FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 2, 1993

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: FINAL AUDIT REPORT ON THE 1992 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.

Attached find the subject audit report along with the narrative portions of the Committee's response to the Interim Audit Report and some follow up correspondence. The follow up correspondence is generated, in part, by questions raised during a visit to the Committee's offices to verify activity that occurred after the cutoff of the audit fieldwork. As a result of that visit additional issues were raised that did not appear in the Interim Audit Report. Specifically, finding III.A.4., Post Convention Purchases. This finding deals with a number of transactions that occurred after the end of the audit fieldwork that, upon review, appear to be improper uses of the public grant. As can be seen from the Committee's October 15, 1993 letter, they have been made aware of these findings and have made a response to the issues.

Another issue that is contained in this report that did not appear in the Interim Audit Report is that of stale dated outstanding checks. The Committee's response to the Interim Audit Report contains a figure that was verified by the Audit staff. The follow up correspondence revises that figure. Only a portion of the revision is accepted. At the time of fieldwork, with one exception, the checks were not yet stale.

A final issue that came out of our review of the post fieldwork disbursements is that of computers loaned to the Committee by AT&T. During the fieldwork all available contracts were reviewed. This included those under AO 1988-25, Official Providers, and others where free or discounted goods or services were provided. None was reviewed for AT&T. During the review

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of post fieldwork expenses, a shipping bill was noted. The bill was from a computer company and contains the following notations:

> Shipping charges paid by Computer Ventures for purchase of PC equipment loaned to DNC 1992 by AT&T and after which Computer Ventures purchased by agreement
>
> Per agreement between AT&T and DNC 1992 shipping for return of loaned PC equipment to be payable by DNC.

The attached invoices indicate that 6.5 tons was shipped. Although much of the weight may have been packing material, it would appear that a substantial amount of equipment was involved. The Committee was asked about this matter and in a follow up conversation stated that it was an arrangement pursuant to AO 1988-25. No similar arrangement was found by the auditors at the RNC. The Committee has agreed to provide copies of the contracts on this arrangement, but to date has not done so.

Your attention is also directed to finding II.B., Excessive Contributions From Staff and Other Individuals. This finding is based upon the application of 11 C.F.R. § 116.5. The Committee argues that its contribution limitation is $20,000 and therefore, no violation exists. It is noted that the same theory was advanced by the Committee in its comments, both written and oral, on the current proposed rule making.

Should you have any questions please call Joe Stoltz or Henry Miller.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

REPORT OF THE AUDIT DIVISION ON THE 1992 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.

I. Background

A. Audit Authority

This report is based on an audit of the 1992 Democratic National Convention 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 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 July 2, 1991, the date the Committee opened a bank account, through September 30, 1992, the final coverage date of the most recent report filed at the time of the audit. In addition, financial activity that occurred beginning in 1989, and was paid by the Democratic National Committee and subsequently reimbursed by the Committee, was included in the audit as well as certain financial activity through August 31, 1993 to determine any amounts due to the United States Treasury. During the period, the Committee reported an opening cash balance of $-0-, total receipts of $11,233,088, total disbursements of $10,732,803, and a closing cash balance on September 30, 1992 of $500,284.

C. <u>Campaign Organization</u>

The Committee registered with the Federal Election Commission on June 14, 1991, as the national convention committee of the Democratic Party. The Treasurers for the period audited were Robert A. Farmer from June 14, 1991 to September 11, 1992, and the Honorable Robert T. Matsui from September 11, 1992 to the present.

During the period audited, the Committee was headquartered in Washington, D.C., but for a portion of the period an office was also maintained in New York City.

To handle its financial activity, the Committee had a general account from which most disbursements were made, a payroll account, and three deposit accounts used to hold Federal funds. The Committee made approximately 5,000 disbursements.

The Committee was paid $11,048,000 in Federal funds. This represents the full entitlement established at 26 U.S.C. § 9008(b).

D. <u>Audit Scope and Procedures</u>

The audit included a review of the following general categories:

1. The Committee's compliance with statutory limitations with respect to the receipt of contributions and loans (see Finding II.B.);

2. The Committee's compliance with the statutory requirements regarding the receipt of contributions from prohibited sources, such as those from corporations and labor organizations;

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 Committee's 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;

8. The Committee's financial position with respect to any unexpended funds (see Finding III.B.);

9. The Committee's compliance with requirements concerning expenditures for convention expenses (see Finding III.A.);

10. The Committee's compliance with spending limitations (See Finding III.B.); and,

11. Other audit procedures that were deemed necessary in the situation.

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

As part of the Commission's standard audit process, an inventory of the Committee's records was conducted prior to the beginning of fieldwork to determine if the records were materially complete and in an auditable state. The Committee's records were materially complete and, by agreement with the Committee, audit fieldwork commenced immediately.

II. <u>Findings and Recommendations - Non-Repayment Matters</u>

A. <u>Reporting Requirements - Failure to Itemize Debts and Obligations</u>

Section 434(b)(8) of Title 2 of the United States Code states, in relevant part, that the amount and nature of outstanding debts and obligations owed by or to a political committee shall be reported.

Section 104.11(a) of Title 11 of the Code of Federal Regulations states, in part, that debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. Section 104.11(b) states, in relevant part, a debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, 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 reoccurring administrative expense shall not be reported as a debt before the payment due date.

The Committee reported no debts or obligations on its FEC disclosure reports. A review of disbursements revealed 138 items over $500, totaling $660,399, that should have been reported as debts.

The majority of these items should have appeared on the Post Convention report covering the period from July 1, 1992 to August 31, 1992. The Committee explained that many of these expenses were outstanding beyond the close of the reporting period because the bills had been sent to a temporary office set up in New York City during the convention. These bills were then forwarded to the Washington office along with other mail and therefore processing was delayed. The Committee explained that the remaining obligations which should have appeared on Schedules D (Debts and Obligations) in the July and October 1992 Quarterly reports were the result of delayed billings or were held pending authorization from the New York '92 Host Committee. At the exit conference, the Committee was given a schedule of the debts along with the period in which they should have been reported.

In the Interim Audit Report the Audit staff recommended that the Committee file amended Schedules D for each period in which debts should have been reported. The Committee's response to the Interim Audit Report contained Schedules D for each relevant reporting period. These schedules listed all debts that were noted during the audit as missing from the Committee's disclosure reports.

B. <u>Excessive Contributions From Staff and Other Individuals</u>

Section 116.5(b) of Title 11 of the Code of Federal Regulations states, in part, 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 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, it shall be considered a contribution unless, it is for the individual's transportation 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 days after the date on which the expenses were incurred if a personal credit card was not used. "Subsistence expenses" include only expenditures for personal living expenses related to a particular individual traveling on committee business, such as food or lodging.

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 major or minor party as it has with respect to repayments from any eligible candidate under section 9007(b)."

Section 9007(b) of Title 26 of the United States Code lists the bases for repayment determinations for candidates for President of the United States who have accepted Federal funding for their general election campaigns. Subsection 3 states that "if the Commission determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses ..., it shall notify such candidates of the amount of contributions so accepted, and such candidates shall pay the Secretary of the Treasury an amount equal to such amount."

The Committee's payments of expense reimbursements were reviewed to determine if contributions had been made. The review disclosed that persons were reimbursed for both their own travel and subsistence expenses as well as expenses for non-travel items and the travel and subsistence of other persons. Two persons, including the Committee's Chief Executive Officer were determined to have made contributions totaling $15,418. At the time of the audit, no expense reimbursement requests were outstanding. At the exit conference, the Committee was advised of this finding. The Committee made no comment.

In the Interim Audit Report the Audit staff recommended that the Committee either demonstrate that no contribution occurred with respect to these expense reimbursements, or offer any other information that is believed to be relevant to the issue.

In response the Committee offered two arguments as to why these contributions were permissible. First, the Committee argues that the contributions resulting from the staff advances were within the contribution limitations of the Act. The Committee reasons that "an individual may contribute up to $20,000 per calendar year to the 1992 Democratic National Convention Committee. The Committee is 'established and maintained by ' the Democratic National Committee ('DNC'), within the meaning of 2 U.S.C. § 441a(a)(1)(B), and is indisputably a political committee 'established, financed, maintained, or controlled by' the DNC within the meaning of 11 C.F.R. § 110.3(b)(i)." The Committee also notes the Commission's Notice of Proposed Rulemaking the on Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions. In that Notice the Commission asks for public comment on the subject of a contribution limitation for convention committees for the purpose of staff advances in future election cycles. The Committee concludes that it shares the DNC's $20,000 contribution limitation and since the staff advances noted in the Interim Audit Report were less than $20,000 per person, the advances were permissible.

