



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2988

DATE FILMED 4/16/91 CAMERA NO. 2

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THE FOLLOWING IS AN INDEX OF CORRESPONDENCE GENERATED BY
VARIOUS DIVISIONS OF THE FEDERAL ELECTION COMMISSION
PRECEDING THE OPENING OF MUR 2988

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OF THE REPUBLICAN NATIONAL COMMITTEE FOR THE 1988
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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

Report of the Audit Division
on the
Arrangements Committee of the
Republican National Committee for the
1988 Republican National Convention

I. BackgroundA. Overview

This report is based on an audit of the Arrangements Committee of the Republican National Committee for the 1988 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 payments made for Presidential nominating conventions no later than December 31 of the calendar year in which the convention was held.

The Committee registered with the Federal Election Commission on April 3, 1986. The Committee maintains its headquarters in Washington, D.C. The audit covered the period from April 3, 1986 through September 30, 1988. During this period, the Committee reported a beginning cash balance of \$-0-, total receipts of \$9,711,658.00, total disbursements of \$8,929,170.36, and an ending cash balance of \$782,487.64. In addition, certain financial activity has been reviewed through March 31, 1989.

The audit report is based on documents and workpapers which support each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in this report and were available to the Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurers of the Committee during the period covered by the audit were: William J. McManus from April 3, 1986 through March 5, 1987; and Frank DiMondi from March 6, 1987 to the present.

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C. Scope

The audit included such tests as verification of total reported receipts and disbursements and individual transactions; review of required supporting documentation and analysis of Committee debts and obligations; review of expenditure limitations; and such other audit procedures as deemed necessary under the circumstances.

II. Findings Related to Title 26 of the United States Code

A. Convention-Related Expenses

Section 9008.6(a)(4) of Title 11 of the Code of Federal Regulations states that convention expenses include all expenses incurred by or on behalf of a political party national committee or convention committee with respect to and for the purpose of conducting a presidential nominating convention or convention-related activities.

Section 9008.6(a)(4)(iv) of Title 11 of the Code of Federal Regulations further states that convention expenses include expenses of national committee employees, volunteers or other similar personnel if those expenses were incurred in the performance of services for the convention in addition to the services normally rendered to the national committee by such personnel.

After the close of the audit fieldwork, during a discussion of the cost of printing and publishing the convention proceedings, Counsel to the Republican National Committee (RNC) noted that the Committee had presented him with a group of expenses, including the cost of the proceedings, seeking an opinion as to whether they were convention expenses or could be considered national committee expenses.

In the Interim Audit Report the Committee was requested to submit a listing of any expenses which had initially been considered convention expenses and were later considered national committee expenses. Documentation to support each expense was to be submitted with the list.

In response to the Interim Audit Report, the Committee forwarded copies of five checks and the corresponding invoices for expenditures made by the RNC which had initially been considered convention expenses. The documentation provided by the Committee includes: a check payable to Randall P.K. Davis, a check payable to Myers, Matteo, Rabil et al, a check payable to the New Orleans Hilton Towers, a check payable to Travel Inc., and a check payable to the Westin Canal Place and the respective supporting invoices.

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The check issued to Myers, Matteo, Rabil et al is supported by an invoice which states "RE: Convention '88." A spokesperson for the Committee explained that this firm was consultant to then RNC Chairman Frank Fahrenkopf and therefore the consulting fees for the period October 1 through 31, 1988 are expenses of the RNC. It should also be noted that this firm was employed by the Committee as consultants.

The check issued to the New Orleans Hilton Towers is supported by invoices for accommodations during the period August 11 through 20, 1988.

The rooms at the New Orleans Hilton Towers were, for the most part, in the names of David Norcross, and David Norcross and Laurie Michel. A spokesperson for the Committee stated that David Norcross' firm (Myers, Matteo, Rabil, Norcross and Landgraf) was consultant to then RNC Chairman Frank Fahrenkopf and thus David Norcross' travel costs were expenses of the RNC. It should be noted that during this period, David Norcross received travel reimbursements and per diem from the Committee. In addition, Myers, Matteo, Rabil et al received consulting fees and expense reimbursements from the Committee through September 8, 1988.

