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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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October 16, 2000

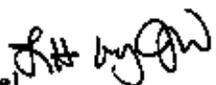
MEMORANDUM

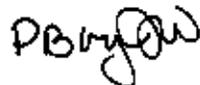
TO: The Commission

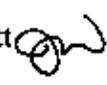
THROUGH: James A. Pehrkon 
Staff Director

FROM: Lawrence M. Noble 
General Counsel

Kim Leslie Bright 
Associate General Counsel

Lorenzo Holloway 
Assistant General Counsel

Peter G. Blumberg 
Attorney

Jamila I. Wyatt 
Attorney

AGENDA ITEM
For Meeting of: 10-19-00

SUBMITTED LATE

SUBJECT: Dole/Kemp '96, Inc. - Supplement to the draft Statement of Reasons (LRA #506)

Pursuant to the Commission's discussion at the September 21, 2000 open session meeting, the Office of General Counsel submits this supplement to the draft Statement of Reasons for Dole/Kemp '96, Inc. with further details on the excess press travel reimbursements allocated to the Committee's expenditure limitation and a comparison to the Audit Report.

The Audit Report concluded that \$1,219,281.00 in excess press travel reimbursements are attributable to the Committee's expenditure limitation. See Draft Statement of Reasons, attachment 1 at 50. In contrast, the draft Statement reduces that amount by \$357,864.17, attributing \$861,416.83 to the Committee's expenditure limitation. See Draft Statement of Reasons, attachment 19. The Audit Division has prepared the attached memorandum and worksheets outlining the differences in the amounts of the excessive press reimbursement calculations in the Audit Report and the

draft Statement. See Attachment 1. The Audit Division reconciliation process uncovered minor data entry errors totaling \$181.64 and a previously uncredited, reimbursable press expense totaling \$4,180.00, changing the excessive press reimbursement total to \$857,055.19. Additionally, the reconciliation process left an "unexplained difference" of \$245.61 which cannot be reconciled with any particular category of expenses.

As a threshold matter, the Statement and the Audit Report considered the actual costs of operating the three Committee aircraft. These flight costs include the contract costs for the aircraft and variable costs (e.g., fuel, landing fees). The Statement explained that the Committee and the Commission have similar calculations for the actual contract and variable costs of the flights.¹ However, the Committee did not use the actual hourly cost figure to prepare billings for the press and the Secret Service, and it has not provided a satisfactory explanation for the derivation of its billing rates. The hourly rates used for billing varied significantly during the campaign, but generally exceeded the rate that should have been generated by the use of the actual costs. See Statement, Attachment 3A pages 28 to 30. Finally, the amount actually collected from the press, when added to the accounts receivable reported by the Committee, exceeded the amount that Committee records show as the amount billed.² See Statement, Attachment 1 at 30.

The differences in the amounts included in the Audit Report and the draft Statement result from this Office's review of the following categories of press reimbursements: (1) catering and ground transportation; (2) event-related costs; (3) ground telephones; and (4) post-nomination expenses. In addition, this Office recommends that the Commission allow the Committee to deduct from its expenditure limitation certain expenses totaling \$2,352.50 (plus a 10% administrative cost) not previously billed to the press that could have been properly billed to the press.³

One category of expenses relates to catering and ground transportation. The Audit Report determined that \$71,291.53 in catering costs and \$60,998.56 in ground

¹ Some of the variable flight costs were challenged and are addressed at page 23, fn. 14 of the Statement and at Attachment 3A of the Statement, as well as in the attached Audit Division memorandum.