As noted above, 26 U.S.C. § 9008(h) refers the reader to section 9007(b) for repayment authority with respect to convention committees. That section, at subsection (b)(3), states that any contribution received may result in a repayment determination. That language clearly establishes that convention committees that accept their full entitlement are not permitted to accept contributions in any amount. The Committee received its full entitlement and thus was not permitted to receive any contributions.

Second, the Committee argues that it did not accept or retain any contribution that would require repayment. The Committee argues that since the reimbursements were made, and no amounts are outstanding from any of the travel reimbursements that generated the contributions, no repayment is necessary. It is noted that the Interim Audit Report made no recommendation that a repayment be made. Rather, what was requested was information to show that the contributions resulting from the staff advances noted were permissible. No such information has been provided.

III. Findings and Recommendations - Repayment Matters

A. Improper Use of Funds

Section 9008.6(b)(1) of Title 11 of the Code of Federal Regulations states, in part, that no part of any payment made under 11 C.F.R. § 9008.8 shall be used to defray the expenses of any candidate, delegate or alternate delegate who is participating in any presidential nominating convention except that the expenses of a person participating in the convention as official personnel of the national party may be defrayed with public funds even though that person is simultaneously participating as a delegate or candidate to the convention.

Section 9008.6(b)(2) of Title 11 of the Code of Federal Regulations states that, "public funds shall not be used to defray any expense the incurring or payment of which violates any law of the United States or any law of the State in which such expense is incurred or paid, or any regulation prescribed under federal or State laws."

Section 9008.6(a)(4) of Title 11 of the Code of Federal Regulations states in, relevant part, 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 9008.10(d) states, in relevant part, if the Commission determines that any amount of any payment to the convention committee under 11 C.F.R. § 9008.8(b) was used for any purposes other than the purposes authorized at 11 C.F.R. § 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.

1. Misappropriation of Committee Funds

During the reconciliation of the Committee's bank records to the disclosure reports, an unexplained and undocumented $5,000 adjustment was noted on the Committee's September 1992 cash reconciliation. The Audit staff inquired about the item and Committee officials explained that the amount represented a recovery of funds misappropriated by an employee. According to the Committee the employee was part of the Committee's accounting staff who, when the supervisor was traveling, had access to the Committee's blank check supply. The employee forged a signature on four checks and negotiated them. When the Committee discovered the problem, the checks were presented to the bank. The bank was able to collect the funds from the individual and credit the Committee's account. The individual was immediately terminated when the discovery was made. The Committee feels that because of the circumstances and the satisfactory resolution of the matter, its responsibility in the incident is negligible.

Since the improperly used funds have been recovered by the Committee, in the Interim Audit Report the Audit staff recommended no further action be taken in this matter. The Committee's response contained no further information.

2. <u>Candidate Expenses</u>

On July 16, 1992, prior to President Clinton's speech accepting the Democratic nomination for President, a film on President Clinton's life was shown at the Convention and was available for broadcast by several television networks as part of the television coverage of the proceedings.

The film was produced through Great American Media, Inc. The Committee made four payments to the firm. The Interim Audit Report explained that two of the four payments were apparently for production of the biographical film. The invoice for production costs related to the film was submitted by Great American Media, Inc. and addressed to the Democratic National Committee. It was paid in two installments, $30,000 on July 7, 1992 and $35,000 on September 9, 1992. One copy of the invoice refers to the production as the "Bill Clinton Story". The two apparently unrelated payments are for $5,490 and $18,880 described as the cost of producing the live vignettes out of Seattle, WA and Charleston, SC for Tuesday of the Convention, and GAM's work, travel and payment of talent relating to Monday's delegate stories and video wall, respectively. Invoices for both of these payments are addressed to "Alexis Herman, DNCC" (Democratic National Convention Committee). Alexis Herman was the Committee's Chief Executive Officer.

During the audit of the Clinton for President Committee (CFP), it was learned that CFP also made payments to Great American Media, Inc. for the production of this film. On July 22, 1992, CFP paid $35,000 associated with the same invoice described above. It therefore appeared that this amount was paid by both committees. On September 4, 1992, CFP paid $122,237 in response to an invoice that showed a total production cost for the film of $188,237 with an outstanding balance of $122,237. The difference is $65,000, the amount billed to the Committee. Also on September 4, 1992, CFP paid $1,591 on an invoice for additional production charges for the convention film not included on the earlier

The Committee goes on to state that during the convention week, CFP decided that it wished to own the rights to the film and to control any after convention use.1/ The media firm was notified and all rights to the film were transferred to CFP and CFP was billed for all remaining production. No supporting documentation, such as contracts, to support this explanation was included with the response.

The Committee puts forth two arguments concerning its payment of the $30,000 in production costs.

First, the Committee argues that it could have lawfully paid the entire production cost of the film as a convention expense; and, second, the Committee paid a reasonable portion of the cost of producing the film to avoid accepting an unlawful or repayable contribution from CFP resulting from an otherwise uncompensated use of a CFP asset.

With respect to the first point the Committee argues that since the film was shown during the convention proceedings, the cost of producing the film is an expense for the purpose of conducting the convention and therefore a permissible use of the public grant. The Committee also argues that production costs of the film do not constitute expenses of a candidate within the meaning of 26 U.S.C. § 9008(c).

The argument that showing the film during the convention establishes the production costs as a permissible use of Federal funds is not convincing. To follow such an argument would lead to the conclusion that any expense for any goods or services used during the convention proceedings is a permissible convention expense regardless of the purpose of that expense. As noted above, Section 9008.6(a)(4) of Title 11 of the Code of Federal Regulations defines convention expenses as those 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. The section then goes on to present a non-exhaustive list of the type of expenses that are included. Although this list is not meant to be all encompassing, none of the expenses listed suggests that any expense may be candidate specific. A biographical film about the party's nominee presented to the convention after the nomination has occurred and by virtue of when it was shown, available for broadcast over several television networks as part of their convention coverage is very much candidate specific.

1/ The Audit staff has learned that a revised version of the biographical film was aired by the Democratic National Committee during the week of August 16-20, 1992 as a 2 U.S.C. § 441a(d) coordinated expense and by the Clinton/Gore '92 committee during the week of October 9-12, 1992.

invoices, and finally on August 25, 1992, CFP paid an administrative charge of 2% on the $122,237 invoice as provided for in the contract with Great American Media, Inc. This amount was $2,444.

The Interim Audit Report concluded that the total cost of producing the convention film appeared to have been $191,273 with the Committee paying $65,000 and CFP paying $126,273. These individual amounts included the $35,000 apparently paid by both committees.

The Interim Audit Report also noted that the Committee had received a $22,250 refund check dated September 25, 1992 from Great American Media, Inc. The refund was recorded as a credit to the Committee's video production general ledger account, but available documentation did not provide a detailed explanation of the reason for the refund.

Given the above, at the time of the Interim Audit Report it appeared that the Committee had expended $65,000, potentially less a $22,250 refund, for the production of a film which constitutes an expense of a candidate attending the convention and was therefore a non-qualified convention expense.

The recommendation in the Interim Audit Report requested the Committee to:

a. Provide documentation from Great American Media, Inc. to demonstrate the reason for the $22,250 refund received; and

b. demonstrate why the partial payment for the production of a biographical film about President Clinton should not be considered an expense of a candidate attending the convention and as such, a non-qualified convention expense.

The Committee was advised that, absent these demonstrations the Audit staff would recommend that the Commission make an initial determination that $65,000 is repayable to the U.S. Treasury.

With respect to the apparent duplicate payment, the Committee explains that the September 9, 1992 payment of $35,000 was made in error. When the error was discovered there was also an unpaid invoice in the amount of $12,750 that was unrelated to the biographical film. The erroneous payment was applied to the outstanding invoice and the difference, $22,250, was refunded by Great American Media Inc. A copy of the $12,750 invoice was provided with the response. Therefore, the Committee paid only $30,000 of the cost of the film.

By way of background, the Committee states that the film was originally to be produced solely for use at the convention and the production costs were to be paid entirely by the Committee.

The argument that "expenses of any candidate" as used in 26 U.S.C. § 9008(c) includes only expenses such as housing, travel, and subsistence is likewise not convincing. The Committee reasons that given 11 C.F.R. § 9008.7(e) states that expenses paid by a candidate for the purpose of attending or participating in the convention do not count against the National Committee's expenditure limitation, the opposite is also true; the only types of convention related expenses that the National Committee may not pay for a candidate with the Federal grant are expenses for housing, travel, and subsistence. Though it is agreed that such expenses are the most common examples, the language at 26 U.S.C. § 9008(c) suggests no such limitation. That section states that "No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention." Neither the plain language of the statute, nor the legislative or regulatory history of this provision, or the corresponding regulation, supports the narrow interpretation suggested by the Committee.

