



FEDERAL ELECTION COMMISSION

BJ004590

JANUARY 14, 1994

MEMORANDUM

TO: SHARON SNYDER
PRESS OFFICE

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

SUBJECT: PUBLIC ISSUANCE OF THE FINAL AUDIT REPORT ON
HOUSTON HOST COMMITTEE, INC.

Attached please find a copy of the final audit report and related documents on Houston Host Committee, Inc. which was approved by the Commission on January 5, 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
Reports Analysis Division
FEC Library

6
1
1
6
1
7
6
5

REPORT OF THE AUDIT DIVISION
ON

Houston Host Committee, Inc.

January 5, 1994



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

03070214

REPORT OF THE AUDIT DIVISION
ON

Houston Host Committee, Inc.

January 5, 1994



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

957012118

CONTENTS

	Page
Executive Summary	1
Final Audit Report	3
Background	3
Findings	5
Legal Analysis	11
Transmittal to Treasurer	15
Chronology	17

05070121102



AK004504

FINAL AUDIT REPORT
ON
HOUSTON HOST COMMITTEE, INC.

EXECUTIVE SUMMARY

The Houston Host Committee, Inc. (the Committee) registered with the Federal Election Commission on February 7, 1991. The Committee's primary objective was the encouragement of commerce in Houston in relation to the 1992 Republican National Convention, as well as to project a favorable image of the city to convention attendees.*/

The audit was conducted pursuant to 11 C.F.R. §9008.9 which requires an examination and audit of each host committee.

The findings of the audit were presented to the Committee at an exit conference held at the conclusion of the audit fieldwork (2/18/93) and in an interim audit report approved by the Commission on August 19, 1993. The Committee was given an opportunity to respond to the findings both after the exit conference and after receipt of the interim audit report. These responses have been included in the findings set forth in this report.

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

Apparent Prohibited Contributions - 11 CFR 9008.7(d)(2) (i) and (iv). Local businesses may make donations to the Committee provided they are located within the Consolidated Metropolitan Statistical Area (CMSA) of the convention city. The report questions whether 10 businesses which made in-kind donations totaling \$116,470, were located within the CMSA of the convention city. The Committee responded by providing local addresses for 3 of the businesses. Questions remain, however, as to the legality of the \$42,680 donated by the other businesses.

*/ The Host Committee is distinguished from the party convention committee which is funded by a public grant and also subject to audit.

Convention Related Expenditures - 11 CFR 9008.7(d) and (4). Local retail businesses (excluding banks), may make donations to a host committee for use in defraying convention expenses, but these donations must be proportionate to the business's expected commercial returns. Alternatively, these businesses may make donations to promote the suitability of the city as a convention site, welcome convention attendees, facilitate commerce and defray the administrative expenses of the host committee. Unlike convention-related donations, these donations are not restricted. The report questions whether in-kind donations totaling \$656,368 represented goods and services for convention expenses and therefore required additional documentation showing that they complied with the "commercial return" restriction. In response, the Committee provided information demonstrating that the donations related to promoting the convention city and its commerce and were therefore permissible.

Disclosure - 11 CFR 104.11(a) and (b). At the exit conference, the Audit staff recommended that the Committee file amended reports to disclose debts and obligations to 16 vendors totaling \$930,168.81. The Committee filed the amended disclosure reports.



WT002510

REPORT OF THE AUDIT DIVISION
ON THE
HOUSTON HOST COMMITTEE, INC.

I. Background

A. Audit Authority

This report is based on the audit of the Houston Host Committee, Inc. (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 11 C.F.R. §9008.9 which states that the Commission shall conduct an examination and audit of each host committee registered under 11 C.F.R. 9008.12(a)(1).

The audit seeks to determine if the campaign 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 from August 1, 1991 through December 31, 1992.^{1/} During this period, the Committee's reports which covered January 1, 1991 through December 31, 1992 reflect an opening cash balance of \$-0-, total receipts of \$10,072,866, total disbursements of \$9,918,109, and a closing cash balance of \$154,757.