² Based on the latest adjustments made in the Statement, the amount over-billed for the costs of operating three Committee aircraft is approximately \$800,000. See attachment 2. This figure, however, has limited relevance since the press reimbursements determination focuses on amounts collected versus actual costs. As noted, the amounts billed by the Committee did not bear a relation to either the actual costs or the amounts collected. Moreover, the excess billings for flights were partially offset by approximately \$300,000 underbilled for phones. *Id.*

³ The previously unbilled expenses are addressed in the sections relating to the type of unbilled expense (e.g., unbilled lighting is addressed with the other lighting costs). Unbilled miscellaneous costs totaling \$109,617.74 are addressed in the Statement, where it is concluded that \$2,352.50 in costs are allowable (plus a 10% administrative cost). The Committee seeks credit for \$340,114 in unbilled lighting costs. The Statement disallows the proposed reimbursement. A general discussion of whether unbilled costs of any sort can be offset against the excess reimbursements is set forth at pages 19-20 of the Statement.

transportation costs were disallowed. Specifically, catering costs of \$46,339.34 were allowed, leaving \$24,952.19 (\$71,291.53 - \$46,339.34) disallowed. With respect to ground transportation, \$39,058.26 in additional costs were allowed, leaving \$21,940.30 (\$60,998.56 - \$39,058.26) disallowed. The costs allowed in the Statement related to invoices where the Audit Report had concluded that excessive amounts of goods or services were provided to the press. The Statement concludes that the goods and services were made available to the press and that it had not been established that they were made available to someone other than the traveling press. Therefore, there was no subsidization of the campaign. However, the Statement continues to disallow catering and ground transportation expenditures which are, *inter alia*, event-related, insufficiently documented, and double-billed.

The next category of expenses addressed in the draft Statement, event-related costs, generally follows the Audit Report analysis and focused on whether the services in question were made available to the press. Based on the Statement's analysis, the lighting and sound costs allowed for press reimbursement are \$13,797.82, contrasted with \$200,885.54 disallowed in the Audit Report, leaving \$187,087.72 (\$200,885.54 - \$13,797.82) still disallowed. Further, with respect to generators, the Statement allows \$39,723.00 in costs, in contrast to \$53,875.00 disallowed in the Audit Report, leaving \$14,152.00 (\$53,875.00 - \$39,723.00) still disallowed. With respect to security, the Statement allows \$9,676.78 in costs, in contrast to \$21,070.03 disallowed in the Audit Report, leaving \$11,393.25 (\$21,070.03 - \$9,676.78) still disallowed. With respect to press risers, the Statement allows no additional costs, disallowing \$16,885.31 as was done in the Audit Report. With respect to technicians, the Statement allows \$2,616.24 in costs, in contrast to \$3,908.74 disallowed in the Audit Report, leaving \$1,292.50 (\$3,908.74 - \$2,616.24) still disallowed. With respect to baggage, the Statement allows \$10.03 in costs, in contrast to \$1,990.38 disallowed in the Audit Report, leaving \$1,980.35 (\$1,990.38 - \$10.03) still disallowed. With respect to miscellaneous costs such as flags, ropes, and drapes, the Statement allows \$31,895.75 in costs, in contrast to \$136,228.03 disallowed in the Audit Report, leaving \$104,332.28 (\$136,228.03 - \$31,895.75) still disallowed. Under the rubric of event-related costs, the Statement also considered expenses disallowed in the Audit Report for "phones" totaling \$6,352.50 and for "no invoice" totaling \$35,039.31. The Statement made no changes to the previous determinations on these two items.⁴

Where the documentation demonstrates that the service was made available to the press (*e.g.*, security or audio multi-boxes), the draft Statement allows the press

⁴ The amounts of event-related costs disallowed in the Audit Report, and described in this paragraph, total \$476,235.62. The attached Audit Division worksheet uses that same number. This number, however, was not specifically set forth in the Audit Report. The first calculation of this number was presented in Audit Division materials circulated for the oral hearing, and the total at that time was \$487,781. The Statement references \$487,781 as the amount of disallowed event-related costs, citing to an earlier Audit Division calculation. Since that time, the event-related costs number has been revised to account for various adjustments.

reimbursement. In contrast, the draft Statement allocates the cost of the generators since they were used by both the Committee and the press. The draft Statement follows the Audit Report in disallowing the lighting and sound costs since they are related to specific events and the Committee did not demonstrate that the press requested the services or that the services enabled the press to perform their jobs.