The invoice from Travel Inc. referred to invoices previously issued, which were dated July 22 through August 9. A spokesperson for the Committee stated that the individuals whose travel was covered by these invoices were employed by the RNC and therefore their travel costs are expenses of the RNC.

A portion of the invoices from the Westin Canal Place cover three apparent convention-related activities. An invoice for hotel rooms and a room under the name "White House Adminstr" was referred from the White House and was paid on a percentage basis which was intended to reflect the "political costs." Several invoices cover the costs of a reception held on August 15, 1988 hosted by "Mr. & Mrs. Reagan." Also included in these invoices are invoices for accommodations for Reagan family and friends for the period August 14 through 16, 1988.

A Committee spokesperson explained that these expenses were incurred by individuals who were employees or guests of the RNC and thus these costs are expenses of the RNC and not expenses of the Committee.

The Audit staff concludes that four invoices totaling \$29,769.91 are convention-related expenses and thus expenses of the Committee. This amount has been added to Total Convention Related Expenditures as Adjusted in the Analysis of Expenditures Subject to the Spending Limitation.

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Recommendation #1

The Audit staff recommends that the Commission determine that, in the absence of the submission of documentation demonstrating that four invoices totaling \$29,769.91 are not expenses related to a nominating convention or convention-related activities, these expenses are convention expenses and therefore subject to the spending limitation at 11 C.F.R. §9008.3(a). (See Finding II.C. Repayment of Excessive Expenditures).

B. Rebates

Section 9008.6(a)(4) of Title 11 of the Code of Federal Regulations states that convention expenses include all expenses incurred by or on behalf of a political party national committee or convention committee with respect to and for the purpose of conducting a presidential nominating convention or convention-related activities.

In its 1989 April 10 Quarterly Report and its response to the Interim Audit Report the Committee disclosed rebates which included \$13,982.93 from four republican political organizations; the RNC, Republicans Abroad, National Republican Legislators Assoc., and the National Federation of Republican Women. These amounts were not previously shown as Committee receivables.

The Audit staff reviewed the documentation to support each of these rebates. Each check was supported by a memo dated March 1, 1989 from Josephine L. Good, Consultant, Sub Committee on Badges and Tickets, Committee on Arrangements. Each of the memos detailed the costs of convention badges for the members of the respective organizations. The checks of these organizations bore the address: 310 First Street, SE, Washington, DC, 20003, and all of the checks were deposited by the Committee on March 23, 1989. A spokesperson for the Committee stated that he assumed that there was a verbal agreement regarding the badges made prior to the convention and that the current action is the collection of outstanding reimbursements. He further elaborated that the badges ordered for the members of these organizations were different from those of other convention attendants and that these individuals were not guests of the convention but rather attended the convention because of their affiliation with these republican organizations.

The Audit staff concludes that the cost of the convention badges are convention-related expenses and thus expenses of the Committee. Therefore, the amount of these reimbursements (\$13,982.93) has not been offset against Total Convention Related Expenditures as Adjusted in the Analysis of Expenditures Subject to the Spending Limitation.

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Recommendation #2

The Audit staff recommends that:

A. The Commission determine that, in the absence of the submission of documentation demonstrating that \$13,982.93 in reimbursements for badges for persons associated with these organizations does not constitute the reimbursement of convention expenses, these reimbursements are not offsets to convention expenses. (See Finding II.C. Repayment of Excessive Expenditures).

B. The Committee, within 30 calendar days of service of this report, refund to the RNC, Republicans Abroad, National Republican Legislators Assoc., and the National Federation of Republican Women the rebates totaling \$13,982.93.

C. The Committee provide the Audit staff with copies, front and back, of the negotiated refund checks.

C. Repayment of Excessive Expenditures

Section 9008(d)(1) of Title 26 of the United States Code states, in relevant part, that the national committee of a major party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled. 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).

Section 9008.10(b) of Title 11 of the Code of Federal Regulations states, in part, that if the Commission determines that the national committee or convention committee incurred convention expenses in excess of the limitations under 11 C.F.R. § 9008.7(a), it shall notify such national committee of the amount of such excessive expenditures, and such national committee shall pay to the Secretary an amount equal to the amount specified.

Section 9008.10(g)(2) of Title 11 of the Code of Federal Regulations states, in part, that the national committee shall repay to the Secretary, within 90 days of the notice, the amount of the repayment.