C. Campaign Organization

The Committee registered with the Federal Election Commission on February 7, 1991. The Treasurers of the Committee during the audit period were William Spitz from 2/7/91 to 9/16/91 and Frank Maresh from 9/17/91 to 12/31/92. The current Treasurer is Frank Maresh.

During the period audited, the Committee established its headquarters in Houston, Texas. The Committee's current office is also in Houston, Texas.

^{1/} The Committee's receipts were reviewed through January, 1993.

95070191112

The Committee used two bank accounts to handle its financial activity.^{2/} From these accounts the Committee made approximately 513 disbursements.^{3/} The Committee received monetary donations totaling \$7,886,650, from the City of Houston (\$7,746,650) and Harris County, Texas (\$140,000). In addition, the Committee reported receiving 138 in-kind contributions, totaling \$2,105,431.52, from individuals and businesses.

D. Audit Scope and Procedures

The audit included a review of the following general categories:

1. The receipt of contributions from prohibited sources;
2. the itemization and proper disclosure of receipts from local municipal corporations and government agencies, and local labor organizations when required, as well as the completeness and accuracy of the information disclosed;
3. the itemization and proper disclosure of disbursements when required, as well as the completeness and accuracy of the information disclosed;
4. proper disclosure of debts and obligations;
5. the accuracy of total reported receipts, disbursements and cash balances as compared to bank records;
6. adequate recordkeeping for transactions;
7. compliance with the regulations concerning contributions and expenditures to promote the convention city and its commerce;
8. compliance with the regulations concerning contributions and expenditures to defray convention expenses; and
9. other audit procedures that were deemed necessary in the situation.

^{2/} One account was inactive except for one transaction, a transfer of \$20 to the operating account.

^{3/} The Committee did not receive monetary donations from individuals, local businesses or labor organizations.

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. Apparent Prohibited Contributions

Section 9008.7(d)(2)(i) of Title 11 of the Code of Federal Regulations states, in part, that local businesses, excluding banks, local municipal corporations and government agencies, local labor organizations and individuals may donate funds or make in-kind contributions to a host committee for the purposes set forth at 11 CFR 9008.7(d)(2)(iii).

Section 9008.7(d)(2)(iv) of Title 11 of the Code of Federal Regulations states that any business, municipal corporation, agency or labor organization within the Metropolitan Statistical Area (MSA)^{4/} of the convention city shall be considered local. There shall be a rebuttable presumption that any such entity located outside the MSA is not local. This presumption may be rebutted by a showing that the volume of business in an area lying outside the MSA would be directly affected by the presence of the convention.

The Audit staff identified 10 in-kind contributions, totaling \$116,470, that appear to have been made by business entities located outside the CMSA.

At the exit conference the Committee was provided with a schedule of the in-kind contributions. Committee representatives stated that several of the in-kind contributions were received from corporate headquarters. The Committee reported the addresses contained on the documentation for the in-kind contributions. The documentation contained no reference to local distributors or affiliates.

4/

In metropolitan complexes with a population greater than one million people, the MSA is comprised of a Primary Metropolitan Statistical Area (PMSA) and a Consolidated Metropolitan Statistical Area (CMSA). For the purposes of this review, the Audit staff used the CMSA to determine whether a business was local or not. The CMSA of Houston includes the City of Houston and surrounding counties: Harris, Brazoria, Galveston, Chambers, Fort Bend, Liberty, Montgomery, and Waller.

The interim audit report recommended that the Committee demonstrate that the in-kind contributions are permissible or refund an amount equal to the value of the in-kind contributions and provide evidence of such refunds (photocopy of the front and back of the refund check).

In response to the interim audit report the Committee provided local addresses for 3 of the 10 businesses. The reported value of the in-kind contributions from the 3 businesses is \$73,790. Based on the response, these contributions appear to be permissible.

With respect to 2 other businesses, COMPCO Metal Products Co. which held a breakfast and Phillip Morris USA which held a reception, the Committee stated:

"Through our research of these items we believe these contributions were incorrectly accounted for and misreported as contributions to the HHC [the Committee]. In fact, we believe that both the breakfast and reception were independent events held by the sponsoring organizations outside the operations or purview of the Convention [Republican National Convention] and the HHC as sanctioned by Advisory Opinion 1983-23, and should be treated as such.

