totaling \$27,286 (\$4,404 + \$22,882) should be viewed as improper use of funds.

On December 7, 1993 the Commission determined that no repayment is required.

C. Unspent Portion of Fund Payment

Section 9008(h) of Title 26 of the United States Code states, in part, that the Commission shall have the same authority to require repayments from the national committee of a major party as it has with respect to repayments from any eligible candidate under section 9007(b).

In addition, 11 C.F.R. §9008.10(e)(1) and (2) states that if any portion of the payment under 11 CFR 9008.3 remains unspent after all convention expenses have been paid, that portion shall be returned to the Secretary of the Treasury; and 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 sixth month following the last day of the convention, allowing for a reasonable amount as determined by the Commission to be withheld for unanticipated contingencies. If, after written request by the national committee or convention committee, the Commission determines, upon review of evidence presented by either committee, that amounts previously refunded are needed to defray convention expenses, the Commission shall certify such amount for payment.

Section 9008.7(d)(3) of Title 11 of the Code of Federal Regulations provides, in part, that local retail businesses, excluding banks, as well as local municipal corporations and government agencies may donate funds to a host committee for use by that committee in defraying convention expenses. Such funds are to be maintained in a separate account.

Section 9008.7(d)(4) states that funds used by the host committee in accordance with section 9008.7(d)(2) and (3) shall not be considered expenditures and shall not count against the expenditure limitation under 11 CFR 9008.7(a).

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Section 9008.4(c) states, in part, that the entitlements established by 11 CFR 9008.3 shall be adjusted so as not to exceed the difference between the expenditure limitations of 11 CFR 9007.7(a) and the amount of private contributions received by the national committee of a political party. In calculating these adjustments expenditures by host committees in accordance with 11 CFR 9008.7(d) will not be considered private contributions or expenditures counting against the limitation.

Finally, 11 C.F.R. §9008.10(g)(1) and (2) states that if the Commission determines that repayment is required, it shall give written notification to the committee of the amounts required to be paid and the reasons therefor; and the national committee shall repay to the Secretary, within 90 days of the notice, the amount of the repayment. Upon application submitted by the national committee or convention committee, the Commission may grant a 90-day extension of the repayment period.

The Audit staff reviewed the Committee's financial position at the close of business March 31, 1993 for the interim report and determined that the unspent portion of the fund payment totaled \$94,520.

The Audit staff reviewed the response to the interim report and additional documentation provided through February 28, 1994 and determined the current financial position of the Committee as shown below.

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Calculation of Financial Position and Spending Subject
to the Expenditure Limitation
for the
Committee on Arrangements for the 1992
Republican National Convention
as of March 31, 1993
Determined at February 28, 1994

ASSETS

Cash on Hand	\$ -0-	
Cash in Banks	153,782	
Add:		
Capital Assets	\$ 20,713	
Deposits Receivable	7,671	
Total Assets		\$182,166

LIABILITIES

Accounts Payable	\$ 7,600	
Stale-dated Checks Reissued	2,682	
Repayment to U.S. Treasury		
Stale-dated Checks	1,036	
Official Proceedings	48,800	
Winding Down Costs	<u>75,673</u>	
Total Liabilities		\$135,791
Remaining Federal Funds		\$ <u>46,375</u> a/
Spending Limitation Remaining		\$ <u>46,375</u> a/

a/ Includes \$20,713 in unsold capital assets; amount may be adjusted as assets are disposed of at greater or less than this valuation.

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The Committee made no interim repayment pursuant to 11 C.F.R. §9008.10(e)(2).

In the interim report the Audit staff discussed the possibility that \$656,368 in in-kind disbursements identified during the audit of the Houston Host Committee, Inc. may be attributable to the Committee's spending limitation. These disbursements represent 13 in-kind contributions for which the business entities failed to demonstrate a proportional commercial return. The Audit staff also noted that should it be determined that these Host Committee disbursements are attributable to the spending limitation, the Committee's entitlement would be reduced by the \$656,368 in private funds and a repayment in an equal amount would be required. At the Exit Conference the Committee expressed concern about these disbursements being charged to the limit. The Treasurer questioned how the Committee could be held responsible for activities of the Host Committee.