The Committee's second argument, that the $30,000 payment to the media firm for production costs of the film was compensation to CFP for the Committee's use of the film at the convention, and was necessary to avoid a contribution to the Committee from CFP2/, depends on the first argument being accepted. If the $30,000 payment to the media firm is considered an "expense of a candidate" the second argument is not reached.

However, even if the first argument is accepted, it does not follow that the payment was necessary to avoid a contribution from CFP to the Committee. If after the convention has made its nomination, the Committee agrees to show convention attendees a biographical film produced by its nominee;3/ prior to the candidate's acceptance speech; at a time when it would be broadcast by a number of television networks; doing so is an accommodation to the party's candidate rather than a contribution from the candidate. Under any other circumstances a candidate would expect to purchase air time to broadcast a film to a large

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2/ The Committee's response does not comment on the failure of both the Committee and CFP to report any in-kind transactions related to this $30,000 payment. If at the time of the transaction, the payment to the media firm was considered in-kind compensation to CFP for the use of the film, reporting of the in-kind nature of the transaction would have been required by both committees.

3/ It is assumed that since the film was paid for by the candidate, that it was intended to portray the candidate in the most favorable light in order to advance the candidate's election.

audience rather than expect to be paid for the use of the film. No payment to that candidate for the use of the film is necessary to avoid a contribution from the candidate to the party.

Recommendation #1

The Audit staff recommends that the Commission make an initial determination that the payment of $30,000 for production of the biographical film about President Clinton represents a payment for expenses of a candidate participating in the convention and, therefore, is an improper use of Federal funds and repayable to the U.S. Treasury pursuant to 11 C.F.R. § 9008.10(d).

3. Parking Violations

During the review of disbursements made by the Committee, the Audit staff noted payments to the New York City Violations Bureau. An inspection of the Committee's vendor files revealed check requests, copies of Committee checks, and New York City parking tickets reflecting $5,676 in payment of violations of New York City parking regulations.

In the Interim Audit Report the Audit staff recommended that the Committee demonstrate that the payments do not represent an improper use of public funds. Absent such a showing, the Committee was informed that the Audit staff would recommend that the Commission make an initial determination that $5,676 is repayable to the U.S. Treasury pursuant to 11 C.F.R. § 9008.10(d).

In its response to the Interim Audit Report, the Committee agreed "that payments for parking tickets do not represent an allowable use of the public grant and, accordingly, will repay to the United States Treasury the sum of $5,676 within 90 days of the date of the Commission's July 29, 1993 letter in accordance with 11 C.F.R. § 9008.10(g)." No payment has been received.

Recommendation #2

The Audit Staff recommends that the Commission make an initial determination that the 1992 Democratic National Convention Committee, Inc. is required to repay the U.S. Treasury $5,676 pursuant to 11 C.F.R. § 9008.10(d).

4. Post Convention Purchases

In the Interim Audit Report it was concluded that the Committee had unspent funds totaling $133,118. It was also explained that no allowance had been made for the printing of the convention proceedings because the Committee had not provided any support for the estimate of those costs. The figures included in the Interim Audit Report resulted from the review of actual

b) Research Project

The Audit staff reviewed a contract for consulting services for the months of November and December of 1992. The contract called for four payments of $2,500 each but did not specify the services to be performed. The individual had not received any previous payments from the Committee. When the review of post December 7, 1992, payments discussed above was conducted, the four payments were included. Three were made on December 15, 1992, and the fourth was made on January 4, 1993. The Committee was requested to provide a description of the services provided under this contract. In response it was explained that this individual was engaged to conduct a historical study for the DNC archives. According to a Committee representative, the report produced is entitled "The Role of African-American Staff In the Convention and the DNC". In the opinion of the Audit Staff this expense is properly paid by the National Committee but is not an expense for the purpose of conducting a presidential nominating convention or convention related activity and, therefore, may not be defrayed with public funds.

Recommendation #4

The Audit staff recommends that the Commission make an initial determination that the 1992 Democratic National Convention Committee, Inc. is required to repay the U.S. Treasury $10,000 pursuant to 11 C.F.R. § 9008.10(d).

B. Statement of Financial Position

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(b) states 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 the Secretary an amount equal to the amount specified.

Section 9008.10(e)(1) of Title 11 of the Code of Federal Regulations states that if any portion of the payment under 11 C.F.R. § 9008.3 remains unspent after all convention expenses have been paid, that portion shall be returned to the Secretary of the Treasury.

Finally, 11 C.F.R. §§9008.10(g)(1) and (2) state, in part, that if the Commission determines that repayment is required, it shall give written notification of the amounts expenses through December 7, 1992 and other estimated accounts payable and winding down costs of $96,217. In its response to the Interim Audit Report the Committee submitted a revised calculation of its financial position including actual receipts and disbursements through September 3, 1993. The unspent funds shown by the Committee total $1,149.4/ In order to verify the Committee's calculation the Audit Staff visited the Committee's offices and reviewed the documentation for disbursements made after the December 7, 1992 cutoff date. Discussed below are items that the Audit Staff recommends be considered improper uses of public funds.

a) Gifts

Payments to two vendors totaling $20,431 were noted for gifts for various senior convention officials. One vendor was a Washington, D.C. jewelry store which was paid for items such a clocks, silver paperweights, silver boxes, and silver serving trays along with engraving and shipping. The total bill was $17,431 paid with four checks. The first was dated December 4, 1992 and was reviewed during the audit fieldwork. That check was documented by a cash receipt which was not imprinted with the vendor's name and described the purpose as "Deposit On Printing Order Approx 14000". The Committee's year end disclosure report described the expense as "Office Supplies". An additional payment was made on December 17, 1992, and was also reported as "Office Supplies". Two payments were made on February 4, 1993, and reported as "Printing". When questioned about these items the Committee's representative said that it would be necessary to contact persons involved at the time. In a follow up conversation it was stated that such gifts were a standard convention procedure. In follow up correspondence the Committee reiterates its position and notes that in 1988 commemorative gavels were given to senior staff. The Committee also states that the expenditures were not questioned in the past.

The second vendor was an Architect who was paid $3,000 on December 10, 1992, for an architectural model of the convention podium. The payment was described on the Committee's year end disclosure report as a payment for "Printing". The Committee has informed the Audit staff that this model was also given as a gift.

<u>Recommendation #3</u>

The Audit Staff recommends that the Commission make an initial determination that the 1992 Democratic National Convention Committee, Inc. is required to repay the U.S. Treasury $20,431 pursuant to 11 C.F.R. § 9008.10(d).

4/ The Committee revised this calculation in follow up correspondence. See Finding III.B. and C.

required to be paid and the reasons therefor; and the national committee shall repay to the Secretary, with 90 days of the notice, the amount of the repayment. Upon application submitted by the national committee, the Commission may grant a 90 day extension of the repayment period.

As discussed above, the Interim Audit Report contained a calculation of unspent funds that showed a remaining balance of $133,118. This calculation was based on a review of actual expenditures through December 7, 1992, and estimated accounts payable, accounts receivable, and winding down costs. Excluded was an estimate of $96,743 for printing the official proceedings of the convention. This estimated amount was not considered due to the lack of any supporting documentation. In its response to the Interim Audit Report the Committee presented a revised calculation of the unspent portion of the public grant based on actual expenditures through September 3, 1993. The Committee concluded that unexpended funds were $1,149 and that there were $16,683 in stale dated outstanding Committee checks. This resulted in a total repayment due of $17,832. The Audit staff visited the Committee's offices to verify the figures.

In follow up correspondence the Committee submitted documentation for two additional expenses. The first is an invoice in the amount of $7,241 for rented pagers used at the convention. The second invoice in the amount of $4,217 is for telephone service. The Committee explains that this invoice is being researched since the Committee did not believe any funds were due this vendor. The Committee also shows a number of checks formerly classified as stale dated outstanding checks subject to payment to the Treasury as void or replaced. Documentation has been submitted for only a portion of these actions (see Finding III.C. below).

A revised financial position is shown below.