The next category of expenses addressed in both the Statement and the Audit Report relates to ground telephone costs. As the Statement explains, the General Committee claimed \$45,263 in telephone costs should have been allowed, and the Statement agrees that \$23,658.06 should be allowed. The balance was previously allowed Audit Report.⁵

The final category of expenses separately categorized in the Statement related to post-nomination expenses. The attached worksheet notes that \$42,782.87⁶ was disallowed in the Audit Report relative to this finding, and that \$38,364.61 is allowed in the Statement, leaving \$4,418.26 disallowed. These disallowed costs primarily relate to lighting costs. This issue merited individualized treatment in the Statement because of the unique legal issue of whether these costs were the responsibility of the General Committee or Senator Dole's primary election committee, Dole for President, Inc.

This Office proposes to include the attachments to this memorandum as attachments to the Statement. Additionally, this Office will revise the Statement to include references to the figures contained in the worksheets in the Statement in those sections where the references are not already present. However, these revisions will not be made until other anticipated revisions are made to the Statement's finding with respect to the \$574,158 repayment determination for non-qualified campaign expenses.⁷

Attachments

1. Memorandum from Alex Boniewicz dated October 16, 2000 explaining differences between excess press reimbursement calculations contained in Audit Report and draft Statement of Reasons.
2. Table developed by Audit Division setting forth Dole/Kemp '96, Inc. billings (October 12, 2000).

⁵ During the reconciliation process, a \$3,800 invoice was discovered to be uncredited in the Audit Division database. By crediting the General Committee for the invoice, the excess reimbursement total changed by \$4,180 (\$3,800 plus 10%).

⁶ This figure differs from that set forth in the Statement because the Statement's figure for costs at San Diego (page 37, line 19) included the 10% administrative fee twice.

⁷ Dole/Kemp '96, Inc. submitted a Dole for President, Inc. bank statement in an effort to demonstrate that \$574,000 was transferred from Dole for President, Inc. to Dole/Kemp '96, Inc. The draft Statement will be revised to address this submission.



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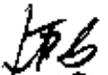
MEMORANDUM

TO: Lawrence M. Noble
General Counsel

Kim Leslie Bright
Associate General Counsel

THROUGH: James A. Pehrkon 
Staff Director

Robert J. Costa 
Assistant Staff Director
Audit Division

Joe Stoltz 
Deputy Assistant Staff Director
Audit Division

FROM: Alex Boniewicz 
Audit Manager

SUBJECT: Dole/Kemp '96, Inc. (DK) Statement of Reasons (LRA #506)

You have requested that we provide your Office with the revised calculation along with a cover memorandum explaining the decrease of \$362,225.81 from the calculation made in the Audit Report, where the excessive reimbursement determination totaled \$1,219,281, to arrive at the current amount of excessive press reimbursements totaling \$857,055.19. Attachment 1 provides such an analysis and this memorandum briefly addresses each category of costs to be permitted by the Statement of Reasons (SOR).

A. Catering Costs

The SOR proposes that catering costs of \$24,952.19, listed on the chart at page 27, continue to be disallowed. The Audit Report had disallowed catering costs of \$71,291.53. Those costs to be allowed, \$46,339.34, consist mainly of catering costs which had been disallowed as the result of pro-rating the quantity purchased for the number of traveling press. The quantity provided may indicate that non-traveling press representatives were accommodated. If the campaign chose not to bill such persons, that is its prerogative, however it may not bill the amounts to the traveling press.

B. Ground Transportation Costs

The SOR, proposes that ground transportation costs of \$21,940.30, listed on the chart at page 28, continue to be disallowed. The Audit Report had disallowed ground transportation costs of \$60,998.56. Those ground transportation costs to be allowed, \$39,058.26, consist mainly of the cost of vehicles which had been disallowed after allowing 2 seats for each of the traveling press. Allowing two seats per press person was the General Committee's stated procedure. Here again, the excessive number of seats provided may indicate that non-traveling press representatives were accommodated. If so, they should have been billed for their share of the ground expenses, or the campaign should have borne the cost of their transportation, rather than asking the traveling press to cover the entire cost.