The response by the Houston Host Committee to its interim report indicated that the in-kind disbursements noted above defrayed expenses for the Host Committee and were not convention-related expenses chargeable to the Committee's spending limit.

In the interim audit report the Audit staff recommended that, absent a showing to the contrary, within 30 days of service of that report, the Commission make an initial determination that \$94,520 in unspent funds is repayable to the United States Treasury pursuant to 26 U.S.C. §9008(h) and 11 C.F.R. §9008.10(e).

The Audit staff also recommended that the Committee demonstrate why no interim repayment pursuant to 11 C.F.R. §9008.10(e)(2) was required.

In response to the interim report the Committee stated: "No interim repayment was required due to anticipated additional invoices which were unknown on 3/31/93, as well as wind down costs. Transactions subsequent to 3/31/93 including but not limited to, the printing of the Official Proceedings, have proven this to be a reasonable decision."

Recommendation #2

The Audit staff recommends that the Commission make an initial determination that \$46,375 in unspent funds is repayable to the United States Treasury pursuant to 26 U.S.C. §9008(h) and 11 C.F.R. §9008.10(e).

A repayment of \$25,237 was made on March 1, 1994.

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IV. Summary of Amounts Repayable to the U.S. Treasury

A.	Stale-dated Committee Checks (III.A.)	\$	1,036
B.	Unspent Portion of Fund Payment (III.C.)		<u>46,375</u>
	Subtotal	\$	47,411
	Amount Repaid to Date		<u>(26,273)</u>
	Amount Due to U.S. Treasury	\$	<u>21,138</u> a/

a/ Includes \$20,713 in capital assets which may be liquidated at more or less than this value.

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20543

June 6, 1994

MEMORANDUM

TO: Robert J. Costa
Assistant Staff Director
Audit Division

THROUGH: John C. Surina
Staff Director

FROM: Lawrence M. Noble
General Counsel
Kim Bright-Coleman
Associate General Counsel

Lorenzo Holloway
Assistant General Counsel

Rhonda J. Vosdinger
Attorney

SUBJECT: Proposed Final Audit Report on the Committee on Arrangements for the 1992 Republican National Convention (LRA #425/AR #94-10)

The Office of General Counsel has reviewed the proposed Final Audit Report on the Committee on Arrangements for the 1992 Republican National Convention ("the Committee") submitted to this Office on April 7, 1994. The following memorandum summarizes our comments on the proposed Report. If you have any questions concerning our comments, please contact Rhonda J. Vosdinger, the attorney assigned to this audit.

We concur with the findings in the proposed Final Audit Report which are not discussed separately in the following memorandum.^{1/}

^{1/} Since the proposed Final Audit Report does not include any matters exempt from public disclosure under 11 C.F.R. § 2.4, we recommend that the Commission's discussion of this document be conducted in open session.

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I. STAFF ADVANCES (II.B.)

We agree with the Audit Division's finding that a contribution was made to the Committee when Jack Laughery, a National Committeeman, advanced \$10,202 to the Committee for his own travel and subsistence and the subsistence of others. 11 C.F.R. § 116.5. These expenses were incurred between July 30, 1992 and August 22, 1992, and the Committee reimbursed Mr. Laughery for these expenses on November 18, 1992.^{2/} The proposed Report notes that Mr. Laughery's personal travel and subsistence expenses were outstanding between 71 and 111 days, the portion paid by credit card was outstanding between 71 and 83 days, and the expenses for others' subsistence were outstanding for 90 and 92 days.^{3/}

The expenses for others' subsistence primarily included provision of meals to Committee volunteers. Apparently, these meals were obtained on Mr. Laughery's personal credit at the restaurants. These meals were provided between July 30 and August 22, 1992. On November 18, 1992 the Committee issued a check to Mr. Laughery to cover these expenses. The Committee argued that because it had issued a check to Mr. Laughery to cover these expenses before he actually disbursed funds for these meals, no contribution resulted. We disagree with the Committee's position. In the case of an individual who incurs expenses for others' subsistence, a contribution occurs at the time the financial obligation is incurred, regardless of when the payment is due or when the individual pays the debt. 11 C.F.R. § 116.5. Furthermore, in determining whether a contribution results, it is immaterial whether or when the committee reimburses an individual who advanced funds on behalf of others. 11 C.F.R. § 116.5(b).^{4/}

^{2/} A reimbursement check dated November 18, 1992 was returned to the Committee because it included an overpayment. The Committee issued a replacement check on December 1, 1992.