The Audit staff reviewed the Committee's expenditures subject to the spending limitation and prepared the following analysis. The Committee's entitlement/spending limitation for the 1988 nominating convention was \$9,220,000.

Analysis of Expenditures Subject
to the Spending Limitation

Amount of Federal Funds Received by the Committee (Expenditure Limitation)	\$9,220,000.00
Less: Total Convention Related Expenditures as Adjusted (Inception to 3/31/89)	\$9,338,674.44
Refunds & Rebates Received (Inception to 3/31/89)	(86,618.43)
Winding Down Expenses	
Processing of Conv. Proceedings ^{1/}	40,000.00
Contingent Liability ^{2/}	<u>21,000.00</u>
Total Expenditures Subject to Limitation	<u>9,313,056.01</u>
Amount In Excess of the Limitation	<u>\$ 93,056.01</u>

As a result of the matters discussed in Findings II.A. and B. above, the amount shown in excess of the spending limitation in the Interim Audit Report has been increased.

In the Interim Audit Report, it was noted that a Committee representative and Counsel for the RNC had informed the Audit staff that it is their intention to have the RNC pay for the processing of the convention proceedings. Counsel for the RNC takes the position that publishing the proceedings may be properly considered either a convention expense or a national

^{1/} This amount was estimated by the Committee.

^{2/} The Committee's Total Expenditures Subject to the Limitation has been increased by \$21,000.00 pending the resolution of a contingent liability of that amount. The Louisiana Host Committee '88, Inc., in its July 10, 1989, quarterly report, reported a debt owed to it by the Committee estimated to be \$21,000.00. The explanation of this debt was reported by the Louisiana Host Committee '88, Inc., in its Post Convention Report covering the period September 1, 1987 through October 3, 1988, as follows: "This amount may be owed by the Committee on Arrangements to the Host Committee as the result of coordination of volunteers and youth services in conjunction with the 1988 Republican National Convention. Reconciliation of this amount and the corresponding expenses will be made by the time the next report is filed by the Host Committee". According to the records of the Louisiana Host Committee '88, Inc., it appears that the obligation has been settled for \$12,000; however, no documentation for the determination of this lesser amount is available.

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committee expense and paid by either. He stated that nothing in Committee bylaws requires the Committee to publish the convention proceedings and that the proceedings are distributed to national committee members and libraries.

In its response to the Interim Audit Report, the Committee made no mention of its plans for the publishing of the convention proceedings. Likewise, the Committee has not made a provision for publishing the proceedings in its calculation of Total Convention Related Expenditures Adjusted. In a follow-up discussion of this issue, a Committee spokesperson stated that the project had been started but is currently "on hold".

Given the nature of this expense and that in both 1980 and 1984 the arrangements committees paid for the publishing of the proceedings, in the absence of a definitive statement by the Committee with regard to the publishing of the proceedings and the costs related thereto, the Audit staff has included the cost estimate as a convention expense.

Conclusion #3

On October 13, 1989, the Commission made an initial determination that the Committee has exceeded the \$9,220,000.00 spending limitation for 1988 national nominating conventions by \$93,056.01 and that an equal amount is repayable to the United States Treasury pursuant to 11 C.F.R. §9008.10.

If the Committee does not dispute this determination within 30 calendar days of service of this report, the initial determination will be considered final.

Repayment Amount: \$93,056.01

D. Repayment of Investment Income

Section 9008.6(a)(5) of Title 11 of the Code of Federal Regulations states, in part, that any investment of public funds to generate income is permissible only if the income so generated is used to defray convention expenses. Such income, less any tax paid on it, will be applied against the national committee's payments under 11 C.F.R. § 9008.2, or where appropriate, the Commission may determine that a repayment is required on the basis of such income.

The Committee earned income from the investment of funds in certificates of deposit. After tax income was \$13,038.00 in 1987 and \$12,028.25 in 1988.

On January 19, 1989, the Committee submitted to the Commission, a check in the amount of \$25,066.00, payable to the United States Treasurer which represents a repayment of after tax interest income.

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Conclusion #4

On October 18, 1989, the Commission made an initial determination that \$25,066.00 of after tax investment income is repayable to the United States Treasury, and has been received, pursuant to Section 9008.6(a)(5) of Title 11 of the Code of Federal Regulations.