Corroborative evidence from COMPCO Metal Products Co. or Phillip Morris USA was not provided to demonstrate that the events were held outside the purview of the Committee.

Regarding the remaining 5 businesses, the Committee stated:

"When we accepted these contributions we assumed, at the time, that these organizations had a history of providing nominal value products and merchandise to conventions as official providers even though they are not local businesses. We believe that the HHC was one of many beneficiaries in this their normal and usual business practice. The HHC is attempting to verify this information with each of the applicable companies. We will send copies of these verifications when received. If we subsequently determine that our assumption was incorrect, we will make the necessary refunds.

As of 11-23-93, no documentation relative to verifications or refunds have been received.

In summary, questions as to the permissibility of contributions totaling \$42,680 remain.

B. Convention-Related Expenditures

Sections 9008.7(d)(3)(i), (ii) and (iii) of Title 11 of the Code of Federal Regulations state, 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. The amount of the donation under 11 CFR 9008.7(d)(3)(i) must be proportionate to the commercial return reasonably expected by the business, corporation or agency during the life of the convention. The host committee must maintain funds donated under 11 CFR 9008.7(d)(3)(i) in a separate account.

Section 9008.7(d)(3)(v) of Title 11 of the Code of Federal Regulations states that for purposes of 11 CFR 9008.7(d)(3)(ii), the life of the convention shall begin seven days before the opening of the convention and end three days after the close of the convention.

Section 9008.7(d)(4) of Title 11 of the Code of Federal Regulations states, in relevant part, that the funds used by the host committee in accordance with §9008.7(d)(3) shall not be considered expenditures and shall not count against the expenditure limitation under 11 C.F.R. 9008.7(a).

The Audit staff identified 13 in-kind contributions, totaling \$656,368 that appear to be goods and services used to defray convention-related expenses. Notations on the Committee's records indicated that the in-kind contributions may be convention-related. For example, Electronic Data Systems Corporation (EDS) provided \$252,308 in computer network design services. Documentation describing services provided by EDS stated, "define computer network architecture for Three Allen Center and Astrodome wide area network[.]"

Further, CAP GEMINI AMERICA provided \$2,800 in computer programming support services. A thank you letter for services provided by CAP GEMINI AMERICA cited computer programming support to the Houston Host Committee for the 1992 Republican National Convention. System One Corporation and Hewlett-Packard Company provided computers and related equipment to the 1992 Republican National Convention totaling \$45,794 and \$132,026 respectively.

The Committee did not provide documentation during the fieldwork which demonstrated that the donations were proportionate to the commercial return reasonably expected by the businesses during the life of the convention.

At the exit conference the Committee was provided with a schedule of the in-kind contributions. A Committee representative stated that the Committee would provide evidence to support that the in-kind contributions were used to defray host committee expenses such as those incurred for promoting the suitability of the city as a convention site, welcoming the convention attendees to the city, and facilitating commerce, etc., rather than to defray convention expenses.

The interim report recommended that the Committee:

- ° demonstrate that the in-kind contributions were used to defray expenses for host committee activities such as those described above, rather than to defray convention-related expenses; or
- ° demonstrate that the \$656,368 in in-kind contributions received were from local retail businesses; and
- ° demonstrate that the \$656,368 in in-kind contributions received represent an amount proportionate to the commercial return reasonably expected by each local retail business during the life of the convention.

The Committee's response to the interim audit report appears to indicate that the in-kind contributions were used to defray expenses for host committee activities, rather than convention-related expenses. In its response the Committee stated that the in-kind contributions of computer hardware, computer software, computer installation and labor were integral to the services provided by the Committee. These services included an extensive computer network and database file of the several thousand volunteers who participated in the effort to welcome the Republican National Convention to Houston. The system also tracked convention visitor information to coordinate services.

