FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1257

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FEDERAL ELECTION COMMISSION

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Signed [signature]

date 11/17/81

FEC 9-21-77

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1981

Clifton Peter Rose, Esq.
Williams and Jensen
1101 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1257

Dear Mr. Rose:

This letter is to advise you that pursuant to your request of November 23, 1981, a copy of the brief which you filed on behalf of your clients, in connection with MUR 1257, will be included in the public record. Prior to publication of the file in this matter, the appropriate deletions of personal and financial data will be made.

Should you have any questions, please direct them to Suzanne Callahan at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

MUR 1257

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

DOLE FOR PRESIDENT COMMITTEE

and

ELIZABETH HANFORD DOLE

Brief for Respondents Dole for President Committee and Elizabeth Hanford Dole

J. Curtis Herge, Esq.

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7600 Old Springhouse Road
McLean, Virginia 22102
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Clifton Peter Rose, Esq.

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(202) 659-8201

Attorneys for Respondents

June 19, 1981

MUR 1257

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

DOLE FOR PRESIDENT COMMITTEE

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Brief for Respondents Dole for President Committee and Elizabeth Hanford Dole

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Attorneys for Respondents

June 19, 1981

TABLE OF CONTENTS

QUESTIONS PRESENTED

(1) Whether, under applicable Kansas law, the funds lent to the Dole for President Committee by the candidate's wife were his "personal funds" under 11 C.F.R. 110.10(b).

(2) Whether Congress intended State law to determine what constitutes a Presidential candidate's personal funds.

(3) Whether the Federal Election Commission regulation looking to State law to determine what constitutes a Presidential candidate's personal funds violates the First Amendment and Equal Protection Clause of the United States Constitution.

(4) Whether the applicable regulations and statute are unconstitutionally vague.

(5) Whether the Dole for President Committee knowingly accepted a contribution in violation of 2 U.S.C. 441a(f).

STATEMENT OF FACTS

Respondent Elizabeth Hanford Dole was married to Senator Robert Dole on December 5, 1975. Mrs. Dole's father, John Van Hanford, Sr., was then a participant in . , a qualified pension plan under the Employee Retirement Income Security Act. Pursuant to that plan, he had designated Mrs. Dole as a beneficiary of the death benefits payable under the plan after his death. Following his death, the trustee of the plan paid Mrs. Dole on July 30, 1979 a total of in death benefits. She paid tax on of this sum as ordinary income and as capital gains. The entire amount, together with certain other funds, was wired to her account in the Bank of and used to purchase a certificate of deposit.

On December 14, 1979, Mrs. Dole borrowed from the Bank of , secured by this certificate of deposit. This sum was then lent to the Dole for President Committee, the other Respondent in this MUR and then the principal campaign committee of Senator Dole during his bid for the 1980 Republican Presidential nomination. The loan was properly reported on the Committee's regular reports to the Federal Election Commission ("the Commission" or "FEC") and was fully repaid by March 19, 1980.

STATEMENT OF THE CASE

On October 6, 1980 the two Respondents in this MUR were notified that the Federal Election Commission had found reason to believe that they had violated 2 U.S.C. § 441a(a)(1)(A) because of an excessive contribution to the Dole for President Committee. This finding was made as a result of an "internal audit", evidently an examination of the Dole for President Committee's own filings with the Federal Election Commission in which the loan had been fully reported. The finding was also made relying on a Kansas statute without considering a material amendment which significantly altered the statute and, as will be shown by Respondents, governs the disposition of this matter. Respondents, by counsel, provided the Commission with a considerable amount of further information. On April 24, 1980, the General Counsel to the FEC filed a brief with the Commission recommending it find probable cause to believe that a violation occured. The General Counsel's reasoning, however, rested on certain stipulations made by Respondents' counsel. As a result of further research and investigation, Respondents withdrew these stipulations in a letter to the Commission of May 18, 1981 and requested that the complaint in this MUR be dismissed. On June 5, 1981, the FEC sent to Respondents two conciliation agreements by which this MUR could be settled. These agreements were, however, unacceptable and Respondents chose instead to file this brief.

ARGUMENT

I. UNDER KANSAS LAW, THE MONEY LENT TO THE COMMITTEE WAS THE SENATOR'S PERSONAL FUNDS

Senator Dole was a recipient of matching federal funds for his Presidential primary bid under the Presidential Primary Matching Payment Account Act, 26 USC § 9031, et seq., ("the Act"). He was thus entitled to make campaign expenditures of up to $50,000 "from his personal funds, or the personal funds of his immediate family". Id., at section 9035. "Personal funds" under 11 C.F.R. § 110.10(b)(1) constitute, inter alia, those funds to which the Senator had a right of beneficial enjoyment under the law of Kansas. Respondents will show below that the money lent to the Dole for President Committee ("the Committee") derived from the Senator's personal funds under Kansas law and the applicable FEC regulations. The complaint in this MUR should, therefore, be dismissed.

Under Kansas law, property owned by married persons is divided into two categories, KAN. STAT. ANN. § 23-201(a) and (b). The first category, under subsection (a), [1/] consists of:

1/ Subsection (a) reads:

> The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents, issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or by gift from any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.

(i) property owned by either spouse on or before their marriage;

(ii) gifts, bequests, devises and property obtained by descent; and

(iii) income derived from property described in (i) and (ii).

Under subsection (a), such property is the separate property of the owning spouse, cannot be disposed by the other spouse, and, cannot be used to pay the other spouse's debts.

The second category, under subsection (b), [2/] consists of:

(i) all other property acquired by either spouse after the date of their marriage, regardless of whether title is held individually or in some form of co-ownership;

(ii) which is not property included in subsec-section (a); or

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2/ Subsection (b) reads:

> Property, other than property described in subsection (a) or property excluded by a written agreement by the parties, acquired by either spouse after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouse in some form of coownership such as joint tenancy or tenancy in common, shall be marital property. Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto. [Emphasis added.]

(iii) which is not property excluded from subsection (b) by reason of a written agreement between the husband and wife. 3/

Under subsection (b), such property is defined to be marital property and is co-owned regardless of in whom the property formally is titled. By implication from subsection (a), subsection (b) property is subject to the disposition of the other spouse and may be used to satisfy his or her debts.

The at issue here constituted property described under subsection (b). Senator Dole is, under Kansas law, a co-owner of that money with a right to dispose of it and use it to pay his debts. As such, the money constitutes his personal funds under applicable FEC regulations.

Subsection (a) property is limited to gifts, bequests, devises, inheritances and property acquired before marriage. The at issue here fits in neither of these categories. Instead, the money constituted survivor's benefits paid under a qualified pension plan under the Employee Retirement Income Security Act of 1974, *as amended*, 29 USC § 1000, *et seq.*, ("ERISA"). (The money was not, as the General Counsel's brief erroneously described it, "funds from a testamentary trust"). 4/

3/

4/ A copy of the Plan and of the Internal Revenue Service determination of qualification under section 401 of the Internal Revenue Code were provided to the Office of General Counsel with our letter of March 16, 1981.