C. Event Related Costs

The SOR, proposes that event related costs of \$378,515.80, discussed at Attachments 14 & 15, continue to be disallowed. The Audit Report had disallowed event related costs of \$476,235.62. Those event related costs to be allowed, which total \$97,719.82, include: the prorata portion of generators and other press filing center costs (such as tents, chairs tables, barricades, power distribution, related labor, transportation and delivery charges) and other press related event costs. The items which continue to be disallowed include: items billed twice; undocumented goods & services; and sound, lighting & related costs. Attachment 1 provides a breakdown of the types of expenses at issue.

D. Kemp Aircraft Costs

Previously excluded aircraft costs for phone installation, electrical work and onboard catering have been allowed. The inclusion of these costs in the calculations required to determine the hourly aircraft costs used to calculate the cost per press passenger, resulted in a reduction to the amount the press was overbilled of \$17,704.38. It should be noted that there remain aircraft costs of approximately \$14,000 which have not been permitted by the Audit staff for such items as: copier, printer & FAX supplies; staff rooms; signs for the plane; flu shots; and expenditures for which no documentation was available.

Finally, it should be noted that at this point in time the Audit staff's cost figures for this aircraft closely approximate the committee's own calculations and that these adjustments were included in the figures provided in the Audit Division's December 8, 1999 memorandum analyzing DK's response to the Audit Report (See SOR attachment 3A).

E. Dole/Press Aircraft Costs

Previously excluded aircraft costs for fuel, phone installation, electrical work and onboard catering have been allowed. Further, adjustments were made for an inadvertent allowance of costs for phone service, as well as an additional allowance based on the corrected calculation of costs relative to a travel service utilized. The inclusion of these costs in the calculations required to determine the hourly aircraft costs used to calculate the cost per press passenger, resulted in a reduction to the amount the press was overbilled of \$70,947.26. It should be noted that there remain aircraft costs of approximately \$27,000 which have not been permitted by the Audit staff for such items as: office supplies & equipment; aircraft signage; airfone time charges; staff rooms; travel for Gen. Powell; and, expenditures for which no documentation was available.

Finally, it should be noted that at this point in time the Audit staff's cost figures for these aircraft closely approximate DK's own calculations; however, in this instance, the larger concern is that the hourly rates used by DK to bill the press for these aircraft exceed hourly rates calculated using DK's own cost figures. As is the case with the Kemp aircraft discussed above, these adjustments were included in the figures provided in the Audit Division's December 8, 1999 memorandum analyzing DK's response to the Audit Report (See SOR attachment 3A).

F. USSS Overbilling Reduction Resulting From Additional Aircraft Costs

This reduction was achieved through the allowance of additional aircraft costs for all three planes, as discussed at C. and D. above. Again, there is no change from the Audit Division's December 8, 1999 memorandum.

Aircraft costs do not appear on Attachment 1 in the same format as other costs. The columns entitled "Disallowed in AR" (Audit Report) and "Disallowed by SOR" (Statement of Reasons) are blank. Costs associated with the aircraft do not translate to an amount that may be billed to the Press or the Secret Service on a dollar for dollar basis as do other costs. Rather, because not all passengers were members of the Press or Secret Service personnel, but included campaign passengers, only a portion the aircraft operating costs may be billed. The billable amount for each flight leg is determined separately based on the passenger manifest for that flight. Footnotes 2 and 3 on Attachment 1 provide the dollar amounts for the costs at issue. Further, D/K's aircraft cost calculation appears to have been done no earlier than February 1998, well after the campaign. Also, there is no documentation to demonstrate how the billing rates used by D/K were determined, but as can be seen at attachment 3A to the SOR pages 28 to 30, those billing rates varied substantially during the campaign. Finally, as noted in the Audit Report, SOR attachment 1 page 30, the amount collected from the Press, when added to the Accounts Receivable recorded by D/K, exceeds the amount D/K's records reflect as having been billed to the Press.

G. Previously Unbilled Expenses

The SOR proposes that previously unbilled expenses submitted by DK totaling \$2,587.75 be allowed. These expenditures were for: the press portion of generator costs (\$1,949.75); renting a press room (\$33); and, drapes related to the press stage (\$605);

H. Ground Telephone Costs

The SOR proposes that previously denied telephone costs amounting to \$25,521.65 be allowed. Of this amount, \$21,341.65 was adjusted in the Audit Division's December 8, 1999 memorandum.

