




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 2009

MEMORANDUM

To: Judith Ingram
Press Officer

From: Joseph F. Stoltz 
Assistant Staff Director
Audit Division

Subject: Public Issuance of the Audit Report on Kucinich for President 2008, Inc.

Attached please find a copy of the audit report on Kucinich for President 2008, Inc., which was approved by the Commission on June 03, 2009.

All parties involved have received informational copies of the report and the report may be released to the public June 08, 2009.

Attachment as stated

cc: Office of General Counsel
Office of Public Disclosure
Reports Analysis Division
FEC Library
ITD Web



Report of the Audit Division on Kucinich for President 2008, Inc.

December 18, 2006 - March 31, 2008

Why the Audit Was Done

Federal law requires the Commission to audit every political committee established by a candidate who receives public funds for the primary campaign.¹ The audit determines whether the candidate was entitled to all of the matching funds received, whether the campaign used the matching funds in accordance with the law, whether the candidate is entitled to additional matching funds, and whether the campaign otherwise complied with the limitations, prohibitions, and disclosure requirements of the election law.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

Kucinich for President 2008, Inc. (KFP) is the principal campaign committee for Congressman Dennis J. Kucinich, a candidate for the Democratic Party's nomination for the office of President of the United States. KFP is headquartered in Columbus, OH. For information, see the chart on the Campaign Organization, p. 2.

Financial Activity (p. 2)

• Receipts	
○ Contributions from Individuals	\$ 4,401,967
○ Matching Funds Received	83,885
○ Contributions from Political Committees	13,823
○ Offsets to Expenditures	12,120
○ Other Receipts	772
○ Total Receipts	\$ 4,512,567
• Disbursements	
○ Operating Expenditures	\$ 4,499,294
○ Contribution Refunds	9,439
○ Other Disbursements	5,400
○ Total Disbursements	\$ 4,514,133

Finding and Recommendation (p. 3)

- Net Outstanding Campaign Obligations

¹ 26 U.S.C. §9038(a).

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Part I

Background

Authority for Audit

This report is based on an audit of Kucinich for President 2008, Inc. (KFP) undertaken by the Audit Division of the Federal Election Commission (the Commission) as mandated by Section 9038(a) of Title 26 of the United States Code. That section states “After each matching payment period, the Commission shall conduct a thorough examination and audit of the qualified campaign expenses of every candidate and his authorized committees who received [matching] payments under section 9037.” Also, Section 9039(b) of the United States Code and Section 9038.1(a)(2) of the Commission’s Regulations state that the Commission may conduct other examinations and audits from time to time as it deems necessary.

Scope of Audit

This audit examined:

1. The receipt of excessive contributions and loans.
2. The receipt of contributions from prohibited sources.
3. The receipt of transfers from other authorized committees.
4. The disclosure of contributions and transfers received.
5. The disclosure of disbursements, debts and obligations.
6. The recordkeeping process and completeness of records.
7. The consistency between reported figures and bank records.
8. The accuracy of the Statement of Net Outstanding Campaign Obligations.
9. The campaign’s compliance with spending limitations.
10. Other campaign operations necessary to the review.

Inventory of Campaign Records

The Audit staff routinely conducts an inventory of campaign records before it begins the audit fieldwork. KFP’s records were substantially complete and the fieldwork began immediately.

Part II Overview of Campaign

Campaign Organization

Important Dates	Kucinich for President 2008, Inc.
• Date of Registration	December 19, 2006
• Audit Coverage	December 18, 2006 – March 31, 2008
Headquarters	Columbus, Ohio
Bank Information	
• Bank Depositories	Three
• Bank Accounts	Five – Checking Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Gary Kucinich
• Treasurer During Period Covered by Audit	Gary Kucinich
Management Information	
• Attended FEC Campaign Finance Seminar	No
• Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash on hand @ December 12, 2006	\$ 0
o Contributions from Individuals	4,401,967
o Matching Funds received	83,885 ²
o Contributions from Political Committees	13,823
o Offset to Expenditures	12,120
o Other Receipts	772
Total Receipts	\$ 4,512,567
o Operating Expenditures	4,499,294
o Contribution Refunds	9,439
o Other Disbursements	5,400
Total Disbursements	\$ 4,514,133
Cash on hand @ March 31, 2008	\$ -1,566³

² KFP received an additional \$986,636 in matching funds after March 31, 2008 for a total of \$1,070,521. This represents 5% of the maximum entitlement (\$21,025,000) for a Presidential candidate.

³ Negative balance reflects adjustments made for outstanding checks totaling \$40,055 as of March 31, 2008.

Part III

Summary

Finding and Recommendation

Net Outstanding Debts and Obligations

A review of KFP's financial activity through March 31, 2009 and estimated winding down costs indicated that KFP did not receive matching fund payments in excess of the Candidate's entitlement. (For more detail, see p. 4)

Amount Owed to the U.S. Treasury

No amounts are owed to the United States Treasury.

Part IV

Finding and Recommendation

Net Outstanding Debts and Obligations

Summary

A review of KFP's financial activity through March 31, 2009 and estimated winding down costs indicated that KFP did not receive matching fund payments in excess of the Candidate's entitlement.