First, the prospective benefit payment to Mrs. Dole from the Plan did not constitute property Mrs. Dole owned at the time she was married to Senator Dole. The Senator and Mrs. Dole were married in 1975; the Plan paid her the benefits on her father's death in 1979. The Plan provided that Mrs. Dole's father could change his beneficiary at will by written notice to the Committee appointed to administer the Plan. 5/ Mrs. Dole's father did not irrevocably designate a beneficiary before his death. Mrs. Dole had thus only an expectancy that she might receive any benefits under the Plan.

Moreover, ERISA provides, in 29 U.S.C. § 1956(d)(1), that: "Each pension plan shall provide that benefits provided under the Plan may not be assigned or alienated." Thus, by law, Mrs. Dole could not be given any legally enforceable right to the benefits under the Plan prior to her father's death and the final disbursement. This disbursement occured after she was married.

Second, it is clear that the payment received by Mrs. Dole from the Plan was not a "bequest," "devise," or property obtained by "descent." A devise is a testamentary disposition of real property; a bequest is a testamentary disposition of personal property. Black's Law Dictionary, passim. Real property is not involved, so 'devise' is inapplicable. Mrs. Dole received the at issue by virtue of a pension plan rather than by a will and thus it cannot be described as a "bequest." "Descent"

5/ Page 34 of the Plan.

refers only to hereditary succession to real property, or the division of the real property of intestates and is similarly inapplicable.

Third, it is quite clear that the payment from the Plan did not constitute a "gift." Federal law distinguishes between payment of death benefits and making of a gift. See, e.g. IRC Sec. 101 (Income tax treatment of certain death benefits) and IRC Sec. 102 (Income tax treatment of, inter alia, gifts). In addition, common law requires that, to constitute a valid gift ". . . there must be a clear and unmistakable intention on [the donor's] part to make it . . ." Hardymon v. Glenn, 56 F. Supp. 269, 273 (W.D. Ky., 1944). There is no evidence whatsoever that Mrs. Dole's father intended to make a gift. Instead, he designated her as the beneficiary of the survivor's benefits payable under a qualified pension plan. He paid no gift tax, either upon designating her as the beneficiary or when she actually received the benefits.

Moreover, neither Kansas nor Federal law treated the receipt of the benefits by Mrs. Dole as a gift, bequest, devise or property obtained by descent. The Internal Revenue Code excludes from an individual's gross income the value of property "acquired by gift, bequest, devise or inheritance." IRC Sec. 102(a). The Kansas tax statutes have a similar exclusion. [6/] The payment of the benefits, however, was taxable income to Mrs. Dole. She paid

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6/ Kansas explicitly tracks Federal law in defining what constitutes an individual's adjusted gross income. See, KAN. STAT. ANN. § 79-32, 117. Thus, gifts, bequests, devises and inheritances are excluded from an individual's Kansas income. See, CCH Kansas State Tax Reporter ¶ 10-705.

taxes on the in both Kansas and to the Federal Government. Of the payment, was taxable to Mrs. Dole as capital gains and was taxable to her as ordinary income. 7/

Because the was not owned by Mrs. Dole prior to her marriage to Senator Dole and because the payment to her was not by way of a gift, or by descent, devise or bequest, it follows that those funds constitute property described under subsection (b) of KAN. STAT. ANN. § 23-201. As such, the funds constitute marital property, and, in the language of the Kansas statute, "[e]ach spouse has a common ownership in marital property."

That the Senator had "legal right of access to or control over" the under Kansas law is made even more clear when the underlying purpose of subsection (b) is examined. In Wachholz v. Wachholz, 4 K A. 2d 161, 603 P.2d 537 (1980), the Kansas Court of Appeals explained that the Kansas legislature intended, in enacting subsection (b), to counter the United States Supreme Court's decision in United States v. Davis, 370 U.S. 65 (1962), and its progency, Wiles v. Commissioner, 499 F.2d 255 (10th Cir. 1974). In Davis, the Court held that, under Delaware law, a wife had no ownership rights in certain shares of stock owned by her husband. This stock was then transferred, pursuant to a divorce decree, to the wife. The Court held that, because the

7/ The fact that the payment to Mrs. Dole was a taxable event was evidenced by the Internal Revenue Service Forms W2-P and 1099R, copies of which were provided to the Office of General Counsel with our letter of December 12, 1980.

transfer was not "a division of property by co-owners," Id., at 71, the husband owed tax on the appreciation in the value of the stock. In Wiles, the Tenth Circuit held that under Kansas law, the wife's rights to her husband's property did not constitute co-ownership and, therefore, under Davis, a transfer from one spouse to another constituted a taxable event.

The Kansas Court of Appeals in Wachholz explained that the legislature had intended to avoid the result in Wiles by ensuring that all property, no matter in whose name it was titled and unless specifically excluded by agreement or subsection (a) of § 23-201, would be jointly owned by both spouses.

> "[The intent of section 23-201(b)] is to make the transfer of property that is acquired during the marriage by either or both spouses and transferred to the other by a divorce decree a non-taxable event . . . since it is merely a transfer between co-owners . . . The statute . . . makes clear that a spouse's rights in marital property are not merely inchoate but rise to the dignity of co-ownership . . ." Id 163-164, citing 47 JBAK 275, 283 (1978). (emphasis added)

Thus, under Kansas law Senator Dole is a joint owner, with Mrs. Dole, of the used to acquire the certificate of deposit. It follows, therefore, that Senator Dole had both a right of beneficial enjoyment of, and the requisite legal access to and control over, those funds. As a consequence, they constitute the Senator's "personal funds" under 11 C.F.R.

§ 110.10(b) and he could legally make use of $50,000.00 of them under 26 U.S.C. § 9035. 8/

II. CONGRESS DID NOT INTEND STATE LAW TO GOVERN WHAT CONSTITUTES A PRESIDENTIAL CANDIDATE'S PERSONAL FUNDS

11 CFR § 110.10(b) looks to state law to determine what constitutes a Presidential candidate's personal funds under the Act. Because there is no evidence that Congress clearly intended state law to govern the application of the Act, that regulation violates a long-standing policy against having federal statutes, intended to have nationwide effect, incorporate state law standards. 9/

In NLRB v. Natural Gas Utility District of Hawkins County, 402 US 600 (1971), the Supreme Court held that federal law, rather that state law, must govern whether an entity created by state law is a political subdivision of that state. The Supreme Court stated:

> In the absence of a plain indication to the contrary, however, it is to be assumed

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8/ It mav also be argued that the loan from the Bank to Mrs. Dole, even aside from the existence of the collateral, constituted property described in section 23-201(b). This is because, on Mrs. Dole's personal financial statements, the would have been listed as an asset. As such, it was property acquired by Mrs. Dole after the date of her marriage to Senator Dole which clearly did not fall within any of the categories of property described in section 23-201(a).

9/ The FEC evidently intended in promulgating 11 CFR § 110(b)(1) to incorporate footnotes 57 and 59 of Buckley v. Valeo, 424 US 1 (1976). However, neither those footnotes nor the legislative history of section 9035 of the Act make any mention of using state law to decide what constitutes a candidate's personal funds.