The Committee stated further:

"These services and the computer network were neither used by nor served functions which otherwise would have been performed by the Committee on Arrangements for Republican National Convention. Instead, the contribution of the items described in items 1 through 135/ [footnote added] were used by and in support of the HHC effort to promote the suitability of Houston as a convention site,

5/ This is a reference to the interim audit report Attachment 2, "Schedule of In-Kind Contributions - Convention-Related."

welcoming the convention attendees to the city, and facilitating commerce and in no way were used to defray convention related expenses as stipulated in your audit letter."

Based on the information contained in the response, it appears that the aforementioned goods and services relate to host committee activities.

C. Disclosure of Debts and Obligations

Section 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 and shall be reported on separate schedules together with a statement explaining the circumstances under which each debt and obligation was incurred; and debts of \$500 or less shall be reported as of time payment is made or not later than 60 days after such obligation is incurred. Debts over \$500 shall be disclosed as of the date on which the debt or obligation is incurred.

The Audit staff reviewed the Committee's documentation for disbursements (invoices, contracts, canceled checks, etc.) and identified debts and obligations, totaling \$930,168.81, owed to 16 vendors which were not disclosed. For the two reports filed, no debts were reported.

At the exit conference the Committee was provided with a schedule which detailed the debts and obligations not disclosed. Committee representatives stated that the reports were prepared on a cash basis; and indicated that the Committee would file amended Schedules D to disclose the information and correct the public record.

Amended Schedules D were filed on February 26, 1993.

05070121102



December 16, 1993

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

Gregory R. Baker
Attorney

SUBJECT: Proposed Final Audit Report on the Houston Host
Committee, Inc. (LRA #450/AR #93-42)

The Office of General Counsel has reviewed the proposed Final Audit Report on the Houston Host Committee, Inc. ("the Host Committee"), forwarded to this Office on November 24, 1993. The following memorandum contains our comments on the proposed report.^{1/} Should you have any questions regarding the proposed report, please contact Gregory R. Baker, the attorney assigned to this matter.

We concur with the Audit staff's findings with respect to the convention-related expenses (II.B.). The Audit staff identified 13 in-kind contributions, totaling \$656,368, which appeared to represent goods and services used to defray convention-related expenses. The Host Committee provided information in its response to the Interim Audit Report which indicated that the in-kind contributions were not used to defray convention-related expenses. In fact, the information

^{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. Moreover, we note that the parentheticals refer to the sections in the proposed report.

demonstrated that the goods and services were related solely to Host Committee activities. Thus, the Audit staff concluded that the contributions were related to Host Committee activity and that no further action is warranted.

We also concur with the Audit staff's recommendation to take no further action with respect to the Host Committee's failure to properly disclose its debts and obligations (II.C.). The Audit staff recommended at the exit conference that the Host Committee file amended reports correcting the omissions. The Host Committee filed the amended reports on February 26, 1993; thus, no further action is warranted.

The Audit staff identified 10 in-kind contributions totaling \$116,470, which appear to have been made by business entities located outside the Consolidated Metropolitan Statistical Area ("CMSA") of Houston, Texas.^{2/} However, the Committee's response to the Interim Audit Report only resolved three of the 10 contributions. Thus, the Audit staff questions the permissibility of the 7 remaining contributions totaling \$42,680.

We agree with the Audit Division.^{3/} A wide variety of persons including individuals, local businesses, local government agencies, and local unions, are permitted to donate funds or make in-kind contributions to the host committee for use in promoting the city and its commerce. See Explanation and Justification for 11 C.F.R. § 9008.7, 44 Fed. Reg. 63036, 63037 (Nov. 1, 1979). However, any business that donates funds must be located within the MSA. 11 C.F.R. § 9008.7(d)(2)(iv). If the business is located outside the MSA, there must be a showing that the volume of business in the area lying outside the MSA

^{2/} Under the Commission's regulations, the Metropolitan Statistical Area ("MSA") shall be used to determine whether a business is local pursuant to 11 C.F.R. § 9008.7(d)(2)(iv). In metropolitan complexes with a population of more than 1 million, the MSA is comprised of: (1) the Primary MSA ("PMSA"); and (2) the CMSA. Generally, the Audit staff uses the CMSA in areas where the population exceeds 1 million. See Interim Audit Report on the New York '92 Host Committee, Inc., approved May 25, 1993. For the purposes of this audit, the CMSA of Houston, Texas includes the City of Houston and 8 surrounding counties.