I. Post Nomination Expenses (Denver & San Diego)

The Audit Report had disallowed costs totaling \$42,782.87. Costs now to be allowed, \$38,364.61, include: the press portion of the generator; catering; telephones; and, press filing center room rental & set-up. Alternatively, the \$4,418.26, which has not been allowed consist of expenses for: lighting and the DK portion of generator costs. The majority of this amount was adjusted in the Audit Division's December 8, 1999 memorandum.

K. Ground Telephone Deposits

Telephone refunds (\$17,577.85) were re-evaluated; it was determined that they were not refunds of deposits for press phones and that the amount billable to the press for telephones should be increased by this amount. This amount was adjusted in the Audit Division's December 8, 1999 memorandum.

L. Miscellaneous Reconciling Adjustment (\$9,226.39)

This adjustment consolidates the following unique transactions, which contribute to the reduction in the amount the press was overbilled:

■ telephone costs which had been allowed twice	\$2,197.80
■ joint leg correction for catering allowed	\$ 428.84
■ joint leg correction for generator allowed	\$1,870.00
■ pro-rata correction for Image Events costs allowed	\$3,190.00
■ unexplained difference to reconcile	\$ 245.61

Should you have any questions please contact Alex Boniewicz or Joe Stoltz at 694-1200.

Dole Kemp 96

Worksheet Showing How We got to \$861K from \$1.2 million

Description	Disallowed in AR	Disallowed by SOR	Amount
Press & USSS Overbillings @ AR			\$ 1,218,281.56
Less Statement of Reasons Adjustments:			
A. Catering	\$ 71,281.53	\$ 24,952.18	\$ (46,329.34)
B. Ground Transportation & Other Vehicle Costs	\$ 80,988.56	\$ 21,940.30	\$ (59,048.26)
C. Event Related Costs	\$ 478,235.62	\$ 378,818.80	\$ (99,416.82)
1. Sound & Light	\$ 200,885.54	\$ 187,087.72	\$ 13,797.82
2. Generators	\$ 53,875.00	\$ 14,152.00	\$ 39,723.00
3. Security & Crowd Control	\$ 21,070.03	\$ 11,393.25	\$ 9,676.78
4. Press Risers	\$ 16,885.31	\$ 16,885.31	\$ -
5. Technicians	\$ 3,908.74	\$ 1,292.50	\$ 2,616.24
6. Baggage	\$ 1,990.98	\$ 1,990.35	\$ 10.03
7. Miscellaneous Press Filing Center Costs	\$ 136,228.03	\$ 104,332.28	\$ 31,895.75
8. Phones	\$ 6,352.50	\$ 6,352.50	\$ -
9. No Invoices	\$ 35,039.31	\$ 35,039.31	\$ -
Sub-Totals	\$ 476,234.94	\$ 378,515.22	\$ 97,719.82
		Difference	\$ (0.20)
- Adjustment @ 110% to C. for \$1700 generator cost "allowed twice" at legs 50081028 & 31151028			\$ 1,870.00
- Adjustment in response to final, and as adj to 12/8 memo, amounts allowed to get the \$1.218K figure were disallowed to get to the \$861K figure			\$ 3,180.00
- SOR Cater allowance \$418.72 for Kemp is leg 30721014 only partially attributable to Kemp since this is a joint leg. Adj @ 1.1			\$ 428.94
D. USSS Reduction due to Increased Kemp/Dole Aircraft Costs Allowed			\$ (13,846.48) 1/
E. Additional Kemp Aircraft Costs Allowed			\$ (17,704.38) 2/
F. Additional Dole Aircraft Costs Allowed			\$ (70,947.28) 3/
G. Previously Unbilled Expenses	\$ 120,579.51	\$ 117,981.76	\$ (2,597.75)
H. Ground Telephone Costs	\$ 28,821.86		\$ (28,821.86)
I. Post Nomination Expenses (Denver & San Diego)	\$ 42,782.87	\$ 4,416.26	\$ (38,366.61)
J. Ground Telephone Deposits Adjusted	\$ 17,577.65		\$ (17,577.65)
K. Denver Phone Adj @ AR neglects 10%			
L. ADJ Made post AR, for amt allowed twice at leg 30200830 and at aphones.xls, this would have increased \$1.218K overage; adj @ 1.1			\$ 2,197.80
Revised Press & USSS Overbillings Explained			\$ 857,300.80
Press & USSS Overbillings as Revised for SOR			\$ 857,055.19
Unexplained Difference			\$ 245.61
Unexplained Difference as a Percent Press Overbillings			0.0287%

