



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
SECRETARIAT

2011 FEB 17 A 8:01

February 16, 2011

**MEMORANDUM**

**AGENDA ITEM**

**TO:** The Commission

**FROM:** Christopher Hughey  
Acting General Counsel

*pch*

Lawrence L. Calvert, Jr.  
Associate General Counsel

*LCE*

Lorenzo Holloway  
Assistant General Counsel  
Public Finance and Audit Advice

Delanie DeWitt Painter  
Attorney

**SUBJECT:** Kucinich for President, Inc. -- Repayment Determination – Letter From Counsel  
LRA # 640)

For Meeting of 2-17-11

**SUBMITTED LATE**

Late in the afternoon of February 16, we received the attached letter from counsel for Dennis J. Kucinich and Kucinich for President, Inc. (collectively, "KFP"). Attachment 1. Counsel has requested that the letter be provided to the Commission in advance of the resumption of discussion of LRA 640 in the open session of February 17, and added to the public record.

Generally, the Commission does not consider information submitted after the due date for submitting written materials for administrative review. *See* 11 C.F.R. §§ 9038.2(c)(2)(i) and 9038.4(d). However, the purpose of those regulations is to set a firm deadline for the submission of factual information or additional legal argument. This letter contains neither type of information. Instead, counsel clarified to staff that its purpose was merely to express KFP's interest in bringing the matter to resolution in some fashion short of judicial review under 26 U.S.C. § 9041(a), and was not intended to withdraw the currently pending request for administrative review. Therefore, given the nature and limited scope of the letter, if the Commission wishes to consider the letter concurrently with the repayment determination, we believe it could do so consistent with sections 9038.2(c)(2)(i) and 9038.4(d).

# MCTIGUE & MCGINNIS LLC

ATTORNEYS AT LAW

545 EAST WALNUT STREET  
COLUMBUS, OHIO 43215

Donald J. McTigue  
Mark A. McGinnis  
J. Corey Colombo

TEL: (614) 263-7000 | FAX: (614) 263-7078 | WWW.MCTIGUELAW.US

February 16, 2011

Christopher Hughey, Acting General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, D. C. 20463

*Re: Kucinich for President, Inc.- Repayment Determination Upon Administrative Review  
(LRA #640)*

Dear Mr. Hughey:

I am writing as legal counsel for Kucinich for President, Inc. regarding the above referenced repayment determination related to the 2004 Presidential campaign.

Although the committee respectfully disagrees with the basis for the repayment determination for the reasons set forth in its earlier legal memorandums, dated March 8 and May 29, 2007, in the interests of supporting the principles of the public finance system for Presidential candidates and the oversight responsibilities of the Federal Election Commission, Kucinich for President, Inc. is willing to raise additional contributions and voluntarily agree to make a repayment to the U. S Treasury and not exercise its right to appeal. I look forward to discussing this further with you or your staff.

I request that this letter be provided to the Commission members for their meeting tomorrow and be made a part of the public record. Thank you.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,



Donald J. McTigue