Legal Standard

A. Net Outstanding Campaign Obligations (NOCO). Within 15 days after the candidate's date of ineligibility (see definition below), the candidate must submit a statement of "net outstanding campaign obligations". This statement must contain, among other things:

- The total of all committee assets including cash on hand, amounts owed to the committee and capital assets listed at their fair market value;
- The total of all outstanding obligations for qualified campaign expenses; and
- An estimate of necessary winding-down costs. 11 CFR §9034.5(a).

B. Date of Ineligibility. The date of ineligibility is whichever of the following dates occurs first:

- The day on which the candidate ceases to be active in more than one state;
- The 30th day following the second consecutive primary in which the candidate receives less than 10 percent of the popular vote;
- The end of the matching payment period, which is generally the day when the party nominates its candidate for the general election; or
- In the case of a candidate whose party does not make its selection at a national convention, the last day of the last national convention held by a major party in the calendar year. 11 CFR §§9032.6 and 9033.5.

C. Qualified Campaign Expense. Each of the following expenses is a qualified campaign expense.

- An expense that is:
 - Incurred by or on behalf of the candidate (or his or her campaign) during the period beginning on the day the individual becomes a candidate and continuing through the last day of the candidate's eligibility under 11 CFR §9033.5;
 - Made in connection with the candidate's campaign for nomination; and
 - Not incurred or paid in violation of any federal law or the law of the state where the expense was incurred or paid. 11 CFR §9032.9.
- An expense incurred for the purpose of determining whether an individual should become a candidate, if that individual subsequently becomes a candidate, regardless of when that expense is paid. 11 CFR §9034.4.

- An expense associated with winding down the campaign and terminating political activity. 11 CFR §9034.4(a)(3).

D. Value of Capital Assets. The fair market value of capital assets is 60% of the total original cost of the assets when acquired, except that assets that are received after the date of ineligibility must be valued at their fair market value on the date received. A candidate may claim a lower fair market value for a capital asset by listing the asset on the NOCO statement separately and demonstrating, through documentation, the lower fair market value. 11 CFR §9034.5(c)(1).

E. Entitlement to Matching Payments after Date of Ineligibility. If, on the date of ineligibility (see above), a candidate has net outstanding campaign obligations as defined under 11 CFR §9034.5, that candidate may continue to receive matching payments provided that he or she still has net outstanding campaign debts on the day when the matching payments are made. 11 CFR §9034.1(b).

Facts and Analysis

The Audit staff prepared a Statement of Net Outstanding Campaign Obligations (NOCO) as of the Candidate's date of ineligibility (DOI) on January 25, 2008. The Preliminary Audit Report (PAR) included a finding for matching funds totaling \$38,609 received in excess of entitlement. In response to the PAR, KFP provided documentation and justification for adjusting winding down costs and the Audit staff revised the NOCO which is presented on the next page.

Kucinich for President 2008
Statement of Net Outstanding Campaign Obligations
As of January 25, 2008
Prepared through March 31, 2009

Assets

Cash on Hand	\$ 30,776	[a]
Cash in Bank	128,173	
Mailing List sold post DOI	7,350	
Capital Assets	<u>40,726</u>	

Total Assets \$ 207,025

Liabilities

Accounts Payable for Qualified Campaign Expenses at 1/25/08	\$ 967,100		
Actual Winding Down Costs (1/26/08 – 03/31/09)	\$ 363,705		
Estimated Winding Down Costs (04/01/09 – 6/30/09)	<u>57,784</u>	421,489	[b] [c]

Total Liabilities \$ 1,388,589

Net Outstanding Campaign Obligations (Deficit) as of January 25, 2008 (\$ 1,181,564)

Footnotes to NOCO Statement:

- [a] Amount includes contributions dated prior to DOI and deposited after DOI.
- [b] Estimated winding Down Costs include storage cost for a three year period.
- [c] Winding Down Costs was limited to 10% of the total of the candidate's expenditures subject to the overall expenditure limitation as of January 25, 2008 (10% of \$4,214,892).

Candidate's Remaining Entitlement to Matching Funds

Shown below are adjustments for financial activity after January 25, 2008 through March 31, 2009. KFP has not received matching funds payments in excess of the amount to which the Candidate was entitled as presented below:

Net Outstanding Campaign Obligations (Deficit) as of 1/25/08	(\$ 1,181,564)
Private Contributions and Other Receipts Received (1/26/08 – 3/31/09)	87,574
Matching Funds Received (1/26/08 – 3/31/09)	<u>1,070,521</u>
Remaining Net Outstanding Campaign Obligations (Deficit) as of 3/31/09	(\$ 23,469)

Committee Response to Preliminary Audit Report and Audit Staff's Assessment

The PAR included a finding for matching funds totaling \$38,609 received in excess of entitlement. The Audit staff recommended that KFP provide evidence that it had not received matching fund payments in excess of entitlement. Absent such evidence, the Audit staff would make a recommendation that the Commission determine that \$38,609 was repayable to the U.S. Treasury.

In response to the PAR recommendation, Counsel for KFP provided invoices and other documentation demonstrating that actual wind down expenses for the period October 1, 2008 to March 31, 2009 were greater than originally estimated. Most of the increase was for legal expenses incurred during this period. Due to the increase in winding down expenses, it was determined that KFP has not received funds in excess of entitlement. The Audit staff will continue to monitor actual expenses compared to estimates to assure that no significant changes occur.