Repayment Amount: \$25,066.00

E. Repayment Summary

Conclusion #3.	
Repayment of Excessive Expenditures	\$93,056.01
Conclusion #4.	
Repayment of Investment Income	<u>25,066.00</u>
Total Repayment	<u>\$118,122.01</u>

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

The Arrangements Committee)
of the Republican National Committee)
for the 1988 Republican National) MUR 2988
Convention)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Audit Division referred the Arrangements Committee of the Republican National Committee of the 1988 Republican National Convention (the "Committee" or "Convention Committee") to the Office of General Counsel for exceeding the 1988 national party convention expenditure limitation of \$9,220,000.00. 26 U.S.C. § 9008(4). The expenditures at issue include the cost of publishing the 1988 Convention proceedings, the cost of convention badges, various lodging and travel costs, and payment for consulting services. The Committee contends these expenditures which were originally included in the audit report as convention-related, are either expenditures of the Republican National Committee ("RNC"), not convention-related expenditures, or can be properly paid for by either the Convention Committee or the RNC.

The Committee has recently submitted a response to the Final Audit Report. That response is now under review, and a Statement of Reasons shall soon be drafted for consideration by the Commission. The issues raised in MUR 2988 are identical to those pending in the ongoing audit. The issues may be resolved or

substantially narrowed by the Commission's final repayment determination. Accordingly, for reasons of consistency and efficiency, the Office of General Counsel recommends that this matter be held in abeyance pending a final repayment determination by the Commission.

II. RECOMMENDATIONS

1. Hold MUR 2988 in abeyance pending a final repayment determination by the Commission with respect to the Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention.

Lawrence M. Noble
General Counsel

Date

2/3/90

BY:


Lois G. Lerner
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
The Arrangements Committee) MUR 2988
of the Republican National)
Committee for the 1988)
Republican National Convention)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 7, 1990, the Commission decided by a vote of 6-0 to hold MUR 2988 in abeyance pending a final repayment determination by the Commission with respect to the Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention, as recommended in the General Counsel's report dated February 3, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

2/7/90

Date

Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, Feb. 2, 1990 4:40 p.m.
Circulated to the Commission: Monday, Feb. 5, 1990 11:00 a.m.
Deadline for vote: Wednesday, Feb. 7, 1990 11:00 a.m.

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 2988

STAFF MEMBER: Cheryl S. Kornegay

SOURCE: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS: The Arrangements Committee of the Republican
National Committee for the 1988 Republican
National Convention

RELEVANT STATUTES: 26 U.S.C. § 9008

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention (Committee) was referred to the Office of General Counsel by the Commission on October 3, 1989, for exceeding the expenditure limitation for Presidential Nominating Conventions by \$93,056.01. See 26 U.S.C. § 9008(d)(1); See also Attachment 1. On February 7, 1990, the Commission voted to hold MUR 2988 in abeyance pending a final repayment determination by the Commission.

The Commission made a final repayment determination regarding the Committee on May 17, 1990. In its Statement of Reasons, the Commission excluded certain costs originally included in the referral as excessive expenditures and concluded that the Committee had exceeded the expenditure limit by \$7,440.57. The

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Committee repaid that amount on June 6, 1990.

II. FACTUAL AND LEGAL ANALYSIS

A. RELEVANT PROVISIONS OF THE STATUTE AND REGULATIONS

In order to qualify for public financing of a presidential nominating convention, the national committee must establish a convention committee. 11 C.F.R. § 9008.8(b)(2). The convention committee is responsible for conducting the day to day arrangements and operations of the party's presidential nominating convention. Id. It is the convention committee which receives all public funds to which the national committee is entitled under 26 U.S.C. § 9008(b) and 11 C.F.R. §§ 9008.3 and 9008.4. Id. The Commission's regulations provide that all expenditures on behalf of the national committee for convention expenses shall be made by the convention committee. 11 C.F.R. § 9008.8(b)(2).