^{3/} Although the proposed Report states that the portion of Mr. Laughery's personal travel and subsistence paid by credit card was outstanding between 71 and 83 days, you informed us that the actual number of days these expenses were outstanding is between 71 and 105 days and the Report will be revised accordingly.

^{4/} Mr. Laughery received three invoices from the restaurants. All the invoices were addressed to his business address. The payments, however, appear to have been drawn on his personal checking account, which negates any implication that a corporate contribution was made. We also note that one of the invoices was addressed to the "Republican Convention Security Detail, c/o Jack Laughery" at his business address. The fact that this invoice was addressed to the Committee may suggest that Mr. Laughery was acting as an agent of the Committee when he incurred the expenses for the meals. If Mr. Laughery is considered an agent, then the transactions are governed by 11 C.F.R. § 116.3 (extensions of

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The fact that the staff advances resulted in contributions to the Committee raises the issue of the contribution limitation for convention committees that receive their maximum entitlement of federal funds under 26 U.S.C. § 9008(b). Although the regulations governing the 1992 presidential election cycle do not address this issue, we believe that the contribution limit for publicly financed convention committees should be \$20,000 if they provide reimbursements for the advances. A convention committee is affiliated with the national committee as it is established, financed, maintained, and controlled by the national committee and therefore shares the national committee's \$20,000 contribution limitation. See 11 C.F.R. §§ 9008.8(b)(1) and (2), 110.3(a)(1)(ii). If the convention committee reimburses the individual, the advance no longer constitutes a contribution, and there is no basis for reducing the committee's entitlement of federal funds. 11 C.F.R. § 9008.4(c). Therefore, since the advances at issue in the present case were under the \$20,000 limitation and the Committee reimbursed the individual for these expenses, there is no repayment implication for the Committee. See 11 C.F.R. § 9008.10(c).5/

II. UNSPENT PORTION OF FUND PAYMENT (III.C.)

The Audit Division recommends the Commission determine the Committee repay to the United States Treasury \$46,375 in unspent federal funds. See 26 U.S.C. § 9008(h) and 11 C.F.R. § 9008.10(e). The Commission's regulations provide that all unspent funds shall be repaid to the United States Treasury within 24 months of the convention. 11 C.F.R. § 9008.10(e)(3). They also provide that an interim repayment be made 6 months after the convention. 11 C.F.R. § 9008.10(e)(2). In the instant case, remaining unspent funds must be repaid by August 20, 1994. However, the interim repayment was due January 20, 1993. Although the Committee repaid a portion of its unspent funds on March 1, 1994 and promised to repay to the Treasury any amount that remains by June 1, 1994, the Committee did not make any interim repayment within 6 months of the convention as required by the regulations.

(Footnote 4 continued from previous page)
credit to a committee for goods and services). However, since there is no additional evidence that Mr. Laughery was an agent of the Committee for the purpose of providing meals, we believe that the transactions fall within the purview of 11 C.F.R. § 116.5.

5/ The proposed 1996 regulations would codify the policy of allowing a convention committee that accepts the maximum entitlement of federal funds under 26 U.S.C. § 9008(b) to accept staff advances up to \$20,000 if it provides reimbursement. See Agenda Document #94-35, Memorandum to the Commission from the Office of General Counsel, Re: Convention Regulations: Final Rules and Explanation and Justification, pp. 11-12 (Explanation and Justification for 11 C.F.R. § 9008.6).

959/01230/3

The Committee argued that no interim repayment was required due to anticipated additional invoices which were unknown at the time and wind down costs.

