



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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COMMISSION
WASHINGTON, D.C.

2000 DEC -7 P 5:18

December 7, 2000

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon *JAP*
Staff Director

FROM: Lawrence M. Noble *LN*
General Counsel

Kim Leslie Bright *KL*
Associate General Counsel

Lorenzo Holloway *LH*
Assistant General Counsel

Peter G. Blumberg *PGB*
Attorney

Albert R. Veldhuyzen *AV*
Attorney

AGENDA ITEM
For Meeting of: 12-14-00

SUBMITTED LATE

SUBJECT: Response to October 19, 2000 open meeting regarding Dole-Kemp '96, Inc.

On October 26, 2000, Dole/Kemp '96, Inc. (the "General Committee") submitted a letter with information related to the \$263,313 in travel costs that may be reimbursed by the Dole/Kemp '96 Compliance Committee for the Commission's consideration in its administrative review of the repayment determination. Attachment 1. The Office of General Counsel recommends that the Commission disregard the letter and attached documentation from the General Committee.

A committee may submit materials within 60 days of receiving a repayment determination included in the audit report. 11 C.F.R. § 9007.2(c)(2)(i). The Commission also has a policy allowing committees to submit additional information within five days of an oral hearing. The Commission's procedures more than provide for a committee's right to be heard.

Any information submitted after these time frames is not timely.¹ The General Committee's letter was submitted outside the time frames.

The Commission generally does not consider information that is submitted after these time frames. For example, in the case of the 1996 Committee on Arrangements for the Republican National Convention, the Commission denied its attempt to have additional documentation considered after these time frames that was related to a proposed Statement of Reasons under Commission consideration. However, in some instances, the Commission considered documents that were submitted after the deadlines.² Nevertheless, in this case, the documentation that the General Committee submitted had previously been considered by the Audit staff. In response to the Commission's discussion on October 19, 2000, the proposed Statement of Reasons is revised to include a full discussion of the issue. Therefore, the information presented would not make a difference in the repayment determination.

Thus, this Office recommends that the Commission disregard the General Committee's October 24, 2000 letter when it considers the proposed Statement of Reasons on the General Committee and exclude it from the administrative record of this proceeding.

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Disregard the October 24, 2000 letter from the Comptroller for Dole/Kemp '96, Inc. when the Commission considers the proposed Statement of Reasons for Dole/Kemp '96, Inc. and exclude it from the administrative record of this proceeding; and
2. Approve the appropriate letter.

Attachment

Letter from Allen Haywood dated October 24, 2000

¹ Courts have upheld Commission decisions not to consider matters that are untimely. In *Americans for Robertson v. Federal Election Commission*, the court held that if a committee does not raise issues in a timely fashion, those issues are waived. *Robertson v. FEC*, 45 F.3d 486, 490 (D.C. Cir 1995) (court held that petitioner had waived his right to address an issue because he had not raised it until his oral hearing); see also *Fulani v. FEC*, 147 F.3d 924 (D.C. Cir. 1998) (court upheld Commission's refusal to consider information submitted outside of the Commission's established time frames).

² With respect to the Pete Wilson for President Committee, the Commission chose to consider a letter submitted by the committee in response to its proposed Statement of Reasons. The Wilson Committee failed to meet a deadline for document submission imposed by the Office of General Counsel, yet the Commission included the letter in its consideration of its proposed Statement of Reasons. Similarly, in *Dole/Kemp '96*, in its consideration of the proposed Statement of Reasons, the Commission chose to consider a September 13, 2000 letter submitted outside of the document submission deadlines.

LRA 502/407

FEDERAL ELECTION COMMISSION

OCT 25 3 22 AM '00

The Honorable Darryl R. Wold
Chairman
Federal Election Commission
999 E Street
Washington, DC 20463

October 24, 2000

RE: Dole General Audit

Dear Chairman Wold:

This letter is written to add important information to an issue brought up in the October 19, 2000, open meeting regarding the Dole-Kemp '96 campaign. Specifically, Commissioner Mason stated that \$263,313 in travel expenses for accountants traveling with the candidates should be allowable GELAC costs. In response, Joe Stoltz of the audit staff asserted that even if the travel costs were allowable GELAC expenses, they were already included in the 10% press administrative cost pool. Commissioner Mason then asked if the accounting travel costs were excluded, would there still be enough costs to meet the 10% threshold. Mr. Stoltz answered that there were not.

The documentation provided to and accepted by Mr. Stoltz during the fieldwork, however, shows otherwise. Enclosed, please find a copy of these worksheets, which were provided to the audit staff in a timely fashion on March 27, 1998. Excluding any accounting travel costs, \$1,727,480 was included in press administrative costs paid by the General Committee. In fact, travel costs alone for press advance personnel, who coordinated the press filing centers, transportation, and risers amounted to \$936,748. Please note that only \$800,000 is needed to meet the 10% threshold. Thus, Mr. Stoltz's attempt to include the \$263,313 as part of the 10% press administrative costs is incorrect.