> when Congress enacts a statute that it does not intend to make its application dependent on state law. * * *
>
> The . . . Act is federal legislation, administered by a national agency, intended to solve a national problem on a national scale. * * * Nothing is the statute's background, history, terms or purposes indicates its scope is to be limited by * * * varying local conceptions, either statutory or judicial, or that it is to be administered in accordance with whatever different standards the respective states may see fit to adopt for the disposition of unrelated local problems. Id., at 603-604, citing NLRB v. Randolf Electric Corp., 343 F.2d 60, 62-63 (4th Cir. 1965).

See also, Jerome v. United States, 318 US 101, 104 (1943). ("The assumption [that state law will not govern a federal statute] is based on the fact that the application of federal law is nationwide . . . and at times on the fact that the federal program would be impaired if state law were to control.")

The identical rationale would dictate that state law should not determine what funds a Presidential candidate may use in his campaign. First, there is not a shred of evidence in the Act or its legislative history that Congress intended to incorporate the various property laws of the fifty states. Second, the Act is one "administered by a national agency, intended to solve a national problem on a national scale." Presidential primaries are not confined to a single state, but range across all fifty. Unlike local elections, the problems of Presidential elections are those of the Nation as a whole. Thirdly, "nothing in the statute's background . . . indicates its scope is to be limited by . . . varying local conceptions." This point is vividly illustrated by the instant case; here, the FEC is attempting to determine what funds were available to Senator Dole in his bid for the highest office in the United States using an obscure Kansas statute intended to eliminate certain tax aspects of transfering appreciated property to one's spouse pursuant to a divorce decree. If Congress had intended Presidential candidates to be governed by a patchwork of state laws intended to resolve entirely unrelated problems, they would have clearly stated. Since the applicable FEC regulation is invalid, the complaint in this MUR should be dismissed.

III. THE FEDERAL ELECTION COMMISSION'S USE OF STATE LAW TO DETERMINE WHAT CONSTITUTES A PRESIDENTIAL CANDIDATE'S PERSONAL FUNDS VIOLATES THE EQUAL PROTECTION CLAUSE AND FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION

The FEC General Counsel's brief concedes that it might reach a different conclusion if Senator Dole had resided in a community property state. 10/

> "In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse." Id., at 3.

That otherwise equally situated candidates in different states have more or less money to put into their campaigns depending on the law of the states in which they reside constitutes a violation of the First Amendment and the Equal Protection Clause 11/ of the Constitution. First it is clear that

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10/ President Reagan, the successful candidate for the Republican Presidential nomination, resided in California, a community property state.

11/ The Equal Protection Clause of the Fourteenth Amendment to the Constitution applies to the Federal Government through the Due Process Clause of the Fifth Amendment. See, Bolling v. Sharpe, 347 US 497 (1954).

Senator Dole's campaign for the Republican nomination for the Presidency is at the core of activity protected by the First Amendment.

> " . . . it can hardly be doubted that the constitutional guarantee [of the First Amendment] has its fullest and most urgent application precisely to the conduct of campaigns for political office." Monitor Patriot Company v. Roy, 401 US. 265, 272 (1971).

Next, since the FEC regulation classifies the personal funds available to a candidate according to the various laws of the states in which they reside, it follows that that classification affects and restrains conduct protected by the First Amendment. As such, the appropriate standard for examining that classification is one of strict scrutiny. Harper v. Virginia Board of Elections, 383 US 663 (1966), NAACP v. Button, 371 US 415 (1963). Under this standard, a classification is constitutionally valid only if it is necessary to further a compelling governmental interest.

Looking to state law to determine the extent to which a Presidential candidate can use his own money places those candidates in advantageous or disadvantageous positions depending on the law of the state in which they reside. Such a classification advances no compelling governmental interest and none has even been advanced by the FEC. Respondents can only guess that the regulation took the form it did to serve the FEC's administrative convenience. Administrative convenience, however, hardly rises to the level of an urgent Governmental necessity. The regulation is, therefore, unconstitutional and the complaint in this MUR should be dismissed.

IV. 26 USC § 9035 AND 11 CFR § 110.10(b)(1) ARE UNCONSTITUTIONALLY VAGUE

The Constitution proscribes any "law forbidding or requiring conduct in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application . . ." Baggett v. Bullitt, 377 US 360, 367 (1964). Section 9035 of the Act is such a law. This section prohibits a candidate from knowingly spending more than $50,000 "from his personal funds, or the personal funds of his immediate family." On its face, this section creates not one, but two, pools of money into which a Presidential candidate can dip to finance his campaign - his own personal funds and those of his immediate family. The FEC has stated, however, that a Presidential candidate is only entitled to use the personal funds of his immediate family if they also constitute his own personal funds. Such an interpretation is supported nowhere by the language of statute and can only be arrived at by deciding that the phrase "or the personal funds of his immediate family" is surplusage. 12/

The implementing regulation, 11 CFR § 110.10(b), suffers from the same vice. As interpreted by the Commission, the phrase "including funds from immediate family members" is essentially redundant. The Commission requires the candidate to have legal

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12/ "It is a well known maxim of statutory construction that all words and provisions of statutes are intended to have meaning and are to be given effect, and words of a statute are not to be construed as surplusage." Wilderness Society v. Morton 479 F.2d 842, 856 (D.C. Cir. 1973).

access to and control over funds to make expenditures from them. Whether such funds come from immediate family members, trusts, partnerships, lines of credit, sale of real estate, or wherever, is irrelevant provided the candidate establishes the requisite legal access to and control over those funds. Thus, under the interpretation given this regulation by the FEC, the phrase "including funds from immediate family members" is also surplusage.

The logical reading of both section 9035 and 11 CFR § 110.10 (b)(1) would dictate that Mrs. Dole, as an immediate family member of the Senator, could put up to $50,000 of her own money into Senator Dole's campaign regardless of the Senator's ownership interests in that money. That the statute and regulation have been read to prohibit that result means that "men of common intelligence must necessarily . . . differ as to [the statute's and regulation's] application." This problem is particularly acute in this case when, as in Baggett, "[w]e are dealing with indefinite statutes whose terms, even narrowly construed, abut upon sensitive areas of basic First Amendment freedoms." Id., at 372. Because no reasonable person could see that the statute and regulation at issue here proscribe Mrs. Dole's loan of $50,000 to her husband's campaign committee, the statute and regulation are unconstitutionally vague. The complaint in this MUR should be dismissed.

V. THE DOLE FOR PRESIDENT COMMITTEE DID NOT KNOWINGLY ACCEPT AN UNLAWFUL CONTRIBUTION

The Office of General Counsel has recommended that the Federal Election Commission find probable cause to believe that the Committee violated 2 U.S.C. 441a(f) by knowingly accepting the loan from Mrs. Dole in the amount of $50,000.00. Section 441a(f) provides:

> Prohibited contributions and expenditures. No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section. [Emphasis added.]

To be in violation of the provisions of 2 U.S.C. § 441a(f), a political committee must have "knowingly" accepted a contribution in excess of the applicable limitations. The word, "knowingly," means "with knowledge, consciously, intelligently, willfully, intentionally." Black's Law Dictionary, passim. There is no distinction between the word, "knowingly," and the phrase, "knowingly and willfully," which is defined, in reference to violation of a statute, as "consciously and intentionally." Id.