This Office disagrees with the Committee's contention. The Commission's regulations require convention committees to make an interim repayment of unspent funds 6 months after the convention, allowing for a reasonable portion as determined by the Commission to be withheld for unanticipated contingencies. 11 C.F.R. § 9008.10(e)(2).^{6/} In the instant case, the Commission did not make a determination that a reasonable portion for the Committee to withhold would be the entire amount of its remaining unspent funds. Because the Commission did not make such a determination, this Office believes the Committee withheld federal funds that properly should have been repaid to the United States Treasury by January 20, 1994 as an interim repayment. However, the time for the interim repayment has passed and the interim repayment will be subsumed within the repayment the Committee makes in response to the Final Audit Report. 11 C.F.R. § 9008.10(e)(3). Therefore, this Office believes the Committee's failure to make an interim repayment does not warrant additional action.^{7/}

^{6/} The regulations further provide that if amounts previously refunded are needed to defray convention expenses, the Commission shall certify such amount for payment. 11 C.F.R. § 9008.10(e)(2).

^{7/} The proposed 1996 convention financing regulations would also require the committees to make an interim repayment of unspent funds based on the committee's financial position six months after the convention and explicitly require the committee to make the interim repayment within 30 days of that date. Agenda Document #94-35, Memorandum to the Commission from the Office of General Counsel, Re: Convention Regulations: Final Rules and Explanation and Justification (proposed section 9008.12(b)(5)(ii)). It is anticipated that the proposed revisions to the regulations clearly setting the date by which the interim repayment is due would prevent the instant scenario from recurring in the future.

950/01930/4



FEDERAL ELECTION COMMISSION

June 28, 1994

Mr. Alec Poitevint, Treasurer
 Committee on Arrangements for the
 1992 Republican National Convention
 228 S. Washington Street
 Suite 200
 Alexandria, VA 22314

Dear Mr. Poitevint:

Attached please find the Final Audit Report on the Committee on Arrangements for the 1992 Republican National Convention. The Commission approved this report on June 23, 1994. As noted on page 3 of the report, the Commission may pursue any of the matters discussed in an enforcement action.

In accordance with 11 CFR §9008.10(g)(1) the Commission has made an initial determination that the Committee is to repay to the Secretary of the Treasury \$47,411. Of this amount the Committee has repaid \$26,273; the balance due the U.S. Treasury is \$21,138. Pursuant to 11 CFR §9008.10(e)(3) the balance due shall be repaid to the U.S. Treasury on or before August 20, 1994. The Commission may grant an extension of time upon request of the national committee.

Should the Committee or the national committee dispute the Commission's determination that a repayment is required, Commission regulations at 11 CFR §9008.11(a) provide either committee with an opportunity to submit in writing, within 30 calendar days after service of the Commission's notice (August 1, 1994) legal and factual materials to demonstrate that no repayment or a lesser repayment, is required. The Commission will consider any written legal and factual materials submitted by either committee within the 30 day period in making the final repayment determination. Such materials may be submitted by counsel if the Committee or the national committee so elects. If either committee decides to file a response to the initial repayment determination, please contact Kim L. Bright-Coleman of the Office of General Counsel at (202) 219-3690. If the committees do not dispute this initial determination within the 30 day period provided, it will be considered final.

959/01949/5

Mr. Alec Poitevint, Treasurer
Page 2

The Commission approved Final Audit Report will be placed on the public record on July 6, 1994. Should you have any questions regarding the public release of this report, please contact Mr. Ron Harris of the Commission's Press Office at (202) 219-4155.

Any questions you may have related to matters covered during the audit or in the report should be directed to Cornelia Riley or Marty Favin of the Audit Division at (202) 219-3720.