Finally, the committee would gladly have provided any additional supporting documentation, if needed, two years ago when Mr. Stoltz accepted the committee's calculations. Mr. Stoltz said that no additional documentation was necessary after reviewing the committee worksheets. Thus, the Committee is entitled to have its repayment reduced by \$263,313 because that documented amount is a permissible GELAC expense which does not count toward the overall expenditure limit.

Regarding the remainder of the GELAC costs being questioned, the Committee arrived at its allocations based on the number of personnel engaged in compliance activities rather than payroll dollars attributable to compliance personnel. At the October 19, 2000 Commission meeting, the audit staff left the impression that Dole-Kemp supplied no documentation for its allocations, while in reality Dole-Kemp provided documentation of a different method of allocation, one based on the number of personnel rather than payroll dollars. Dole-Kemp believes that it is entitled to use this alternative method of allocation and that the remaining GELAC reimbursements of \$301,119 should be reconsidered.

Some questions were also raised concerning accounts payable items which were noted as "billed in error" or "no longer owed" and removed from the campaign's debts and obligations report. These items involved vendors such as telephone companies with whom the campaign had a large number of transactions in many states over an extended period of time, with numerous separate accounts. Deposits, payments, charges, credits, and refunds were applied by the companies between various accounts in order to bring all accounts to a final zero balance. In the process of wrapping up campaign activity, the campaign contacted these vendors to verify what amounts, if any, were still outstanding on the vendor's books after applying all deposits, credits, and final charges across all accounts. In response, the vendors that indicated that Dole-Kemp had no outstanding balance were removed from the campaign's list of outstanding bills. Some of these vendors provided a final statement showing a zero balance (see attachment 12 from the Statement of Reasons - part of agenda document at the Commission meeting on October 19, 2000) while others did not provide a final consolidated statement. None of the balances which were removed were the result of bills being settled or negotiated. Accordingly, the Committee believes that the repayment should also be reduced by the \$120,405 for the accounts payable items that were not actually due.

Thank you for your prompt consideration of this letter and enclosure.

Sincerely,



Allen Haywood
Controller
Dole-Kemp '96

cc: Danny L. McDonald, Vice Chairman
Scott Thomas
Karl J. Sandstrom
Bradley A. Smith
David M. Mason
Lawrence M. Noble
Robert Costa
Joseph Stoltz

Enclosure

Summary page

General Press Operations Administrative and Indirect Costs

Line 23	Compliance	Total	
954,066.39	700,241.55	1,654,307.93	General Costs
242,353.11	104,859.50	347,212.61	Dole/Press Plane
531,060.54	80,313.91	611,374.45	Kamp Plane
<u>1,727,480.04</u>	<u>885,414.96</u>	<u>2,612,895.00</u>	

Note: The above costs do not include much of their respective overhead. Rent, Telephone, Office Supplies, Postage, Parking, Insurance, and Equipment costs reside in the Administration budget, which has not been included yet. Additionally, Admin personnel working on press operations have not been included (ie. they worked with the phone companies to provide filing center phone lines). I would estimate the indirect costs in the Admin. Division to be several hundred thousand dollars.

General Press Operations Administrative Indirect Costs

Assumptions: Same as Primary, except for Adv. Travel line. During the General, the Advance teams consisted of 3 people (Lead Advance, Site Advance, and Press Advance). It follows then that 33% of the travel would be for the Press Advance personnel. Also, the payroll date for the staff list is 10/31/96. The Payroll dates used for this analysis were chosen to best represent "peak" staffing periods during the Primary and General campaign.

<u>Gen</u>	<u>Compliance</u>	
-	254,409.43	Credit card costs (Visa, MC, AX)
217,150.39		Adv. Staff salaries (40.2% of total + 50% J. Rider, C. Cooper)
5,384.39		Adv. Health Insurance (40.2% of total)
In admin.		Adv. Payroll service costs
In admin.		Adv. General Insurance allocation
In admin.		Adv. Office space rental (& utilities)
In admin.		Adv. Telephone charges
In admin.		Adv. Office Supplies
In admin.		Adv. Postage
73,635.95		Adv. Equipment (40.2% of total)
In admin.		Adv. Fax machines
In admin.		Adv. Copiers
In admin.		Adv. Parking
<u>566,229.52</u>		Adv. Travel (33% of total) 1/3 Lead Adv., 1/3 Site Adv., & 1/3 Press Adv.*
882,400.25	254,409.43	subtotal
	208,723.18	Acct. DC Staff salaries (36.7% of Acct. total)
	8,384.70	Acct. DC Health insurance (36.7% of Acct. total)
	1,501.76	Acct. Payroll service costs (36.7% of Acct. total)
	In admin.	Acct. General Insurance allocation
	30,672.75	Acct. DC Office space rental (& utilities) (36.7% of Acct. total)
	47,896.64	Acct. DC Telephone charges (36.7% of Acct. total)
	21,833.20	Acct. DC Office Supplies/Delivery (36.7% of Acct. total)
	3,185.93	Acct. DC Postage (36.7% of Acct. total)
	120,955.86	Acct. DC Equipment/Furniture (36.7% of Acct. total)
	4,765.86	Acct. DC Parking (36.7% of Acct. total)
	<u>71,576.38</u>	Acct. Travel (36.7% of Acct. total)
	517,498.26	subtotal
882,400.25	771,907.69	Total prior to transfers
(44,120.01)	44,120.01	5% from Gen to Compl
<u>115,785.15</u>	<u>(115,785.15)</u>	15% from Compl to Gen
954,065.39	700,241.55	Total after transfers
		<u>1,654,307.93</u> Total indirect costs (Gen+Compl)

*Adv. Travel includes commercial airfare, ground transportation, overnight accommodations, and staff travel office costs. 1/3 of travel overhead expenses would be for the press advance person making the press arrangements.