Calculation of Financial Position and Spending S
Expenditure Limitation For The
1992 Democratic National Convention Committ
as of December 7, 1992
Determined at September 3, 1993

ASSETS

Cash on Hand		
Cash in Bank		
Operating at 12/7/92	$149,228	
Payroll at 12/7/92	5,486	
Total Cash		
Add:		
Accounts Receivable and Capital Assets a/		
Total Assets		

LIABILITIES

Disbursements for Convention Expenses and Winding Down Costs Through September 3, 1993 b/		
Accounts Payable c/		
Total Liabilities		
Remaining Federal Funds		
Add: Expenses Constituting Improper Uses of Federal Funds (Finding III.A.) Included Above Not Applicable To The Spending Limitation		
Spending Limitation Remaining		

/ Therefore, they
16.5. Ms. Reingold's
for which she paid by
en 62 and 202 days.
subsistence expenses
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contributions under
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ittee under 11 C.F.R.
red for their own
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§ 116.5(b).
the time Ms. Herman and
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Therefore, a convention committee shares the nati
$20,000 contribution limitation. See 2 U.S.C. §

A review of the Commission's contributor dat
1991-92 election cycle indicates that neither Ms.
Reingold made additional contributions to the Co
calendar year 1992.[4/] Thus, Ms. Herman's contribu
Committee for calendar year 1992 totaled $9,639.2
Reingold's contributions totaled $5,778.96. Such
are within the individual contribution limits fo
financed convention committees.[5/] Id. Therefore
General Counsel recommends that the Commission f
believe Ms. Herman and Ms. Reingold violated 2 U
§ 441a(a)(1)(B) and 11 C.F.R. § 110.1(c).

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49,099 for
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3/ The Commission acknowledged this policy in
regulations for presidential nominating conventi
Commission reasoned that because "the convention
established, financed, maintained and controlled
committee, and therefore affiliated with the nat
it shares the national committee's $20,000 contr
Explanation and Justification for 11 C.F.R. § 90
33607, 33608 (June 29, 1994).

4/ This review also revealed that neither Ms.
Reingold made contributions to the DNC in calend

5/ In response to the Interim Audit Report, th
that the contributions resulting from the staff
within the contribution limits of the Federal El
Act. See, generally, Attachment 2, pp. 2-4. Sp
Committee contended that it shares the Democrati
Committee's $20,000 contribution limitation. Id
Because the staff advances were less than $20,00
Committee argued, they were permissible. Id.

The negative remaining funds amount indicates that the Committee will not have adequate funds available to pay all outstanding bills. However, no amount in excess of the spending limitation is indicated since some funds were used to pay expenses that do not constitute proper use of the public grant. These amounts are noted as repayable to the U.S. Treasury in Finding III.A. above and are therefore not applicable to the spending limitation. As explained in Finding III.C. below, the Committee wishes to void a number of the remaining stale dated outstanding checks in order to use those funds to pay the amounts indicated as accounts payable. Absent documentation indicating that no obligation exists in relation to these checks, they remain among Committee disbursements and charged to the spending limitation.

Finally, as a result of the audit of the New York '92 Host Committee, there was, at the time of the Interim Audit Report, the possibility that $135,500 in disbursements made by the Host Committee would be considered attributable to the Committee's spending limitation. These disbursements were made with funds that had been commingled with other moneys which did not meet the requirements of 11 C.F.R. § 9008.7(d)(3)(i). The Interim Audit Report advised the Committee of the potential affect of these expenditures on its compliance with spending limitations and potential repayments. As a result of the New York '92 Host Committee's response to the Interim Audit Report resulting from that audit, it has been determined that none of the expenditures will be attributed to the Committee's spending limitation.

C. <u>Stale Dated Committee Checks</u>

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 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.

As part of the Committee's response to the Interim Audit Report, a stale dated outstanding check amount of $16,683 is noted as payable to the U.S. Treasury. This amount was verified to the audit workpapers. For a portion of these checks letters to the payees are included that inform the payee that unless action was taken by the payee within 14 days, the Committee would adjust its accounting records to show that no obligation exists.

In follow up correspondence, the Committee shows all but three of these checks as having been voided and the amounts added back to funds available to pay remaining expenses. However, for a portion of these checks documentation has not been submitted to demonstrate that no obligation exists. A summary of the outstanding check amounts is shown below:

- 5 checks totaling $3,343 were voided and replaced, and the replacement checks have cleared the Committee's account;
- 10 checks totaling $4,094 were voided and a copy of the letter noted above was provided; and
- 11 checks totaling $9,246 are still outstanding. For one of these a replacement check has been issued but has not cleared the Committee's account and for two others the Committee states that the checks will be voided and replacement checks issued.

Recommendation #6

The Audit Staff recommends that the Commission make an initial determination that the 1992 Democratic National Convention Committee, Inc. is required to pay the U.S. Treasury $9,246 representing the value of uncashed Committee checks.

IV. Repayment Summary

A. Improper Use Of Funds	
1. Candidate Expenses (III.A.2.)	$30,000
2. Parking Violations (III.A.3.)	5,676
3. Post Convention Expenses	
Gifts (III.A.4.a)	20,431
Research Project (III.A.4.b)	10,000
B. Stale Dated Outstanding Checks (III.C.)	9,246
Amount Due The U.S. Treasury	$75,353

Received in Audit
9/3/93

Democratic National Committee

September 3, 1993

By Hand

Robert J. Costa
Assistant Staff Director
Audit Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

95043630023

Re: Interim Report of the Audit Division on the 1992 Democratic National Convention Committee, Inc.

Dear Mr. Costa:

Enclosed is the response of the 1992 Democratic National Convention Committee, Inc. to the Interim Report of the Audit Division on the 1992 Democratic National Convention Committee, Inc.

We very much appreciate the courteous and professional manner in which the Audit staff conducted the audit of the Committee. If you have any questions or require further information, please do not hesitate to contact the undersigned.

Sincerely yours,

Joseph E. Sandler

Joseph E. Sandler
General Counsel

Neil P. Reiff

Neil P. Reiff
Deputy General Counsel

BEFORE THE
FEDERAL ELECTION COMMISSION

RESPONSE OF THE
1992 DEMOCRATIC NATIONAL CONVENTION COMMITTEE, INC.
TO THE INTERIM REPORT OF THE AUDIT DIVISION

The 1992 Democratic National Convention Committee, Inc. (the "Committee") hereby responds to the Interim Report of the Audit Division on the 1992 Democratic National Convention Committee, Inc. (the "Interim Audit Report"), submitted under cover of a letter from Robert J. Costa dated July 29, 1993, as follows:

Response to Recommendation # 1--Failure to Itemize Debts and Obligations

The Committee is filing, with this Response, amended Schedules D for each period in which debts should have been reported, in accordance with the schedule of debts provided by the Audit Division. The Schedules D are attached hereto as Exhibit 1 and we hereby request that they be filed as amendments to the Committee's reports for the applicable periods, as shown on the amended pages. These are intended to supersede and replace any other debt schedules that have been filed for these periods.

Response to Recommendation # 2: Excessive Contributions from Staff

No unlawful contributions to the Committee were made by the staff members who charged expenses on their personal credit cards and were reimbursed for those expenses, nor does the Committee have any repayment obligation with respect to those amounts.

A. **The Contributions Alleged to Have Been Made Were Within the Limits of the Act**

The amounts alleged to have been contributions by the individual staff members to the Committee complied with the limits and prohibitions of the Federal Election Campaign Act of 1971 as amended (the "Act"). The Interim Audit Report alleges that, under 11 C.F.R. § 116.5, Alexis Herman's credit card charges constituted a contribution in the amount of $9,639.29 and that Anne Reingold's credit card charges constituted a contribution in the amount of $5,778.96, for a total of $15,418.25. (Interim Audit Report at p. 4). The worksheet attached to the Interim Audit Report allowed for a contribution limit of $1,000 from each individual.

It is clear, however, that an individual may contribute up to $20,000 per calendar year to the 1992 Democratic National Convention Committee. The Committee is "established and maintained by" the Democratic National Committee ("DNC"), within the meaning

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of 2 U.S.C. § 441a(a)(1)(B), and is indisputably a political committee "established, financed, maintained, or controlled by" the DNC within the meaning of 11 C.F.R. § 110.3(b)(i). As explained in the Notice of Proposed Rulemaking on Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 58 Fed. Reg. 43046 (August 12, 1993):

> The Commission notes that under new section 116.5, payments by committee staff for convention expenses are treated as advances, and therefore contributions until reimbursed. Thus, the question has arisen as to the maximum amount a convention committee can accept in staff advances if it provides reimbursement and accepts full public funding. <u>Given that the convention committee is established by the national committee, and is therefore affiliated with the national committee, it would share the national committee's $20,000 contribution limit</u>.

58 Fed. Reg. at 43047(emphasis added).

Accordingly, under 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R. §§ 110.1(c)(1), the amount that an individual can contribute to the 1992 Democratic National Convention Committee, and that the Committee can therefore "accept in staff advances if it provides reimbursement and accepts full public funding," is <u>$20,000</u> per calendar year[1].

Neither Ms. Herman nor Ms. Reingold made any contribution to the DNC during calendar year 1992, other than the contributions alleged to have been made by virtue of their credit card charges. Thus, neither Ms. Herman whose contribution is alleged to have been $9,639, nor Ms. Reingold whose contribution is alleged to have been $5,778, exceeded the applicable contribution limit, and the Committee therefore did not receive or accept any unlawful contribution.