Moreover, acceptance of public funding for a national nominating convention is optional and a national committee may elect to accept all, any part, or none of its entitlement amount. 11 C.F.R. § 9008.8(a)(1). However, with certain exceptions, the national committee of a major political party may not make expenditures with respect to a presidential nominating convention which exceed the amount of the committee's

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entitlement. 26 U.S.C. § 9008(d)(1).¹ The convention committee and the national committee agree to adhere to this expenditure limitation. 11 C.F.R. § 9008.8(b)(4)(i). The expenditure limitation for the 1988 major party national conventions was \$9,220,000. 26 U.S.C. § 9008(b)(1) and (b)(5); 11 C.F.R. §§ 9008.3(a) and 9008.7.

While the Commission's regulations require the establishment of a convention committee as a prerequisite to receiving public funds, 11 C.F.R. § 9008.8(b)(1), the convention committee is essentially the alter ego of the national committee. It is the national committee that is entitled to the public funds, 26 U.S.C. § 9008(b)(1), and ultimately responsible for the operation of the convention committee. The convention committee is required to file a letter of agreement with the Commission as a prerequisite to receiving public funding which is binding on the national committee. 11 C.F.R. § 9008.8(b)(4).

Section 9008.6(a)(4) of the Commission's regulations sets forth a list of examples of expenses which are convention

1. The Commission may authorize the national committee of a major political party to make expenditures which in the aggregate exceed the limitation. 26 U.S.C. § 9008(d)(3). Such authorization must be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee. *Id.* The Commission's regulations list as examples of "extraordinary and unforeseen circumstances," "a natural disaster or a catastrophic occurrence at the convention site." 11 C.F.R. § 9008.7(a)(3). Neither the Convention Committee nor the RNC requested that the Commission authorize expenditures in excess of the expenditure limitation.

related and which may be defrayed with public funds. Among the enumerated permissible expenses are expenses of national committee employees, volunteers or other similar personnel if those expenses were incurred in the performance of services for the convention in addition to the services normally rendered to the national committee by such personnel. 11 C.F.R.

§ 9008.6(a)(4)(iv). In addition, expenses for entertainment activities which are part of official convention activity sponsored by the national committee are listed as permissible uses of public funds. 11 C.F.R. § 9008.6(a)(4)(vii). The list of expenses does not, however, include all convention expenses. The committee is not limited to using its public funds only for the expenses listed, but may also use public funds to defray any other expenses with respect to the convention. See, Explanation and Justification/Final Rule-Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 44 Fed. Reg. 3036 (November 1, 1979).

B. CONVENTION-RELATED EXPENSES SUBJECT TO THE LIMIT

The Commission determined that certain expenditures noted in the referral are convention-related, and thus should have been included in the Committee's total of expenditures subject to the total limit of 11 C.F.R. § 9008.7(a)(1). The expenses which were found to be subject to the Convention Committee's limit are: (1) the payment of \$4,772.65 to the New Orleans Hilton Towers; and (2) expenses totaling \$2,414.65 incurred at the Westin Canal Place Hotel.

1. Check Payable to New Orleans Hilton Towers

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The Final Audit Report included in the Committee's total expenditures subject to the limit the costs of David Norcross' hotel bill at the New Orleans Hilton Towers (the RNC official hotel) during the period of the convention from August 12, 1988 to August 21, 1988. In response, Mr. Norcross, who served as the counsel to the RNC Chairman and the Convention Committee, affirmed that he stayed at the Convention Committee's hotel while performing his work for the Convention Committee. Then, when the RNC Chairman arrived in New Orleans, Mr. Norcross changed hotels to reflect the change in his work. Therefore, counsel for the Committee argued that the Committee and the RNC engaged in a reasonable, good faith allocation of Mr. Norcross' hotel expenses while he was in New Orleans and providing legal services to both entities.

Although the Committee argued that it attempted to allocate in good faith the expenses of Mr. Norcross, the Commission found the distinction between the Committee's activities and the RNC's activities to be tenuous. At the time these expenses were incurred in August 1988, Mr. Norcross was involved with both organizations and he continued to have responsibilities to the Committee on Arrangements after he moved to the RNC hotel. The Commission thus concluded that the Committee had not adequately rebutted the presumption that Mr. Norcross was engaged in convention-related activity. Therefore, the Commission considered the expense for the Hilton

Hotel, totaling \$4,772.65, as a convention-related expense and subject to the Committee's overall expenditure limit.

2. Payments to the Westin Canal Place Hotel

The Commission also determined that the following expenses incurred at the Westin Canal Place Hotel were convention related:

Jacque Mason \$882.15
(RNC Consultant/Lodging)

Staff of RNC Co-Chairman \$ 75.00
(copying, etc.)