Note: No indirect press costs accounted for in the Admin. Division are included in the above figures. In addition to Advance division overhead costs accounted for in the Admin. Division, Admin. personnel spent considerable time on the logistics for press phones (i.e. Patrick Panel).

Gen - Dole Plane Press Operations Administrative Indirect Costs

Assumptions: (1) Press advance and the plane manifest person on the airplanes are assumed to be 100% indirect. J. Rider and C. Cooper are only 50%. (2) The checkwriter is calculated at 33%. This is based on the reasoning that an estimated 1/3 of the bills paid are press related.

<u>Gen</u>	<u>Compliance</u>	
58,278.00		Dole Press operations (cost of air travel for 2 people every leg)
8,820.00		49 Overnight accommodations at \$120 (includes room, phone, & incidentals)
		100% Kim Fuller, 50% Jenny Rider (Press Advance)
	38,852.00	Dole Press Manifest (cost of air travel for 1 person every leg)
	5,640.00	49 Overnight accommodations at \$120 (includes room, phone, & incidentals)
		100% Wes Foster (Accounting)
<u>67,098.00</u>	<u>44,492.00</u>	subtotal

Gen - Press Plane Press Operations Administrative Indirect Costs

<u>Gen</u>	<u>Compliance</u>	
150,161.03		Dole Press operations (cost of air travel for 4 people every leg)
20,580.00		49 Overnight accommodations at \$120 (includes room, phone, & incidentals)
		100% Bill Hart, Erin O'Brien, Rachel Herman (Press Advance) and 50% Charlie Cooper
	42,903.15	Dole Press Manifest (cost of air travel for 1 person every leg)
	5,880.00	49 Overnight accommodations at \$120 (includes room, phone, & incidentals)
		100% Catherine Thorpe (Accounting)
	14,158.04	33% Dole Checkwriter (cost of air travel for 1 person every leg)
	1,940.40	49 Overnight accommodations at \$120 (includes room, phone, & incidentals)
		Ted Koch (Accounting)
<u>170,741.03</u>	<u>64,881.59</u>	subtotal
237,839.03	109,373.59	Total prior to transfers
(11,891.95)	11,891.95	5% from Gen to Compl
<u>16,406.04</u>	<u>(16,406.04)</u>	15% from Compl to Gen
<u>242,353.11</u>	<u>104,859.50</u>	Total after transfers
		<u>347,212.61</u> Total indirect costs (Gen+Compl)

Gen - Kamp Plane

Press Operations Administrative Indirect Costs

<u>Gen</u>	<u>Compliance</u>	
59,889.50		Kamp Press operations (cost of air travel for 2 people every leg)
10,440.00		58 Overnight accommodations at \$120 (includes room, phone, & incidentals) 100% Chris Keppier (Press Advance), 50% Kim McCreery
	39,793.00	Dole Press Manifest (cost of air travel for 1 person every leg)
	6,960.00	58 Overnight accommodations at \$120 (includes room, phone, & incidentals) 100% Vinnie Rizzo (Accounting)
	13,131.69	Dole Checkwriter (cost of air travel for 1 person every leg)
	2,298.80	58 Overnight accommodations at \$120 (includes room, phone, & incidentals) 33% Mary Beth Reilly (Accounting)
<hr/>	<hr/>	subtotal
70,129.50	62,181.49	
110,038.03		Adv. Staff salaries (25.3% of total)
701.32		Adv. Health Insurance (25.3% of total)
In admin.		Adv. Payroll service costs
In admin.		Adv. General Insurance allocation
In admin.		Adv. Office space rental (& utilities)
In admin.		Adv. Telephone charges
In admin.		Adv. Office Supplies
In admin.		Adv. Postage
17,807.68		Adv. Equipment (25.3% of total)
In admin.		Adv. Fax machines
In admin.		Adv. Copiers
In admin.		Adv. Parking
350,518.48		Adv. Travel (33% of total) 1/3 Lead Adv., 1/3 Site Adv., & 1/3 Press Adv.*
479,063.48		subtotal
549,192.96	62,181.49	Total prior to transfers
(27,459.65)	27,459.65	5% from Gen to Compl
9,327.22	(9,327.22)	15% from Compl to Gen
<hr/>	<hr/>	Total after transfers
531,060.54	80,313.91	<u>811,374.45</u> Total indirect costs (Gen+Compl)