Sincerely,

RJ Costa

FR Robert J. Costa
Assistant Staff Director
Audit Division

Attachments:
Final Audit Report
Legal Analysis

cc: Mr. Keith A. Davis

950701930/6

CHRONOLOGY - COMMITTEE ON ARRANGEMENTS FOR THE
1992 REPUBLICAN NATIONAL CONVENTION

Pre-audit Inventory Commenced	12/07/92
Audit Fieldwork	12/28/92 - 04/26/93
Interim Audit Report to the Committee	12/15/93
Response Received to Interim Audit Report	03/01/94
Final Audit Report Approved	06/23/94

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Public Disclosure
(Cooper)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

March 8, 1994

MEMORANDUM

TO: THE COMMISSIONERS

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: REPAYMENT OF \$25,328.25 RECEIVED FROM THE COMMITTEE ON
ARRANGEMENTS FOR THE 1992 REPUBLICAN NATIONAL
CONVENTION

This informational memorandum is to advise you of a \$25,328.25 repayment received from The Committee on Arrangements for the 1992 Republican National Convention. The repayment was received in response to the interim audit report and represents stale-dated checks and unspent public funds.

Attached are copies of the checks, the letter which accompanied the repayment, and the receipt showing delivery to the Department of Treasury.

Should you have any questions regarding the repayment please contact Ray Lisi at 219-3720.

Attachments as stated

950793079

1992 COMMITTEE ON ARRANGEMENTS FOR
THE REPUBLICAN NATIONAL CONVENTION

OPERATING ACCOUNT
228 SOUTH WASHINGTON STREET, SUITE 200
ALEXANDRIA, VA 22314

SIGNET BANK VIRGINIA
VIENNA, VA
68-408/560

2720

DATE 3/1/94 CHECK NO 2720 CHECK AMOUNT *25237.00*

PAY

Twenty Five Thousand Two Hundred Thirty Seven and 00/100-----

U. S. TREASURY

Dora J. Ferrell

⑈00002720⑈ ⑆056004089⑆ 652⑈0155471⑈

1992 COMMITTEE ON ARRANGEMENTS FOR
THE REPUBLICAN NATIONAL CONVENTION

OPERATING ACCOUNT
228 SOUTH WASHINGTON STREET, SUITE 200
ALEXANDRIA, VA 22314

SIGNET BANK VIRGINIA
VIENNA, VA
68-408/560

2719

DATE 3/1/94 CHECK NO 2719 CHECK AMOUNT *91.25*

PAY

Ninety One and 25/100-----

U. S. TREASURY

Dora J. Ferrell

⑈00002719⑈ ⑆056004089⑆ 652⑈0155471⑈

1992 Republican National Convention

3/1/94

Houston, Texas
Office of Finance

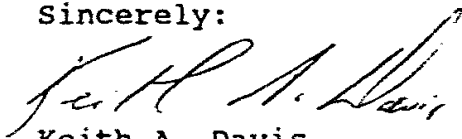
March 1, 1994

Mr. Robert J. Costa
Assistant Staff Director for
the Audit Division
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Mr. Costa:

Enclosed please find the Response of the Committee on Arrangements for the Republican National Convention to the Interim Report of the Audit Division issued December 15, 1993. Separate checks to the United States Treasury in the amount of the Committee's preliminary repayment and the total of the stale-dated checks are attached.

Sincerely:



Keith A. Davis
Assistant Treasurer
Committee on Arrangements for the
Republican National Convention

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FEDERAL ELECTION COMMISSION
WASHINGTON, D. C. 20542

March 7, 1993

RECEIPT FROM THE
UNITED STATES DEPARTMENT OF TREASURY
FOR A
PAYMENT TO THE GENERAL FUND OF THE U. S. TREASURY

Received on March 7, 1993, from the Federal Election Commission (by hand delivery), two checks drawn on the account of The Committee On Arrangements For The 1992 Republican National Convention. Check #2719 in the amount of \$91.25 represents a repayment for a stale dated check which was not reissued. Check #2710 in the amount of \$25,237 represents a repayment of unspent public funds.


~~Pursuant to 11 C. F. R. §9008.10(g)(3), the checks should be deposited into the general fund of the Treasury.~~

The Committee on Arrangements For The
1992 Republican National Convention

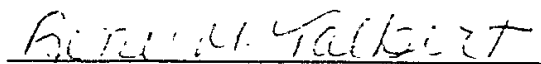
Amount of Repayment: \$25,328.25

Presented by:

Received by:



for the
Federal Election Commission



for the
United States Treasury

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