The word "knowingly" in subsection (f) of section 441a was placed there for a specific purpose and not by accident. There need be no showing, alternatively, that one acted "knowingly" to be found in violation of section 441a(a)(1), (2) or (3), or of section 441a(b). Further, there need be no showing that a national bank, corporation or labor organization acted "knowingly" to be found in violation of section 441b. There are numerous additional examples in the Act where one may be found to be in violation even though he, she or it did not act, or fail to act, "knowingly." On the other hand, in order for one to be found in violation of section 441b(a), for having accepted or received a contribution from a national bank, corporation or labor organization, it must be shown that he, she or it acted "knowingly." Thus, to find the Committee in violation of section 441a(f), it must be shown that it acted "with knowledge, consciously, intelligently, willfully, intentionally" that the $50,000.00 loan from Mrs. Dole was a contribution in violation of the applicable limitation.

Assuming, arguendo, a finding that the subject loan was not made from personal funds as defined in 11 CFR § 110.10(b)(1) and that the application of Kansas law was proper in the circumstances, it nevertheless would be unreasonable to find probable cause that the Committee accepted the loan on December 20, 1979 knowing that that loan was an unlawful contribution. The only proper finding in light of the complex legal issues and the reasonableness of Respondents' position as stated herein, is that the Committee acted in the good faith belief that the loan was proper and within the applicable limitation.

CONCLUSION

Kansas law clearly makes Senator Dole a co-owner of the proceeds of the death benefits from the pension plan of Mrs. Dole's father. Thus, under the applicable FEC regulation, Senator Dole was entitled to use that money in his bid for the Republican

C.C. # 5536

WILLIAMS & JENSEN

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LAWYERS

1101 CONNECTICUT AVENUE, N.W.

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November 23, 1981

23 NOV P 1: 43

Ms. Suzanne Callahan
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20037

Re: MUR 1257: Dole for President

Dear Suzanne:

This is to confirm our conversation of this morning in which I requested that the public file in the above MUR include a copy of Respondent's brief with the appropriate deletions of personal and financial data.

Thank you for your time and trouble; please do not hesitate to call if you have any questions.

Sincerely,

Peter

Clifton Peter Rose

CPR:jgf

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1101 CONNECTICUT AVENUE, N.W.
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Ms. Suzanne Callahan
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1325 K Street, N.W., 7th Floor
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By Hand

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

November 16, 1981

Clifton Peter Rose, Esquire
William & Jenson, P.C.
1101 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1257

Dear Mr. Rose:

On September 30, 1980, the Commission found reason to believe that your clients had violated 2 U.S.C. § 441a, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, the Commission has determined to take no further action and close its file. The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to Suzanne Callahan at 523-4057.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	)	
	)	MUR 1257
Dole for President Committee	)	
Elizabeth Hanford Dole	)	

CERTIFICATION

I, Lena L. Stafford, Recording Secretary for the Federal Election Commission Executive Session on November 10, 1981, do hereby certify that the Commission decided in a vote of 5-0 to take the following actions in MUR 1257:

1. Take no further action.
2. Close the file.
3. Notify counsel for respondent.

Commissioners Harris, McGarry, Reiche, Thomson, and Tiernan voted affirmatively. Commissioner Aikens abstained.

Attest:

11-13-81
Date

Lena L. Stafford

Lena L. Stafford
Recording Secretary

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER JC

DATE: OCTOBER 30, 1981

SUBJECT: OBJECTION - MUR 1257 General Counsel's Report signed 10-26-81; Received in OCS, 10-27-81, 10:58

The above-named document was circulated on a 48 hour vote basis at 4:00, October 27, 1981.

Commissioner Aikens submitted an objection at 3:55, October 29, 1981.

This matter will be placed on the Executive Session Agenda for Tuesday, November 10, 1981.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: OCTOBER 29, 1981

SUBJECT: COMMENTS REGARDING MUR 1257, General Counsel's Report signed 10-26-81

Attached are copies of Commissioner McGarry's and Commissioner Harris' vote sheets with comments regarding MUR 1257.

Commissioner Reiche has also submitted comments regarding this matter and his vote sheet is attached.

Attachments:
Vote sheets

48 HOUR TALLY SHEET

SENSITIVE

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

81 OCT 29 P 2: 03

Date and Time Transmitted: TUESDAY, 10-27-81,
4:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, REICHE, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: THURSDAY, OCTOBER 29, 1981,
4:00

MUR No. 1257 - General Counsel's Report signed 10-26-81

(✓) I approve the recommendation -

( ) I object to the recommendation ✓

COMMENTS: Revise letter !! > Remove Bob Bogin's name

Date: 10/29/81 Signature: J. W. McGarry

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED. PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN ABOVE.

48 HOUR TALLY SHEET

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION

81 OCT 29 P2: 04

1325 K STREET N.W.
WASHINGTON,D.C. 20463

Date and Time Transmitted: TUESDAY, 10-27-81,
4:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, REICHE, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: THURSDAY, OCTOBER 29, 1981,
4:00

MUR No. 1257 - General Counsel's Report signed 10-26-81

(✓) I approve the recommendation

( ) I object to the recommendation

COMMENTS: I agree with the result, but not with the legal analysis

Date: 10-29-81 Signature: Thomas E Harris

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED. PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN ABOVE.

KOD

48 HOUR TALLY SHEET

SENSITIVE

FEDERAL ELECTION COMMISSION

81 OCT 29 P3:13

1325 K STREET N.W.
WASHINGTON, D.C. 20463

Date and Time Transmitted: TUESDAY, 10-27-81,
4:00

Commissioner McGARRY, AIKENS, TIERNAN, THOMSON, [redacted], HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: [redacted]

MUR No. 1257 - General Counsel's Report signed 10-26-81

(✓) I approve the recommendation

( ) I object to the recommendation

COMMENTS: I will be filing a separate statement to be included in the public record expressing my concurrence with the result, but my partial disagreement with the reasoning.

Date: 10/29/81 Signature: Frank P. Reiche

A DEFINITE VOTE IS REQUIRED AND ALL SHEETS SIGNED AND DATED. PLEASE RETURN ONLY THE VOTE SHEETS TO THE OFFICE OF THE COMMISSION SECRETARY NO LATER THAN THE DATE AND TIME SHOWN ABOVE.

GCC#5040

PRESIDENT DOLE '80

NATIONAL HEADQUARTERS

81 JUL 10 P12: 06

2718 South Uhle Street
Arlington, Virginia 22206
July 10, 1981

RE: MUR 1257

81 JUL 10 P12: 07

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Dear Mr. Steele:

This is to notify you that, effective immediately, our attorney of record in the above-captioned matter is Mr. Peter Rose, of the law firm of Williams and Jensen.

Accordingly, Mr. Rose is hereby authorized and instructed to communicate with the FEC on all matters relating to MUR 1257, and is authorized to receive any notifications and other communications from the Commission in connection with this matter. For your information, counsel's address is 1101 Connecticut Avenue, N.W. (Suite 500), Washington, D.C. 20036.

It will be appreciated if all communications in the above-captioned matter are addressed to Mr. Rose's attention.

Thank you for your prompt attention to this matter.