White House Staff (lodging) . . . \$1,457.50

The Committee's response during the repayment proceeding noted that Jacque Mason was a paid consultant to the RNC and was in New Orleans pursuant to her contract with the RNC. The charge was paid for by the RNC, as were the photocopying charges attributed to the staff of the RNC's Co-Chairman, Maureen Reagan.

The Committee admitted there is no evidence that the costs associated with the lodging for the White House staff was for RNC, rather than Arrangements Committee, purposes. Counsel simply asserts that these expenses were for RNC activity. However, counsel previously argued that the Hilton Hotel served as the RNC's "official hotel." If these expenses were truly expenses of the RNC, counsel has offered no explanation as to why these expenses were incurred at a hotel other than the RNC's official hotel. The statute and regulations do not make a provision for the national committee of a political party to separate certain expenses related to its operation of the convention from expenses

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paid directly by the convention committee. Accordingly, absent evidence to the contrary the Commission concluded that these expenses were convention-related and thus subject to the expenditure limit.

C. CONTINGENT LIABILITY

The Final Audit Report included a contingent liability of \$21,000, which had been represented as a debt owed to the committee by the Louisiana Host Committee ("Host Committee"). The Committee's response provided letters demonstrating the nature of this liability and the resolution of amounts owed. Thus, the Commission determined that the amount subject to the Committee's overall limit should be \$12,000.

III. CONCLUSION

The Commission determined that the Committee's total of expenditures subject to the limit was as follows:

Amount of Federal Funds Received by the Committee (Expenditure limitation)	\$9,220,000.00
Less: Total Convention-Related Expenditures as Adjusted (inception to 3/31/89)	\$9,316,041.93
Refunds and Rebates Received (inception to 3/31/89)	(\$100,601.36)
Settlement with Host Committee	\$12,000.00
Total Expenditures Subject To Limitation	<u>\$9,227,440.57</u>
Amount in Excess of the Limitation	\$7,440.57

It therefore appears that the Convention Committee incurred total

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expenditures of \$9,227,440.57, thereby exceeding the expenditure limitation by \$7,440.57.

IV. RECOMMENDATIONS

1. Find reason to believe the Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention and Frank DiMondi, as treasurer violated 26 U.S.C. § 9008(d).

2. Approve the attached Factual and Legal Analysis.

3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

11/30/90
Date

BY:


Lois G. Kerner
Associate General Counsel

Attachment:

1. Audit Referral
2. Statement of Reasons
3. Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *dh*
COMMISSION SECRETARY

DATE: DECEMBER 7, 1990

SUBJECT: MUR 2988 - FIRST GENERAL COUNSEL'S REPORT
DATED NOVEMBER 30, 1990

The above-captioned document was circulated to the
Commission on TUESDAY, DECEMBER 4, 1990 at 4:00 p.m..

Objection(s) have been received from the Commissioner(s)
as indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner Josefiak	<u> </u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Thomas	<u> </u>

This matter will be placed on the meeting agenda
for TUESDAY, DECEMBER 11, 1990.

Please notify us who will represent your Division before the
Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

The Arrangements Committee of the
Republican National Committee for the
1988 Republican National Convention.

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of
December 11, 1990, do hereby certify that the Commission
decided by a vote of 6-0 to take the following actions
in MUR 2988:

1. Find reason to believe the Arrangements
Committee of the Republican National
Committee for the 1988 Republican
National Convention and Frank DiMondi,
as treasurer, violated 26 U.S.C.
§ 9008(d), but take no further action.
2. Reject recommendations 2 and 3 of the
General Counsel's report dated
November 30, 1990.
3. Close the file in this matter.

Commissioners Aikens, Elliott, Josefiak, McDonald,
McGarry, and Thomas voted affirmatively for the decision.

Attest:

12-12-90
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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CLOSED



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 21, 1990

William J. McManus, Treasurer
Arrangements Committee of the Republican
National Committee for the 1988
Republican National Convention
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2988

Dear Mr. McManus:

On December 11, 1990, the Federal Election Commission found reason to believe that the Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention ("Committee") and you, as treasurer, violated 26 U.S.C. § 9008(d), Chapter 95 of Title 26, U.S. Code. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to the Committee and you, as treasurer. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please direct them to Cheryl S. Kornegay, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

A handwritten signature in cursive script that reads "Lee Ann Elliott".