B. <u>The Committee Did Not Accept or Retain Any Contribution that Would Require Repayment</u>

The question of whether the alleged contributions were lawful under the Act is, of course, an issue separate from that of whether such contributions give rise to any repayment obligation. In this case, however, it is clear that the Committee has <u>not</u> in any event accepted <u>any</u> excessive contributions--in <u>any</u> amount--which would require repayment under 11 C.F.R. § 9008.10(c).

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[1] It should be noted that the $2,000 limit on contributions to party committees provided for in 2 U.S.C. §431(8)(A)(iv) and 11 C.F.R. § 100.7(b)(8) applies only to <u>unreimbursed</u> payments. Since the payments (credit card charges) in question were in fact reimbursed, these provisions are inapplicable.

As the worksheets attached to the Interim Audit Report demonstrate, all of the credit card charges made by Alexis Herman and Anne Reingold were fully reimbursed by the Committee. Thus, the Committee did not use the personal credit cards of either staffer to defray <u>any</u> Convention expenses and thus has <u>not</u>, by virtue of those charges, accepted contributions which, when added to the amount of public funds received, exceed the expenditure limitation for purposes of 11 C.F.R. § 9008.10(c).

Indeed, under 11 C.F.R. § 116.5, "reimbursements for. . . nonexempt expenses are treated as <u>refunds</u> of the staff members' contributions." Explanation and Justification of Regulations on Debts Owed by Candidates and Political Committees, 55 <u>Fed</u>. <u>Reg</u>. 26378, 26383 (June 27, 1989)(emphasis added). The Notice of Proposed Rulemaking on Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 58 Fed. Reg. 43046 (August 12, 1993), similarly makes clear that--

> under section 116.5, payments by committee staff for convention expenses are treated as advances, and therefore contributions, <u>until reimbursed</u>.

58 Fed. Reg. at 43047 (emphasis added). In this case, the Committee has fully reimbursed, and has therefore legally refunded, all of the amounts which allegedly constitute contributions. For that reason, the Committee has no repayment obligation with respect to these amounts.

Response to Recommendation # 3: Misappropriation of Committee Funds

The Audit staff has recommended that no further action be taken with respect to this matter, and therefore no response is required.

<u>Response to Recommendation # 4: Alleged Candidate Expenses.</u>

As explained below, the film on President Clinton's life, entitled "The Man from Hope," is the property of the Clinton for President Committee ("CFP") and was paid for by CFP. To avoid having CFP make an unlawful and/or repayable contribution to the Committee, the Committee paid CFP fair consideration for use of the film at the Convention, in the amount of $30,000, and made that payment in-kind to CFP, i.e., by paying the vendor that portion of the costs of the film. This payment--which was in effect a fee or charge for use of the film as part of the Convention proceedings--was clearly a proper and qualified Convention expense.

A. <u>Factual Background</u>.

It was originally contemplated that this film would be produced solely for the purpose of being shown at the Convention and, therefore, that the Committee would pay for all of the costs of producing it. On July 1, 1992, the producer of the film, Great American Media, Inc., ("Great American") submitted an invoice to the Committee for $65,000, representing the costs of set-up and filming, but not including post-production costs (editing, creating and dubbing sound, etc.). This invoice is attached as Exhibit 2-A.

This invoice was due to be paid in two installments: one for $30,000 due "immediately" and the remaining $35,000 due on July 8, 1992. On July 7, 1992, the Committee paid the first installment of $30,000, with check # 2697.

During the week of the Convention, the Clinton for President Committee ("CFP") decided that it wished to control all use of the film, if any, after the Convention. Great American, which owned the copyright, was so informed and the transfer to CFP of all rights in and to the film was acceptable to the Committee.

However, it was determined that the Committee must make some payment to CFP in order to avoid having CFP make an unlawful contribution to the Committee--that is, to avoid having CFP pay the entire cost of an item which was in fact used as part of the Convention program, and which was therefore in part a Convention expense.

It was mutually agreed by CFP and the Committee that use of the film at the Convention should be valued at $30,000--approximately one-sixth of the cost of the film. This was certainly a reasonable valuation for the rights to use the film at the Convention, considering the large number of people who viewed the film both at the Convention hall and through television broadcasts of the Convention proceedings, and considering that the film was a significant part of those proceedings.

Rather than have the $30,000 already paid by the Committee to Great American Media refunded, and then have the Committee pay a check to CFP, it was decided to treat the $30,000 payment to Great American already made as payment of the $30,000 fee, which Great American would then deduct from the amount otherwise chargeable to CFP.

The total cost of producing the film was $ 187,237. Of this, the Committee agreed to pay the $30,000 and CFP agreed to pay the remaining $157,237.

In accordance with this arrangement, the Committee was not required to pay the second installment of the July 1, 1992 invoice from Great American Media. On July 21, 1993, therefore, Great American issued a credit memo of $35,000 to the Committee, indicating that the July 1 invoice (GAM 92-223, Exhibit 2-A) should be treated as having been paid in full. See credit memo attached as Exhibit 2-B.

We are advised by Great American that, on that same day, July 21, Great American billed CFP for that $35,000, since it was CFP that owed the balance of the July 1 invoice originally sent to the Committee, as well as all of the remaining production costs, under the arrangement described above.

We are advised that CFP paid that $35,000 invoice on July 22, 1993 (as the Interim Audit Report notes). We are further advised that, on August 4, 1992, Great American billed CFP for the remaining costs, equal to $122,237.

On September 9, 1992, the Committee mistakenly paid the remaining $35,000 from Invoice GAM92-223 (Ex. 2-A). At that time, the Committee owed Great American Media $12,750 for another, unrelated project, namely the Monday presentation of delegate stories and the video wall. See invoice 92-226 attached as Exhibit 2-C. On September 25, 1992, therefore, Great American refunded the difference between the balance owed ($12,750) and the amount the Committee mistakenly paid ($35,000), which equals $22,250. See Exhibit 2-D, the account history for the 1992 Democratic National Convention Committee provided by Great American.

Thus, the Committee paid only a total of $30,000 for use of the film.

B. Legal Analysis

The $30,000 paid by the Committee for use of the film was a use of the public funds that was permissible and qualified under 11 C.F.R. § 9008.6(a).

1. The Committee Could Lawfully Have Paid the Entire Cost of the Film

At the outset, it should be clear that had the Committee decided to retain all the rights to the film for itself, it could have lawfully have paid the entire cost of the film. The film was shown during and as part of the Convention proceedings, and therefore the expense of producing it is indisputably an expense incurred "for the purpose of conducting a presidential nominating convention." 11 C.F.R. § 9008.6(a)(4).

Further, the costs of such a film do not constitute "expenses" of a candidate within the meaning of 26 U.S.C. § 9008(c) and 11 C.F.R. § 9008.6(b)(1). The term "expenses of any candidate" as used in those provisions clearly refers to the expenses incurred by a candidate and his/her staff to attend the Convention, i.e., housing, travel, subsistence, etc. This conclusion is reinforced by 11 C.F.R. § 9008.7(e), which provides that expenditures made by presidential candidates from their campaign accounts and by delegates "for the purpose of attending or participating in the Convention" do not count against the national committee's expenditure limitation. The Explanation and Justification for 11 C.F.R. § 9008.7(e) confirms that the candidate "expenses" referred to in 26 U.S.C. § 9008(c) are expenses made for the purpose of attending the Convention:

> Subsection (e) provides that amounts paid by candidates form campaign funds or by delegates or others from personal funds to attend the convention do not count against the national committee's expenditure limitation. Since 26 U.S.C. § 9008(c) prohibits the use of public funds to pay the expenses of any candidate or delegate to participate in the convention, such amounts should not count against the national committee's expenditure limitation.

Explanation and Justification for Regulations on Federal Financing of Presidential Nominating Convention and the Presidential Election Campaign Fund, 44 Fed. Reg. 63036, 63038 (November 1, 1979)(emphasis added).

Clearly, the costs of a film about the candidate to be shown as part of the Convention proceedings are not "expenses of [a] candidate. . . to participate in the Convention" and therefore are not candidate expenses within the meaning of 26 U.S.C. § 9008(c).

2. The Committee Paid a Reasonable Portion of the Cost to Avoid Accepting an Unlawful or Repayable Contribution from CFP

In this case, the problem was not avoiding a contribution by the 1992 Democratic Convention Committee to CFP, but the other way around--i.e., avoiding a contribution by CFP to the Committee. Once it was agreed that CFP would own the film and be responsible for all the costs, the question became one of compensating CFP properly for use of the film at the Convention, which use was--for the reasons explained above--obviously a proper Convention expense, chargeable to the Convention.