Sincerely yours,

Jo-Anne L. Coe

Mrs. Jo-Anne L. Coe
Treasurer

cc: Peter Rose

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1257
Dole for President Committee	)	
Elizabeth Hanford Dole	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 20, 1981, the Commission decided by a vote of 5-0 to take the following actions regarding MUR 1257:

1. Grant respondents' request to enter into conciliation negotiations prior to a Commission finding of probable cause to believe.
2. Approve the proposed conciliation agreements.
3. Notify counsel.

Commissioners Harris, McGarry, Reiche, Thomson and Tiernan voted affirmatively in this matter; Commissioner Aikens abstained.

Attest:

5/20/81

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of the Commission Secretary: 5-18-81, 10:22
Circulated on 48 hour vote basis: 5-18-81, 4:00

100350

RECEIVED
GCC#4592
81 APR30 P12:43

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE SEDAMHERGE

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

April 29, 1981

APR 30 P2:59

Honorable Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin, Esq.

Re: MUR 1257

Dear Mr. Steele:

The purpose of this letter is to advise you, in accordance with the provisions of the first sentence in 11 CFR 111.18(d), that the respondents in this matter desire to enter into negotiations directed towards entering into a conciliation agreement. We understand that the Commission is not required to grant the request of the respondents unless and until it makes a finding of probable cause to believe. Accordingly, we anticipate you will advise us whether or not the respondents' request is granted and, if not, that you will grant us fifteen days thereafter to respond to the brief of the General Counsel.

Sincerely yours,

J. Curtis Herge

J. Curtis Herge

SEDAM & HERGE
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

PM
9 APR
1981

81 APR 10 P 4: 02

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 24, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esquire
Sedam and Herge
7600 Old Springhouse Road
McLean, VA 22102

RE: MUR 1257

Dear Mr. Herge:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 30, 1980, found reason to believe your clients, the Dole for President Committee and Elizabeth Hanford Dole violated 2 U.S.C. § 441a, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies, if possible) stating your client's position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

Letter to J. Curtis Herge
Page Two
MUR 1257

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

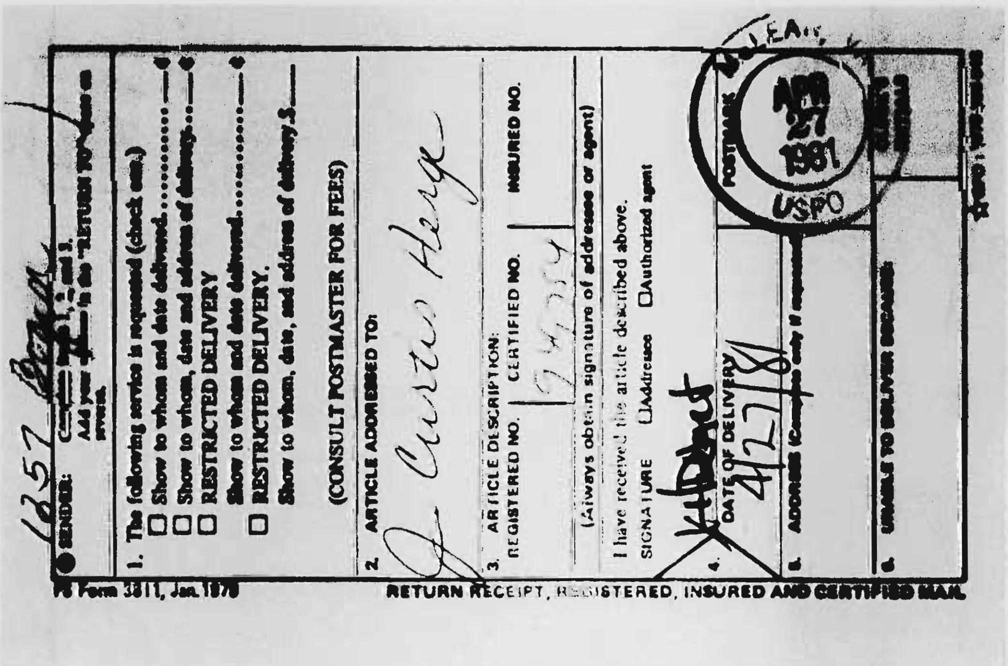
Should you have any questions, please contact Robert I. Bogin at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief



1257 Bogin

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- Show to whom and date delivered
- Show to whom, date and address of delivery
- RESTRICTED DELIVERY Show to whom and date delivered
- RESTRICTED DELIVERY. Show to whom, date, and address of delivery $

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO: J. Curtis Herge

3. ARTICLE DESCRIPTION: REGISTERED NO. | CERTIFIED NO. | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐Addressee ☐Authorized agent

4. DATE OF DELIVERY 4/27/81

POSTMARK APR 27 1981 USPO

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

PS Form 3811, Jan. 1979 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

April 24, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached Memo and Brief distributed to the Commission on an informational basis. Thank you.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

81 APR 24 P1: 12

April 24, 1981

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR # 1257

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on April 24, 1981. Following receipt of the Respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1257
Dole for President Committee	)	
Elizabeth Hanford Dole	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

This matter was internally generated by a finding in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole, the wife of Senator Robert Dole, loaned the Dole for President Committee (Committee), the principal campaign committee of Senator Dole, $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional loan repayments of $20,000, $10,000 and $18,328.77 were made on February 1, 22 and March 19, 1980, respectively. The $50,000 that Mrs. Dole loaned to the Committee was derived from a bank loan to Mrs. Dole in which a certificate of deposit was used as collateral. The certificate of deposit was in the name of Elizabeth Hanford Dole and was partially comprised of proceeds from a blind trust established at a time when Mrs. Dole was a Commissioner at Federal Trade Commission before Mrs. Dole's marriage to Senator Dole. The remainder of the certificate of deposit was comprised of funds from a testamentary trust.

II. Legal Analysis

On September 30, 1980, the Commission found reason to believe that Elizabeth Hanford Dole made a contribution to the Dole for President Committee in excess of the contribution limit of 2 U.S.C. § 441a(a)(1)(A) and that the Committee knowingly accepted such a contribution in violation of 2 U.S.C. § 441a(f). The President Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035.2. 11 C.F.R. § 110.10(b) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a. Thus, unless Senator Dole at the time he become a candidate had the right of beneficial enjoyment under Kansas law <u>and</u> had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN. STAT. ANN § 23-201. This provision provides:

> (a) The property, real and personal, which any woman in this state may own at the time of her marriage... and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole an separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Counsel for respondents has stipulated that the proceeds of the certificate of deposit constituted property described in Section 23-201(a) of the Kansas Statutes Annotated, as amended. See letter of counsel attached as Exhibit 1. Thus, Senator Dole did not have the right of beneficial enjoyment of this property under Kansas law. By not having the right of beneficial enjoyment, the certificate of deposit may not be considered the personal funds of Senator Dole under 11 C.F.R. § 110.10 (b). Therefore, it is the recommendation of the Office of General Counsel that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 441a(f) and that Mrs. Dole violated 2 U.S.C. § 441a(a)(1)(A).