Lee Ann Elliott
Chairman

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 2988

RESPONDENT: The Arrangements Committee of
the Republican National Committee
for the 1988 Republican National Convention

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The Arrangements Committee of the Republican National Committee for the 1988 Republican National Convention (Committee) was referred to the Office of General Counsel by the Commission on October 3, 1989, for exceeding the expenditure limitation for Presidential Nominating Conventions by \$93,056.01. See 26 U.S.C. § 9008(d)(1). On February 7, 1990, the Commission voted to hold MUR 2988 in abeyance pending a final repayment determination by the Commission.

The Commission made a final repayment determination regarding the Committee on May 17, 1990. In its Statement of Reasons, the Commission excluded certain costs originally included in the referral as excessive expenditures and concluded that the Committee had exceeded the expenditure limit by \$7,440.57. The Committee repaid that amount on June 6, 1990.

In order to qualify for public financing of a presidential nominating convention, the national committee must establish a convention committee. 11 C.F.R. § 9008.8(b)(2). The convention committee is responsible for conducting the day to day arrangements and operations of the party's presidential nominating convention. Id. It is the convention committee which receives all public funds to which the national committee is entitled under

26 U.S.C. § 9008(b) and 11 C.F.R. §§ 9008.3 and 9008.4. Id. The Commission's regulations provide that all expenditures on behalf of the national committee for convention expenses shall be made by the convention committee. 11 C.F.R. § 9008.8(b)(2).

Moreover, acceptance of public funding for a national nominating convention is optional and a national committee may elect to accept all, any part, or none of its entitlement amount. 11 C.F.R. § 9008.8(a)(1). However, with certain exceptions, the national committee of a major political party may not make expenditures with respect to a presidential nominating convention which exceed the amount of the committee's entitlement. 26 U.S.C. § 9008(d)(1).¹ The convention committee and the national committee agree to adhere to this expenditure limitation. 11 C.F.R. § 9008.8(b)(4)(i). The expenditure limitation for the 1988 major party national conventions was \$9,220,000. 26 U.S.C. § 9008(b)(1) and (b)(5); 11 C.F.R. §§ 9008.3(a) and 9008.7.

While the Commission's regulations require the establishment of a convention committee as a prerequisite to receiving public funds, 11 C.F.R. § 9008.8(b)(1), the convention committee is essentially the alter ego of the national committee. It is the

1. The Commission may authorize the national committee of a major political party to make expenditures which in the aggregate exceed the limitation. 26 U.S.C. § 9008(d)(3). Such authorization must be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee. Id. The Commission's regulations list as examples of "extraordinary and unforeseen circumstances," "a natural disaster or a catastrophic occurrence at the convention site." 11 C.F.R. § 9008.7(a)(3). Neither the Convention Committee nor the RNC requested that the Commission authorize expenditures in excess of the expenditure limitation.

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national committee that is entitled to the public funds, 26 U.S.C. § 9008(b)(1), and ultimately responsible for the operation of the convention committee. The convention committee is required to file a letter of agreement with the Commission as a prerequisite to receiving public funding which is binding on the national committee. 11 C.F.R. § 9008.8(b)(4).

Section 9008.6(a)(4) of the Commission's regulations sets forth a list of examples of expenses which are convention related and which may be defrayed with public funds. Among the enumerated permissible expenses are expenses of national committee employees, volunteers or other similar personnel if those expenses were incurred in the performance of services for the convention in addition to the services normally rendered to the national committee by such personnel. 11 C.F.R. § 9008.6(a)(4)(iv). In addition, expenses for entertainment activities which are part of official convention activity sponsored by the national committee are listed as permissible uses of public funds. 11 C.F.R. § 9008.6(a)(4)(vii). The list of expenses does not, however, include all convention expenses. The committee is not limited to using its public funds only for the expenses listed, but may also use public funds to defray any other expenses with respect to the convention. See, Explanation and Justification/Final Rule-Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 44 Fed. Reg. 3036 (November 1, 1979).