Footnotes:

- See Footnotes 2 & 3 below, based on the allowances made for the aircraft; the amount the USSS was overbilled is reduced by \$13,846.48
- The Audit Report did not allow costs that DK associated with the Kemp aircraft of \$63,246.23 to be included in the calculation of amounts billable to the press. The SOR permits \$52,662.45 of these costs. Since a portion of the cost of the aircraft is attributable to DK, this translates to an increase in the amount billable to the traveling press of \$17,704.38. Costs of \$10,363.79 (\$63,246.23 - \$52,662.45) remain disallowed.
- The Audit Report did not allow costs that DK associated with the Dole/Press aircraft of \$145,286.53 to be included in the calculation of amounts billable to the press. The SOR permits \$119,953.79 of these aircraft costs. Since a portion of the cost of the aircraft is attributable to DK, this translates to an increase in the amount billable to the traveling press of \$70,947.28. Costs of \$25,402.74 (\$145,286.53 - \$119,953.79) remain disallowed.

Billing %

Total Cost of Alleged Billing	Total Cost of Original Billing	Total Cost of Filing Billed	Total Cost of Phone Billing	Total Cost
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Per Audit:					
Dole Plane	\$ 1,255,243.59	\$ 122,229.07	\$ 644,907.81	\$ 429,649.32	\$ 2,452,029.79
Press Plane	\$ 1,778,285.90	\$ 164,049.88	\$ 893,903.75	\$ 592,383.37	\$ 3,428,623.01
BUS for both	\$ -	\$ 70,065.84	\$ 559,110.98	\$ 155,507.29	\$ 784,684.22
Adj to Actual Phone Costs				\$ 159,920.31	\$ 159,920.31
Adjustment for Addl AP Phone Costs				\$ 167,059.98	\$ 167,059.98
Adj to Actual Phone Costs per FAR responses				\$ 22,105.47	\$ 22,105.47
Adjustment for Addl Filing Costs			\$ 84,505.92	\$ -	\$ 84,505.92
TOTAL	\$ 3,033,529.49	\$ 356,344.80	\$ 2,107,032.54	\$ 1,546,525.73	\$ 7,008,928.70

Per Committee:					
Dole Plane	\$ 1,680,475.15	\$ 127,257.79	\$ 716,134.40	\$ 429,649.32	\$ 2,953,516.67
Press Plane	\$ 2,168,789.94	\$ 169,213.90	\$ 966,758.72	\$ 582,383.37	\$ 3,887,125.93
BUS for both	\$ -	\$ 76,885.71	\$ 643,494.74	\$ 152,207.29	\$ 872,587.74
TOTAL	\$ 3,849,265.09	\$ 373,357.40	\$ 2,323,387.86	\$ 1,164,240.00	\$ 7,783,290.24

Differences Audit - Cmtes
 Differences As a % of Total Differences

Percentages

KEMP PLANE

Total Cost of Already Billed	Total Cost of Grand Billed	Total Cost of Filing - Billed	Total Cost of Fees Billed	Total Cost
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CROSS FOOT

Per Audit: ~~1,692,042.33~~ ~~1,692,042.33~~ ~~389,316.32~~ ~~1,692,042.33~~

Per Committee: ~~1,692,042.33~~ ~~1,692,042.33~~ ~~389,316.32~~ ~~1,692,042.33~~

Differences Audits - Cmte \$ ~~0~~ ~~0~~ ~~0~~ ~~0~~ ~~0~~

Differences As a % of Total Difference

~~0~~ ~~0~~ ~~0~~ ~~0~~ ~~0~~