In a letter dated April 9, 1981, (Exhibit 1) counsel for respondents contends that the loan constituted property described in Kansas Statutes Annotated Section 23-201(b). This section provides:

> (b) Property, other than property described in subsection (a) or property excluded by a written agreement by the parties, acquired by either spouse after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouse in some form of co-ownership such as joint tenancy or tenancy in common, shall be martial property. Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other or an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto. [Emphasis added.]

Counsel contends that the loan to the Committe did not include any portion of the certificate of deposit, "but did consist of new property acquired by Mrs. Dole after the date of her marriage." Counsel thus contends that the loan proceeds constitute "property" within the definition of Section 23-201(b), and therefore it is property which Senator Dole has the right of beneficial enjoyment.

The Commission should summarily reject this contention. The $50,000 in loan proceeds is not "property...acquired by either spouse after marriage" and thus "marital property." It was Mrs. Dole who took out a loan in her name. It was Mrs. Dole who was personally liable for repayment of the loan. It was Mrs. Dole's property, not marital property, that served as security for the loan. If the loan was not repaid, the bank had recourse to such security. Under these circumstances the characterization of the loan proceeds as § 23-201(a) or (b) property must be viewed from the standpoint of the underlying security. The loan proceeds do not become new property acquired after marriage but an extension of the underlying security which has been stipulated to be property acquired before marriage. For these reasons, the Commission should reject counsel's contention that the loan proceeds procured by Mrs. Dole with her property are the "personal funds" of Senator Dole.

III. Recommendation of the General Counsel

1. Find probable cause to believe that the Dole for President Committee violated 2 U.S.C. § 441a(f) by knowingly accepting a loan made by Mrs. Dole in the amount of $50,000.

2. Find probable cause to believe that Elizabeth Hanford Dole violated 2 U.S.C. § 441a(a)(1)(A) by making a loan to the Dole for President Committee in the amount of $50,000.

24 April 1981
Date

Charles N. Steele
General Counsel

Attachment
Letter of April 9, 1981 to FEC from J. Curtis Herge

SEDAM & HERGE
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

81 APR 30 P12: 43

Honorable Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin, Esq.

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 24, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge, Esquire
Sedam and Herge
7600 Old Springhouse Road
McLean, VA 22102

RE: MUR 1257

Dear Mr. Herge:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on September 30, 1980, found reason to believe your clients, the Dole for President Committee and Elizabeth Hanford Dole violated 2 U.S.C. § 441a, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies, if possible) stating your client's position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

Letter to J. Curtis Herge
Page Two
MUR 1257

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement. This does not preclude settlement of this matter through conciliation prior to a finding of probable cause to believe, if you so desire.

Should you have any questions, please contact Robert I. Bogin at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

Brief

8 2 0 4 0 3 0 4 9 1 7

81 APR 10 P1: 02

Bogin

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE: SEDAMHERGE

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

April 9, 1981

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1257

Dear Mr. Bogin:

This letter is written with reference to my letter to you, dated December 12, 1980, with which was enclosed a copy of a letter from the State Bank of Stanley, of Stanley, Kansas, dated November 26, 1980, in which it was reported that the subject loan of $50,000.00 to the Dole for President Committee was a consequence of a deposit of in the State Bank of Stanley by Mrs. Elizabeth Dole.

The investigation into this matter to date has centered upon the question whether the , or a significant portion thereof, constituted property described in Section 23-201(b) of the Kansas Statutes Annotated, as amended. We wish to advise you that our analysis has now led us to conclude, and we so stipulate, that the on deposit in State Bank of Stanley constituted property described in Section 23-201(a) of the Kansas Statutes Annotated, as amended.

We also call your attention, however, to the first sentence in the third paragraph of the referenced letter from the State Bank of Stanley, as follows:

> "On December 14, 1979, the State Bank of Stanley loaned Elizabeth Dole $50,000.00, for a term of six months, at an interest rate of 13.5%, secured by her Certificate of Deposit purchased with the above-mentioned funds."

Exhibit 1 1 of 2

Mr. Robert Bogin
Page 2
April 9, 1981

As a consequence, it should be observed that Mrs. Dole did not loan to the Dole for President Committee any portion of the which she had on deposit in the State Bank of Stanley. The loan consisted of an additional sum of $50,000.00, or new property, which came into the possession of Mrs. Dole on December 14, 1979, and which was under her custody and control until December 20, 1979, when it was loaned to the Dole for President Committee.

By reason of the fact that the funds loaned to the Dole for President Committee by Mrs. Dole did not include any portion of the , but did consist of new property acquired by Mrs. Dole after the date of her marriage to Senator Dole, it is evident the funds in question constituted marital property described in Section 23-201(b) of the Kansas Statutes Annotated, as amended.

We trust that, based upon the fact that we have demonstrated that the loan of $50,000.00 by Mrs. Dole to the Dole for President Committee was of marital property under Kansas law, no further action will be taken on this matter and that the Office of General Counsel will recommend that the file be closed.

Sincerely yours,

J. Curtis Herge

J. Curtis Herge

912614.4 GCC# 4181

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
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1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE: SEDAMHERGE

March 16, 1981

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1257

Dear Mr. Bogin:

In connection with the investigation into the above referenced matter, I am sending to you herewith a copy of the , . Pension Plan and Trust, dated July 1, 1969, together with three amendments, dated December 22, 1978, January 17, 1979, and May 31, 1979, respectively.

It has been learned that Elizabeth Hanford Dole was the beneficiary of percent of the benefits payable under the Plan
In that connection, Mrs. Dole was paid $ on July 30, 1979.

Sincerely yours,

Curtis Herge

J. Curtis Herge

Enclosures

81 MAR 17 P2:45

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY me
OFFICE OF THE SECRETARY TO THE COMMISSION

DATE: MARCH 9, 1981

SUBJECT: MUR 1257 - Interim Investigative Report #4, dated 3-4-81; Signed 3-5-81; Received in OCS 3-5-81, 5:01

The above-named document was circulated to the Commission on a no-objection basis at 2:00, March 6, 1981.

There were no objections to the Interim Investigative Report at the time of the deadline.

March 5, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached Interim Invest Report distributed to the Commiseion. Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION
March 4, 1981

81 MAR 5 P5:01

In the Matter of	)	
	)	
Dole for President Committee	)	MUR 1257
Elizabeth Hanford Dole	)	

INTERIM INVESTIGATIVE REPORT #4

On September 30, 1980, the Commission found reason to believe that a loan made by Elizabeth Hanford Dole to the President Committee violated 2 U.S.C. § 441a. In a letter dated January 8, 1981, the Office of General Counsel requested that counsel for respondents provide documentation concerning the funds which secured the loan made by Mrs. Dole to the Dole for President Committee. Specifically, the Commission requested that copies of all documents evidencing the terms and conditions of the Pension Trust be provided, as well as a chronological listing of the dates and amounts of each transfer of funds by Mrs. Dole to the Pension Trust.

In a letter dated January 22, 1981 and a telephone conversation on March 3, 1981, counsel for respondents notified the Office of General Counsel that the requested documentation is not in possession of his clients and that efforts are being made to secure the material from the Pension Trust. Pending receipt of the documentation, this Office will review same and report to the Commission.