Since the film was to become and remain the property of CFP, had the Committee used the film without paying any compensation or consideration, that clearly would have constituted an in-kind contribution by CFP to the Committee. As an authorized committee of a candidate, CFP is considered a "person" and thus subject to the contribution limitations set forth in 2 U.S.C. § 441a(a)(1). See, e.g., Advisory Opinion 1986-36. Thus, CFP could contribute only $20,000 to a national party committee, such as the 1992 Democratic National Convention Committee. 2 U.S.C. § 441a(a)(1(B); 11 C.F.R. § 110.1(b)(1). It was determined that the value of use of the film at the Convention clearly exceeded $20,000. Further, if the Committee accepted such a contribution, regardless of the amount, to defray Convention expenses, the Committee would be obligated to repay the amount of that contribution to the U.S. Treasury. 11 C.F.R. § 9008.10(c).

Therefore, it was not only proper but legally required for the Committee to compensate CFP for a fair and reasonable charge for use of the film at the Convention. As explained above, $30,000 was a fair valuation of this use, and the means of making this payment--covering that portion of the costs of production--was entirely lawful and appropriate.

For these reasons, the Audit staff should find that the partial payment for production of the film was a qualified Convention expense.

Response to Recommendation # 5: Parking Violations

The Committee agrees that payments for parking tickets do not represent an allowable use of the public grant and, accordingly, will repay to the United States Treasury the sum of $5,675 within 90 days of the date of the Commission's July 29, 1993 letter in accordance with 11 C.F.R. § 9008.10(g).

Response to Recommendation # 6: Unspent Portion of Fund Payment

Attached as Exhibit 3 is a calculation of the actual amount of the unspent portion of the fund payment, including a listing of expenses actually incurred by the Committee between December 7, 1992 and today. Attached as Exhibit 4 are bank statements for the period December 1, 1992 through July 31, 1992. As the last page of Exhibit 3 indicates, the actual amount of cash on hand as at the close of December 7, 1992 was $154,710.14.[2] The unspent portion of the fund entitlement is calculated as follows:

[2] It appears that the discrepancy between our determination of cash on hand as of 12/7/92 and the Audit staff's determination is due to an uncashed check in the payroll account, which was credited on December 1, 1992. See bank statement for payroll account for the period 12/1 to 12/31/92, which shows that the actual cash on hand in the payroll account as of 12/7/92 was $5,486.25.

Closing cash on hand as at 12/7/92	$ 154,710.14
Receipts 12/8/92 through today	84,928.02
Total assets	$ 239,638.16
Expenditures made 12/8/92 through today (Per Exhibit 3)	$ (238,489.63)
Plus: stale checks[3]	16,683.07
Amount repayable as of today	17,831.60

The Committee believes that there are no further outstanding accounts payable and, accordingly, subject to additional vendors cashing stale checks or requesting re-issuance of checks in the interim, intends to repay the amount shown above ($17,831.60) within 24 months of the last date of 1992 Democratic National Convention in accordance with 11 C.F.R. § 9008.10(e)(3).

No interim payment pursuant to 11 C.F.R. § 9008.10(e) was required because, to our knowledge, the Committee submitted various budgets to the Audit staff showing that essentially no unspent funds were projected to remain, after allowing for anticipated expenses. And, in fact, as Exhibit 3 demonstrates, without counting stale checks the actual unspent amount turned out to be only $1,148.53. To our knowledge, the Commission never determined, on December 7 or at that time, that the amount anticipated to be spent was unreasonable and, therefore, there was no basis for repaying any amount on an interim basis.

Finally, we note the reference in the Interim Audit Report to the audit of the New York Host '92 Committee the "Host Committee"). We have reviewed the Host Committee's June 30, 1993 response to the Interim Audit Report and it appears that the Host Committee has conclusively demonstrated that no disbursements were made with any moneys other than those fully meeting the requirements of 11 C.F.R. § 9008.7(d)(3)(i).

It is our position, however, that even if the Commission should ultimately find that some disbursements were made by the

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[3] The Committee has attempted, and continues to attempt, to contact payees of uncashed checks. See Exhibit 5 attached hereto. In those cases in which a vendor who is owed money has claimed that no check has been received or that a check has been lost, the Committee has voided the uncashed check and issued a new one.

Host Committee with moneys not meeting those requirements, the Convention Committee should not be required to make any repayment by reason of those disbursements. Any such disbursements were made without the knowledge, consent or cooperation of the Convention Committee and it would be grossly unfair and illogical to penalize the Convention Committee or treat such disbursements as resulting in any repayment obligation.

The Notice of Proposed Rulemaking on Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 58 Fed. Reg. 43046 (August 12, 1993), recognizes that a serious issue exists as to whether host committee expenditures which violate the regulations should result in a repayment obligation by the convention committee as distinct from an enforcement action against the host committee:

> [H]ost committee expenditures for convention functions other than the purposes spelled out in [proposed] section 9008.52 and 9008.53 would count against the convention committee's spending limits. However, comments are requested as to whether it would be preferable to handle such situations through enforcement actions under 2 U.S.C. § 437g. The Commission is also interested in comments on how to address situations where a host committee receives contributions from impermissible sources, such as nonlocal businesses, which are then used to defray convention expenses or for other permissible purposes. In some cases, it may be appropriate to count these amounts against the convention committee's spending limits, although there may be situations where enforcement actions are warranted.

58 Fed. Reg. at 43048 (emphasis added).

It is our position that, where host committee expenditures have been made, or contributions received and used to defray convention expenses, in violation of the regulations governing the host committee, but without the knowledge, consent or cooperation of the convention committee, the proper approach is to initiate an enforcement action against the host committee rather than to impose any penalty or repayment obligation on the convention committee. We will of course be submitting comments to that effect in connection with the rulemaking. We respectfully contend that, in the interim, as a matter of basic logic and fairness, this approach should be applied in connection with the current audit of the Committee.

Respectfully submitted,

Joseph E. Sandler
General Counsel

Neil P. Reiff
Deputy General Counsel

Democratic National Committee
430 S. Capitol Street, S.E.
Washington, D.C. 20003

(202) 863-7110

Dated: September 3, 1993

DEMOCRATIC ★ NATIONAL ★ COMMITTEE

David Wilhelm, Chairman

October 15, 1993

Henry Miller
Audit Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Miller:

This letter serves to memorialize our conversation of October 1, 1993. This conversation stemmed from inquiries that had arisen in connection with your follow-up field audit of the 1992 Democratic National Convention Committee, Inc. ("Convention"), on September 24, 1992. Furthermore, this letter will update and clarify the Convention Committee's financial position as of this date.

This response constitutes a supplement, as well as an amendment to our response to the Audit Division's Interim Report, which was filed on September 3, 1993.

In our conversation, you inquired into seven expenditures made by the Convention between December 8, 1993 and September 24, 1993. The explanation for each is as follows:

1) Harris Data - This total bill, for $2,845.58, was allocated between the Convention ($750.00) and the Democratic National Committee ("DNC") ($2,095.58). Harrisdata, which previously maintained the DNC and Convention accounting systems, was asked to come to Washington to help close down the systems so that the DNC could convert its financial records to a new accounting system. This estimation was a good faith estimate of what costs were to be allocated between both the DNC and the Convention.

2) Galt & Brothers - This expense, for a total of $15,026.16 was for gifts for the senior staff of the Convention committee and senior party leaders. Past Democratic convention committees have given such gifts to senior staff members during past conventions, and such expenditures have never been questioned by the Commission (For example, in 1988, the party gave commemorative, engraved gavels to senior staff). These commemorative gifts were tokens of appreciation from the party to those who dedicated countless hours to this successful convention. Therefore, it is our belief that this expenditure was a proper use of Convention funds.

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3) Computer Ventures, Inc. - As part of an arrangement with AT&T, the Convention committee was loaned, at no cost, computers for use by Convention staffers. In exchange, the Convention agreed to give AT&T promotional consideration by conferring on AT&T the status of official provider of telecommunications services, in accordance with FEC Advisory Opinion 1988-25. Furthermore, as part of this arrangement, the Convention agreed to pay for any shipping costs when the computers were sold to a third party after the completion of the 1992 Convention. Therefore, this payment is a reimbursement of $8,844.17 to the ultimate purchaser of the equipment for all related shipping costs incurred by it for transfer of the AT&T equipment.

4) Richard Dattner - This payment was for an architectural model of the podium used at the 1992 Convention. This model was presented to Chairman Ronald Brown as a present from the Convention staff. Again, this is a standard practice, and we believe this to be a proper use of Convention funds.

5) Valerie Mims - Valerie Mims was a consultant, who was hired by the Convention for the purpose of developing a current list of the whereabouts of former staff members of the Convention committee. This list was essential for contacting key staff members for the purpose of closing out Convention business.