^{3/} The Host Committee submitted adequate documentation addressing the contributions by: 1) Fruit of the Loom; 2) Quaker Oats; and 3) WordPerfect. However, the Host Committee has failed to provide adequate documentation for the remaining 7 contributors: 1) The Bonneau Company; (2) Binney & Smith; (3) Compeco Metal Products; (4) Cross Communications; (5) Fresh Technology Company; 6) Homewood Flossmoor Community High School Job Training Partnership Class for Americans with Disabilities; and 7) Philip Morris USA.

would be directly affected by the presence of the convention. Id. The Host Committee in this instance has not demonstrated that the 7 entities in question are local businesses, nor has it shown that the volume of business in the area where each entity is located was directly affected by the convention. Rather, the Host Committee states that two contributions were mistakenly reported as contributions to the Host Committee. The Host Committee asserts that the contributions stemmed from two events which were supposedly held and sponsored solely by the contributors, completely independent from the Host Committee. The Host Committee states further that these events were held outside the purview of the Convention, and Host Committee, consistent with past Advisory Opinions. See Advisory Opinion "AO", 1983-23 (The Commission concluded that certain payments by a corporation in holding a reception at the convention would not constitute contributions under the Act as long as no attempts were made to influence the outcome of the convention, and the purpose of the function was neither to solicit contributions to, nor advocate the election or defeat of, any candidate for federal office). However, the Host Committee failed to provide any corroborating evidence from the two entities indicating that the events were held independently from the Host Committee. Absent information from the entities indicating that these events were held independently from the Host Committee, we believe the contributions should be considered impermissible.

The Host Committee maintains that the 5 remaining contributions stemmed from organizations that had a history of providing nominal value products and merchandise to conventions as official providers. The Host Committee states that they were just one of the many beneficiaries of these practices. Official providers may contribute nominal value products and merchandise to host committees. See AO 1980-53 (The Commission concluded that the proposed donation by Kelly Services of canvas tote bags to the host committees of both the Republican and Democratic National Conventions for distribution to delegates and all other attendees is permissible under the Commission's convention financing regulations under 11 C.F.R. Part 9008.7). See also AO 1988-25 (The Commission concluded that the General Motors vehicle loan program did not contravene the regulations governing nominating conventions). However, the Host Committee has failed to provide any supporting documentation from the entities. Without further documentation from the organizations concerning these contributions, we believe that their permissibility should continue to be questioned. In any event, the Committee has failed to show that the entities in question were located within the MSA of Houston. The Committee has also failed to rebut the presumption which requires that the volume of business outside the area was directly affected by the convention consistent with 11 C.F.R. § 9008.7(d)(2)(iv). See Legal Comments on the Final Audit Report on the Atlanta '88 Committee, Inc., dated August 3, 1990.

05070121153



FEDERAL BUREAU OF INVESTIGATION

AK004355

January 11, 1994

Mr. Frank Maresh, Treasurer
Houston Host Committee, Inc.
Three Allen Center
333 Clay, Suite 1000
Houston, TX 77002

Dear Mr. Maresh:

Attached please find the Final Audit Report on Houston Host Committee, Inc. The Commission approved the report on January 5, 1994.

The Commission approved Final Audit Report will be placed on the public record on January 14, 1993. Should you have any questions regarding the public release of the report, please contact the Commission's Press Office at (202) 219-4155. Any questions you have related to matters covered during the audit or in the report should directed to Wanda Thomas or Nancy Pepe of the Audit Division at (202) 219-3720. These individuals can be reached 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

05070121105

CHRONOLOGY - HOUSTON HOST COMMITTEE, INC.

Pre-audit Inventory Commenced	2 9 93
Audit Fieldwork	2 9 93 - 2 18 93
Interim Audit Report to Committee	6 11 93
Response Received to Interim Audit Report	10 14 93
Final Audit Report Approved	1 5 94

050012113