5 March 1981
Date

Charles N. Steele
General Counsel

911940

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

BARBARA L. ABERNETHY
A. MARK CHRISTOPHER
MICHAEL D. HUGHES
ROBERT R. SPARKS, JR.

THOMAS M. DAVIS, III
OF COUNSEL

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000

January 22, 1981

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1257

Dear Mr. Bogin:

In your letter of January 8, 1981, you requested a copy of the [illegible]. Pension Trust and a chronological listing of the dates and amounts of each transfer of funds by Mrs. Dole or her employer to the Pension Trust. The documentation you requested is not in the possession of our clients. Thus, efforts are being made to secure the material from the Pension Trust. We will make that material available to you as soon as it is made available to us.

Sincerely,

J. Curtis Herge

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY
OFFICE OF THE SECRETARY TO THE COMMISSION

DATE: JANUARY 21, 1981

SUBJECT: MUR 1257 - Interim Investigative Report #3, dated 1-16-81; Received in OCS 1-16-81, 3:34

The above-named document was circulated to the Commission on a no-objection basis at 11:00, January 19, 1981.

There were no objections to the Interim Investigative Report.

January 16, 1981

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached Interim Investigative Report distributed to the Commission on a 24 no-objection basis. Thank you.

PAKayson

cc: Bogin

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 JAN 16 P3: 34

In the Matter of)
)
Dole for President Committee) MUR 1257
Elizabeth Hanford Dole)

INTERIM INVESTIGATIVE REPORT #3

In a letter received by the Office of General Counsel on December 17, 1980, counsel responded to the Commission's request for evidence as to the source of the funds loaned by Mrs. Dole to the Dole for President Committee. (Attachment I). In an effort to gather further information, this Office by return letter requested additional documentation concerning the details of the loan financing. (Attachment II). Upon receipt of counsel's response, we will report to the Commission and make a recommendation concerning further actions, if any, to be taken in this matter.

16 Jan 1981
Date

Charles N. Steele
General Counsel

Attachments

Letter from respondent - December 12, 1980
Letter to respondent - January 8, 1981

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Virginia 22102

RE: MUR 1257

Dear Mr. Herge:

This Office is in receipt of your letter dated December 12, 1980 written on behalf of your clients, Dole for President Committee and Mrs. Elizabeth Hanford Dole, in response to the Commission's request for evidence as to the source of the funds loaned by Mrs. Dole to the Dole for President Committee. In your letter you state that the funds utilized to enable Mrs. Dole to make the loan to the Dole for President Committee were funds acquired by Mrs. Dole after the date of her marriage to Senator Dole. Specifically, you state that at least can be traced to a distribution to Mrs. Dole in 1979 from Inc. Pension Trust, a taxable event for the year 1979, which resulted from the conversion of an interest Mrs. Dole had in the Pension Trust to property vested in her name and over which she had custody and control.

In order to conclude its investigation of this matter, the Commission requests further information concerning the acquired from Pension Trust. Specifically, the Commission requests that copies of any and all documents evidencing the terms and conditions of the Pension Trust be submitted to the Commission within 10 days of your receipt of this letter. In addition, the Commission requests a chronological listing of the dates and amounts of each transfer of funds by Mrs. Dole or her employer to the Pension Trust. Submission of this information should also take place within 10 days of receipt of this letter.

Attachment II pg 1 of 2

If you have any questions concerning this matter, please do not hesitate to contact Robert Bogin at 523-4000.

Sincerely,

Charles N. Steele
General Counsel

8 2 0 4 1 0 3 0 4 0 2 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Virginia 22102

RE: MUR 1257

Dear Mr. Herge:

This Office is in receipt of your letter dated December 12, 1980 written on behalf of your clients, Dole for President Committee and Mrs. Elizabeth Hanford Dole, in response to the Commission's request for evidence as to the source of the funds loaned by Mrs. Dole to the Dole for President Committee. In your letter you state that the funds utilized to enable Mrs. Dole to make the loan to the Dole for President Committee were funds acquired by Mrs. Dole after the date of her marriage to Senator Dole. Specifically, you state that at least [illegible] can be traced to a distribution to Mrs. Dole in 1979 from [illegible] Pension Trust, a taxable event for the year 1979, which resulted from the conversion of an interest Mrs. Dole had in the Pension Trust to property vested in her name and over which she had custody and control.

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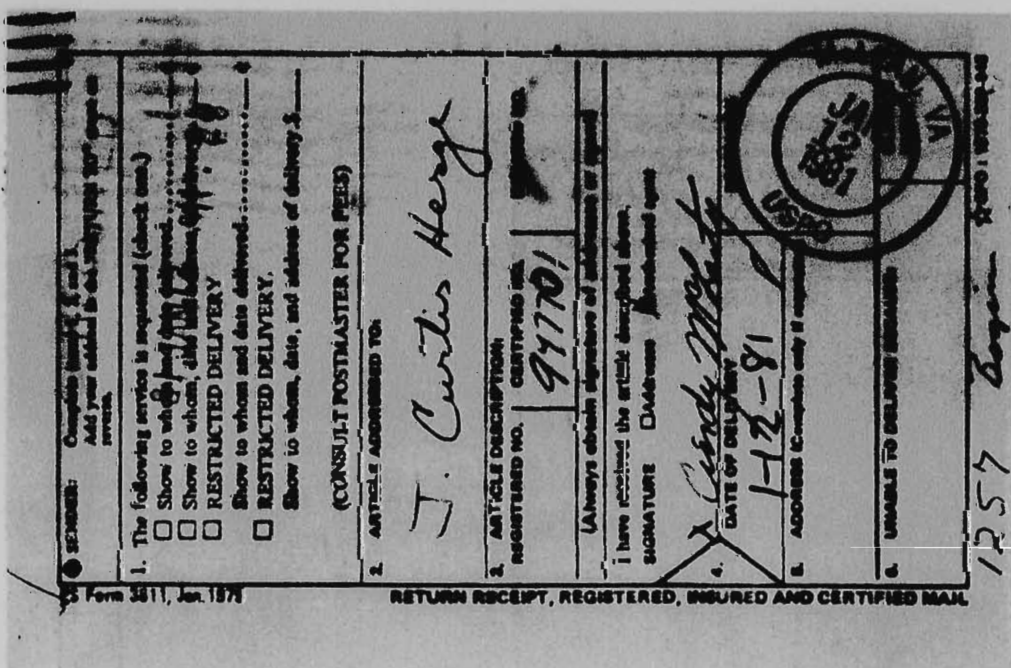
Letter to J. Curtis Herge
Page Two
MUR 1257

If you have any questions concerning this matter, please do not hesitate to contact Robert Bogin at 523-4000.

Sincerely,

Charles N. Steele
General Counsel

8204030493


SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
☐ RESTRICTED DELIVERY
Show to whom and date delivered
☐ RESTRICTED DELIVERY.
Show to whom, date, and address of delivery $
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
J. Curtis Herge

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 947701 | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐Addressee ☐Authorized agent

4. DATE OF DELIVERY
1-12-81

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

1257 Bogin

PS Form 3811, Jan. 1979 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Virginia 22102

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If you have any questions concerning this matter, please do not hesitate to contact Robert Bogin at 523-4000.