6) Internet Group - This payment was for computer consulting that was done during the Convention. The bill was paid in December due to a dispute as to the amount due to the consultant. Upon the resolution of the dispute, the consultant was paid $2,000 on December 15, 1992.

7) Broadus Butler - Mr. Butler, is a historian, and is the former President of Dillard University. Mr Broadus was asked to conduct a study of the unprecedented role of African Americans in the 1992 Democratic Convention. This study was presented to the Democratic party, and will be archived for historical purposes. A copy of the report will be provided to the Commission.

Outstanding Checks

Enclosed please find copies of bank reconciliations for July through September 1993 for the Convention Committee. The number used for outstanding checks in our original response was $16,683.07. This number was generated from the Bank Reconciliation Worksheet for July 1993, since we had not received the August bank statement at the time of filing our initial response. Please note that three of the outstanding checks listed had already been replaced at the time of our initial response. Therefore, the accurate number for outstanding checks should have been $13,952.32 at that time.

As the attached chart shows, the DNC has written replacement checks to six vendors in the total amount of $4,093.15. Of the remaining outstanding checks, $11,078.65 were voided and reallocated to cash-on-hand. As of September 30, 1993, two checks, in the amount of $1,511.27 remain outstanding. It is my understanding that replacement checks will be written for these two outstanding obligations.

You should also note that an anticipated bank charge of $140.00 that was reported in our response was actuality $30.51. Furthermore, this amount was incorrectly deducted from the 12/7 opening cash-on-hand, rather than from the closing 9/3 cash-on-hand. An adjustment has been made, and the $140.00 has been added back into the opening cash-on-hand. Thus, the following chart will demonstrate the current financial position of the Convention Committee:

Closing cash on hand as of 12/7/92	$ 154,850.14
Receipts 12/8/92 - 10/15/93	84,928.02
Total Assets	$ 239,638.16
Expenditures made 12/8/93 - 10/15/93	$ (234,682.12)
Minus: Outstanding Checks (To be replaced)	(1,511.27)
Minus: Payables[1]	(4,216.73)
Amount repayable as of today	$ 879.31

If you have any further questions, feel free to call me at (202) 479-5111.

Sincerely,

Neil Reiff
Deputy General Counsel

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[1] On October 4, 1993, the Convention Committee received an invoice for $4,216.73 from AT&T. The Committee was completely unaware of any obligations remaining to AT&T, and therefore, we are currently conducting an investigation to determine whether this invoice is a billing in error, or if there is an actual outstanding obligation owed to AT&T.

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

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

JAN 30 11 40 AM '95

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 3952
STAFF MEMBER: Rhonda J. Vosdingh

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

RESPONDENTS: 1992 Democratic National Convention Committee, Inc., and Robert T. Matsui, as Treasurer

Democratic National Committee, and Robert T. Matsui, as Treasurer

Alexis Herman

Anne Reingold

RELEVANT STATUTES/ REGULATIONS:
2 U.S.C. § 441a(a)(1)(B)
26 U.S.C. §§ 9008(b)(1) and (5)
26 U.S.C. §§ 9008(d)(1) and (g)
11 C.F.R. § 100.7(b)(8)
11 C.F.R. § 110.1(c)
11 C.F.R. § 110.3(a)(1)(ii)
11 C.F.R. § 116.5
11 C.F.R. § 9008.3(a)
11 C.F.R. § 9008.4
11 C.F.R. §§ 9008.6(a) and (b)
11 C.F.R. §§ 9008.7(a)(1) and (e)
11 C.F.R. § 9008.8(a)(2)
11 C.F.R. §§ 9008.8(b)(1), (2) and (4)(i)
11 C.F.R. § 9008.9
11 C.F.R. §§ 9008.10(c) and (d)

INTERNAL REPORTS CHECKED: Audit Documents

FEDERAL AGENCIES CHECKED: None

I. **GENERATION OF MATTER**

The 1992 Democratic National Convention Committee, Inc. ("the Committee") was established by the Democratic National Committee ("DNC") for the purpose of conducting the 1992 presidential nominating convention of the Democratic Party. The Committee registered with the Federal Election Commission on June 14, 1991. The Committee received its full entitlement of public funds under 26 U.S.C. § 9008(b)(1) of $11,048,000. Pursuant to 26 U.S.C. § 9008(g), the Commission conducted an audit and examination of the Committee. This matter was generated from information obtained from the audit of the Committee. See 11 C.F.R. § 9008.9. The Audit Division's referral materials are attached. See Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

A. Contribution Limitation

The payment by an individual from his or her personal funds for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of a political committee is a contribution. 11 C.F.R. § 116.5(b). There are, however, two exemptions. First, an individual may spend an aggregate of $2,000 per calendar year for personal transportation expenses on behalf of a political committee without such expenditures being counted as contributions. 11 C.F.R. §§ 100.7(b)(8) and 116.5(b). Second, advances of personal funds will not be considered contributions if they are for the individual's personal transportation or subsistence, where such expenses are incurred while the individual is traveling on behalf of a candidate or a political committee of a political party. 11 C.F.R. § 116.5(b); see also, Explanation and Justification for 11 C.F.R. § 116.5(b), 55 Fed. Reg. 26382-83 (June 27, 1989). If the individual's transportation and subsistence expenses were paid by personal credit card, they must be reimbursed within 60 days after the closing date of the billing statement on which the charge first appears, or if a personal card was not used, within 30 days after the date on which the expense was incurred. Id.

Convention committees, which are established by the national committees of political parties and are responsible for the day-to-day operation of the conventions, receive all public funds and private contributions on behalf of the national committees. 11 C.F.R. § 9008.8(b)(2).[1] See also 26 U.S.C. §§ 9008(b)(1) and (5); 11 C.F.R. §§ 9008.3(a) and 9008.4. Individuals are prohibited from making contributions to political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which in the aggregate exceed $20,000. 2 U.S.C. § 441a(a)(1)(B).

The audit of the Committee found that two Committee staff members, Alexis Herman and Anne Reingold, had incurred expenses on behalf of the Committee for their own travel and subsistence, as well as for non-travel items and travel and subsistence of others in the amounts of $9,639.29 and $5,778.96, respectively. See Attachment 1, p. 3. The Committee had reimbursed Ms. Herman and Ms. Reingold for these expenses by the time the audit fieldwork was completed. Attachment 1, p. 3.

Ms. Herman's expenses for her own travel and subsistence, for which she paid by personal credit card, were outstanding between

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1/ The Commission has adopted revisions to its regulations governing publicly financed presidential nominating conventions for the 1996 election cycle. 59 Fed. Reg. 33606 (June 29, 1994).

82 and 83 days. <u>See</u> Attachment 1, pp. 5-9.[2/] Therefore, they constitute contributions under 11 C.F.R. § 116.5. Ms. Reingold's expenses for her own travel and subsistence, for which she paid by personal credit card, were outstanding between 62 and 202 days. <u>See</u> Attachment 1, pp. 10-14. Her travel and subsistence expenses for which she paid by means other than her personal credit card (<u>e.g.</u>, presumably cash or check) were outstanding between 33 and 203 days. <u>Id</u>. Therefore, they constitute contributions under 11 C.F.R. § 116.5.

Ms. Herman's and Ms. Reingold's expenditures on behalf of the Committee for non-travel items and travel and subsistence of others constitute contributions to the Committee under 11 C.F.R. § 116.5. These expenditures were not incurred for their own travel and subsistence; therefore, they are not exempt from the definition of contribution under 11 C.F.R. § 116.5(b). Contributions to the Committee resulted at the time Ms. Herman and Ms. Reingold incurred the financial obligation for the non-travel items and the travel and subsistence of others. <u>See</u> 11 C.F.R. § 116.5(b).

The Office of General Counsel believes that, in accordance with 2 U.S.C. § 441a(a)(1)(B), a $20,000 contribution limitation applies to convention committees. A convention committee is affiliated with the national committee in that it is established, financed, maintained, and controlled by the national committee. <u>See</u> 11 C.F.R. §§ 9008.8(b)(1) and (2); 110.3(a)(1)(ii).

<u>2/</u> Ms. Reingold did not pay for any of her own travel and subsistence by means other than her personal credit card.

Therefore, a convention committee shares the national committee's $20,000 contribution limitation. See 2 U.S.C. § 441a(a)(1)(B).[3]

A review of the Commission's contributor database for the 1991-92 election cycle indicates that neither Ms. Herman nor Ms. Reingold made additional contributions to the Committee in calendar year 1992.[4] Thus, Ms. Herman's contributions to the Committee for calendar year 1992 totaled $9,639.29 and Ms. Reingold's contributions totaled $5,778.96. Such contributions are within the individual contribution limits for publicly financed convention committees.[5] Id. Therefore, the Office of General Counsel recommends that the Commission find no reason to believe Ms. Herman and Ms. Reingold violated 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R. § 110.1(c).