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A. CONVENTION-RELATED EXPENSES SUBJECT TO THE LIMIT

The Commission determined that certain expenditures noted in the referral are convention-related, and thus should have been included in the Committee's total of expenditures subject to the total limit of 11 C.F.R. § 9008.7(a)(1). The expenses which were found to be subject to the Convention Committee's limit are:

- (1) the payment of \$4,772.65 to the New Orleans Hilton Towers; and
- (2) expenses totaling \$2,414.65 incurred at the Westin Canal Place Hotel.

1. Check Payable to New Orleans Hilton Towers

The Final Audit Report included in the Committee's total expenditures subject to the limit the costs of David Norcross' hotel bill at the New Orleans Hilton Towers (the RNC official hotel) during the period of the convention from August 12, 1988 to August 21, 1988. In response, Mr. Norcross, who served as the counsel to the RNC Chairman and the Convention Committee, affirmed that he stayed at the Convention Committee's hotel while performing his work for the Convention Committee. Then, when the RNC Chairman arrived in New Orleans, Mr. Norcross changed hotels to reflect the change in his work. Therefore, counsel for the Committee argued that the Committee and the RNC engaged in a reasonable, good faith allocation of Mr. Norcross' hotel expenses while he was in New Orleans and providing legal services to both entities.

Although the Committee argued that it attempted to allocate in good faith the expenses of Mr. Norcross, the Commission found the distinction between the Committee's activities and the RNC's activities to be tenuous. At the time these expenses were

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incurred in August 1988, Mr. Norcross was involved with both organizations and he continued to have responsibilities to the Committee on Arrangements after he moved to the RNC hotel. The Commission thus concluded that the Committee had not adequately rebutted the presumption that Mr. Norcross was engaged in convention-related activity. Therefore, the Commission considered the expense for the Hilton Hotel, totaling \$4,772.65, as a convention-related expense and subject to the Committee's overall expenditure limit.

2. Payments to the Westin Canal Place Hotel

The Commission also determined that the following expenses incurred at the Westin Canal Place Hotel were convention related:

Jacque Mason \$882.15
(RNC Consultant/Lodging)

Staff of RNC Co-Chairman \$ 75.00
(copying, etc.)

White House Staff (lodging) . . . \$1,457.50

The Committee's response during the repayment proceeding noted that Jacque Mason was a paid consultant to the RNC and was in New Orleans pursuant to her contract with the RNC. The charge was paid for by the RNC, as were the photocopying charges attributed to the staff of the RNC's Co-Chairman, Maureen Reagan.

The Committee admitted there is no evidence that the costs associated with the lodging for the White House staff was for RNC, rather than Arrangements Committee, purposes. Counsel simply asserts that these expenses were for RNC activity. However, counsel previously argued that the Hilton Hotel served as the RNC's "official hotel." If these expenses were truly expenses of the RNC, counsel has offered no explanation as to why these

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expenses were incurred at a hotel other than the RNC's official hotel. The statute and regulations do not make a provision for the national committee of a political party to separate certain expenses related to its operation of the convention from expenses paid directly by the convention committee. Accordingly, absent evidence to the contrary the Commission concluded that these expenses were convention-related and thus subject to the expenditure limit.

B. CONTINGENT LIABILITY

The Final Audit Report included a contingent liability of \$21,000, which had been represented as a debt owed by the committee to the Louisiana Host Committee ("Host Committee"). The Committee's response provided letters demonstrating the nature of this liability and the resolution of amounts owed. Thus, the Commission determined that the amount subject to the Committee's overall limit should be \$12,000.

C. CONCLUSION

The Commission determined that the Committee's total of expenditures subject to the limit was as follows:

Amount of Federal Funds Received by the Committee (Expenditure limitation)	\$9,220,000.00
Less: Total Convention-Related Expenditures as Adjusted (inception to 3/31/89)	\$9,316,041.93
Refunds and Rebates Received (\$100,601.36) (inception to 3/31/89)	
Settlement with Host Committee	\$12,000.00
Total Expenditures Subject To Limitation	<u>\$9,227,440.57</u>
Amount in Excess of the Limitation	\$7,440.57

Accordingly, there is reason to believe that the Convention Committee incurred total expenditures of \$9,227,440.57, thereby exceeding the expenditure limitation by \$7,440.57.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2988

DATE FILMED 1/16/91 CAMERA NO. 2

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