3/ The Commission acknowledged this policy in the 1996 regulations for presidential nominating convention financing. The Commission reasoned that because "the convention committee is established, financed, maintained and controlled by the national committee, and therefore affiliated with the national committee, it shares the national committee's $20,000 contribution limit." Explanation and Justification for 11 C.F.R. § 9008.6, 59 Fed. Reg. 33607, 33608 (June 29, 1994).

4/ This review also revealed that neither Ms. Herman nor Ms. Reingold made contributions to the DNC in calendar year 1992.

5/ In response to the Interim Audit Report, the Committee argued that the contributions resulting from the staff advances were within the contribution limits of the Federal Election Campaign Act. See, generally, Attachment 2, pp. 2-4. Specifically, the Committee contended that it shares the Democratic National Committee's $20,000 contribution limitation. Id. at pp. 2-3. Because the staff advances were less than $20,000 per person, the Committee argued, they were permissible. Id.

B. The Committee's Receipt of Ms. Herman's and Ms. Reingold's Contribution

A publicly-financed convention committee may elect to receive all or a part of the public funds which it is entitled to receive. 11 C.F.R. § 9008.8(a)(2). A convention committee may forgo its full entitlement and accept and use private contributions to defray convention expenses as long as the sum of the private contributions and public funds the committee elected to receive does not exceed the total expenditure limitation. Id. The expenditures a convention committee may incur are limited to its full entitlement of public funds under 26 U.S.C. § 9008(b). 11 C.F.R. § 9008.7(a). The full entitlement for the 1992 presidential nominating conventions was $11,048,000. Thus, if a convention committee elects to accept the full entitlement of $11,048,000, it may not accept private contributions to defray convention expenses. See 11 C.F.R. § 9008.8(a)(2).

The Committee elected to receive the full entitlement of $11,048,000 in public funds. Consequently, the Committee was prohibited from accepting any private contributions. As described above, Ms. Herman's and Ms. Reingold's expenditures constitute contributions to the Committee totaling $15,418.25 ($9,639.29 + $5,778.96).[6] Therefore, the Office of General Counsel recommends

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6/ The expenditures made by Ms. Herman and Ms. Reingold apparently were for the purpose of conducting the convention, rather than to attend and participate in the convention. See 11 C.F.R. § 9008.7(e); compare 11 C.F.R. § 9008.6(a) (permissible uses) with 11 C.F.R. § 9008.6(b) (prohibited uses). Thus, the Committee's reimbursement of these expenditures constituted a permissible use of federal funds. A convention committee is required to make a repayment for any public funds that were used for an improper purpose. 11 C.F.R. § 9008.10(d).

that the Commission find reason to believe that the Committee and its treasurer violated 11 C.F.R. § 9008.8(a)(2).7/

Since the DNC established the convention committee and the convention committee accepts public funds and private contributions on behalf of the DNC, 11 C.F.R. §§ 110.3(a)(1)(ii) and 9008.8(b)(1) and (2), the Office of General Counsel recommends that the Commission find reason to believe that the DNC violated 11 C.F.R. § 9008.8(a)(2).

However, the Committee reimbursed Ms. Herman and Ms. Reingold prior to the completion of the audit fieldwork. As a result, the Committee no longer had contributions which it was not permitted to receive under 11 C.F.R. § 9008.8(a)(2).8/ Therefore, in furtherance of the Commission's priorities and resources, we recommend that the Commission take no further action against the Committee and the DNC. See Heckler v. Chaney, 470 U.S. 821 (1985).

7/ Although a convention committee receiving its full entitlement to public funds is prohibited from accepting private contributions, neither the Presidential Election Campaign Fund Act or the Commission's regulations prohibit an individual from making contributions to the convention committee. See 11 C.F.R. § 9008.8(a)(2); cf. 26 U.S.C. § 9003(b)(2) (publicly financed general election committees are prohibited from accepting contributions, but individuals may make contributions to general election committees).

8/ The 1996 regulations for Presidential nominating convention financing accommodates the practice of staff advances made under 11 C.F.R. § 116.5. Specifically, the Commission noted that "a convention committee may accept up to $20,000 in staff advances if it provides reimbursement and accepts full public funding." Presidential Election Campaign Fund and Federal Financing of Presidential Nominating Conventions, 59 Fed. Reg. 33608 (June 29, 1994).

C. **Expenditure Limitation**

The acceptance and use of Ms. Herman's and Ms. Reingold's $15,418.25 in advances did not cause the Committee to incur convention expenses which exceeded the total expenditure limitation. See 26 U.S.C. § 9008(d)(1). The Committee had unspent public funds in the amount of $37,337.79. Statement of Reasons supporting Final Repayment Determination of the 1992 Democratic National Convention Committee (June 13, 1994). Therefore, the public funds actually used to defray convention expenses was $11,010,662.21 ($11,048,000 - $37,337.79). Thus, the sum of the private contributions and public funds, $11,026,080.46 ($11,010,662.21 + $15,418.25), used to defray convention expenses is less than the total expenditure limitation of $11,048,000. See 11 C.F.R. § 9008.8(a)(2). Accordingly, the Office of General Counsel recommends that the Commission find no reason to believe that the Committee and its treasurer, or the DNC and its treasurer violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.7(a)(1).

RECOMMENDATIONS

1. Find no reason to believe Alexis Herman violated 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R. § 110.1(c);

2. Find no reason to believe Anne Reingold violated 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R. § 110.1(c);

3. Find reason to believe the Democratic National Convention Committee and Robert T. Matsui, as treasurer, violated 11 C.F.R. § 9008.8(a)(2), but take no further action;

4. Find reason to believe the Democratic National Committee and Robert T. Matsui, as treasurer, violated 11 C.F.R. § 9008.8(a)(2), but take no further action;

5. Find no reason to believe that the Democratic National Convention Committee, and Robert T. Matsui, as treasurer, violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.8(b)(4)(i);

6. Find no reason to believe that the Democratic National Committee, and Robert T. Matsui, as treasurer, violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.7(a)(1);

7. Approve the appropriate letters; and

8. Close the file.

1/27/95
Date

Lawrence M. Noble
General Counsel

Attachments

1. Referral Materials
2. Committee's response to the Interim Audit Report (September 3, 1993).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
1992 Democratic National Convention Committee, Inc., and Robert T. Matsui, as Treasurer;	)	MUR 3952
Democratic National Committee and Robert T. Matsui, as Treasurer;	)	
Alexis Herman;	)	
Anne Reingold.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 2, 1995, the Commission decided by a vote of 5-1 to take the following actions in MUR 3952:

1. Find no reason to believe Alexis Herman violated 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R § 110.1(c).

2. Find no reason to believe Anne Reingold violated 2 U.S.C. § 441a(a)(1)(B) and 11 C.F.R. § 110.1(c).

3. Find reason to believe the Democratic National Convention Committee and Robert T. Matsui, as treasurer, violated 11 C.F.R. § 9008.8(a)(2), but take no further action.

4. Find reason to believe the Democratic National Committee and Robert T. Matsui, as treasurer, violated 11 C.F.R. § 9008.8(a)(2), but take no further action.

(continued)

5. Find no reason to believe that the Democratic National Convention Committee and Robert T. Matsui, as treasurer, violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.8(b)(4)(i).

6. Find no reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.7(a)(1).

7. Approve the appropriate letters, as recommended in the General Counsel's Report dated January 27, 1995.

8. Close the file.

Commissioners Aikens, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented.

Attest:

2-3-95
Date

Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Mon., Jan. 30, 1995 11:46 a.m.
Circulated to the Commission: Mon., Jan. 30, 1995 4:00 p.m.
Deadline for vote: Thurs., Feb. 02, 1995 4:00 p.m.

bjr

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 16, 1995

Robert T. Matsui, Treasurer
1992 Democratic National Convention Committee, Inc.
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3952

Dear Mr. Matsui:

On February 2, 1995, the Federal Election Commission found reason to believe that the 1992 Democratic National Convention Committee, Inc. ("Committee") and you, as treasurer, violated 11 C.F.R. § 9008.8(a)(2), a provision of the implementing regulations of the Presidential Election Campaign Fund Act. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The Commission also found no reason to believe that the Committee, or you, as Treasurer, violated 26 U.S.C. § 9008(d)(1) and 11 C.F.R. § 9008.8(b)(4)(i). Accordingly, the Commission has closed the file in this matter. The General Counsel's Report, which formed a basis for the Commission's findings, is attached for your information.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Rhonda J. Vosdingh, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Danny L. McDonald
Chairman

Enclosure
General Counsel's Report

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3952

DATE FILMED 2-28-95 CAMERA NO. 2

CAMERAMAN JMH

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