Sincerely,

Charles N. Steele
General Counsel

RB
Prepared by RIBogin:ano 1/5/81
Cleared by HLPonder

82040304933

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Virginia 22102

RE: MUR 1257

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Letter to J. Curtis Herge
Page Two
MUR 1257

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Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: DECEMBER 16, 1980

SUBJECT: MUR 1257 - Interim Investigative Report #2, dated 12-12-80; Received in OCS 12-15-80, 1:09

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 4:00, December 15, 1980.

There were no objections to the Interim Investigative Report at the time of the deadline.

December 15, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached Interim Invest Report distributed to the Commission. Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

80 DEC 15 P 1: 09

In the Matter of)
)
Dole for President Committee) MUR 1257
Elizabeth Hanford Dole)

INTERIM INVESTIGATIVE REPORT #2

On September 30, 1980, the Commission found reason to believe that Elizabeth Dole made a contribution in excess of the limits of 2 U.S.C. § 441a and that the Dole for President knowingly accepted such contribution in violation of 2 U.S.C. § 441a(f). Counsel responded to the Commission's notification of reason to believe and further advised this Office that documentation and/or affidavits would be forthcoming to support the factual allegations presented in the response. In a letter dated November 25, 1980 (attached), counsel apologized for the delay in sending the requested documentation and expects that the documentation will be provided by mid-December. We will forward such response to the Commission when it arrives with an accompanying recommendation of what further action, if any, should be taken in this matter.

12 Dec 80 1980
Date

Charles N. Steele
General Counsel

Attachment
Letter from Counsel - dated 11/25/80

Bogin

411604

TO: CNS
FYI

SEDAM & HERGE

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE SEDAMHERGE

80 DEC 17 AM: 53

December 12, 1980

Robert Bogin, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

80 DEC 17 P12: 47

Re: MUR 1257

Dear Mr. Bogin:

This letter is written on behalf of our clients, Dole for President Committee and Mrs. Elizabeth Hanford Dole, respondents in the above-captioned matter, in response to your request for evidence as to the source of the funds loaned by Mrs. Dole to the Dole for President Committee.

It will be recalled that the Presidential Primary Matching Funds Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000.00 in connection with the election. 26 U.S.C. §9035 (a). 26 U.S.C. §9035(b) defines immediate family as:

> A candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouses of such persons.

As Mrs. Dole is the spouse of Senator Dole, she is a member of his immediate family and contributions by her which did not exceed $50,000 in the aggregate are permissible in accordance with 26 U.S.C. §9035(a).

Even if Mrs. Dole were not a member of Senator Dole's "immediate family," a loan which did not exceed $50,000 would be permissible as a contribution from Senator Dole's "personal funds." The term "personal funds" has the same meaning as specified in 11 CFR §110.10, 11 CFR §9035.2. 11 CFR §110.10(B) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate has legal or rightful title or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

KAN. STAT. ANN., 1979 Supp. §23-201 states as follows:

> (a) The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents, issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or by gift from any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.
>
> (b) <u>Property</u>, other than property described in subsection (a) or property excluded by a written agreement by the parties, <u>acquired by either spouse after marriage</u> and before commencement of an action for divorce, separate maintenance, or annulment, <u>regardless of whether title is held individually</u> or by the spouses in some form of co-ownership such as joint tenancy or tenancy in common, <u>shall be marital property</u>. <u>Each spouse has a common ownership in marital property</u> which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto. [Emphasis added.]

The funds utilized to enable Mrs. Dole to make the loan to the Dole for President Committee were funds acquired by Mrs. Dole after the date of her marriage (December 5, 1975) to Senator Dole. Enclosed herewith is a copy of a

Robert Bogin, Esq.
Page Three
December 12, 1980

letter from the State Bank of Stanley, of Stanley, Kansas, dated November 26, 1980, in which it is reported that [redacted] of Mrs. Dole's funds were deposited in that Bank on June 6, 1979. Those funds were derived from various sources but, as reported by the Bank, at least [redacted] can be traced to a distribution to Mrs. Dole in 1979 from [redacted] Pension Trust. As evidenced by the enclosed Internal Revenue Service Forms W-2P and 1099R, that distribution was a taxable event, which resulted from the conversion of an interest Mrs. Dole had in the Pension Trust to property (cash) vested in her name and over which she had custody and control. That property was used to purchase a certificate of deposit, which certificate was posted as collateral for a loan from the Bank to Mrs. Dole. Mrs. Dole utilized the proceeds of that loan to make her loan to the Dole for President Committee.

By reason of the fact that the [redacted] was property acquired by Mrs. Dole after December 5, 1975, the date of her marriage to Senator Dole, those funds were "marital property" under Section 23-201(b) Kansas Stat. Ann., as amended. As a consequence, they were assets as to which Senator Dole had the right of beneficial enjoyment and to which he had a legal right of access under 26 U.S.C. 9035(a) and (b) and 11 CFR §110.10(B).

As a consequence of the foregoing, the loan of $50,000.00 by Mrs. Dole to the Dole for President Committee was lawful. It is respectfully submitted that the file on this matter should be closed.

Sincerely yours,

J. Curtis Herge

J. Curtis Herge

enclosure

911609

RECEIVED
OGC # 3373
80 DEC 17 AM 11: 53

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR
J. CURTIS HERGE

ROBERT R. SPARKS, JR
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A. MARK CHRISTOPHER
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1700 PENNSYLVANIA AVENUE, N.W
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE: SEDAMHERGE

December 12, 1980

80 DEC 17 P12:47

Robert Bogin, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

Re: MUR 1257

Dear Mr. Bogin:

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Robert Bogin, Esq.
Page Three
December 12, 1980

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Sincerely yours,

J. Curtis Herge

J. Curtis Herge

enclosure

4111604

GCC# 3593

80 DEC 17 AM : 53

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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McLEAN, VIRGINIA 22102

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(202) 393-7124

TWX/TELEX 710-831-0896

CABLE SEDAMHERGE

December 12, 1980

80 DEC 17 P12:47

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Federal Election Commission
1325 K Street, N.W.
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Attachment I

Pg 1 of 5

Robert Bogin, Esq.
Page Two
December 12, 1980

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Sincerely yours,

J. Curtis Herge

J. Curtis Herge

enclosure

GCC# 3516

1-57

PRESIDENT DOLE '80

2718 S. Uhle St
Arlington, Va. 22206

December 9, 1980

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
Washington, D.C.

Dear Mr. Bogin;

Attached please find a resubmission of copies of cancelled checks resolving all but one apparent corporate refunds required to be made by the Committee. Based on our records, the only matter outstanding relates to a refund made by the Committee to John Simpson, M.D. on August 21, 1980. As of our last bank statement, this check refund has yet to clear.

If you have any questions do not hesitate to contact me or John Bronish at 224-6521.

Sincerely,

Jo-Anne L. Coe

Jo-Anne L. Coe
Treasurer

DOLE FOR PRESIDENT COMMITTEE № 3105
104 N. SAINT ASAPH STREET
ALEXANDRIA, VIRGINIA 22314

15-52/540

NATIONAL SAVINGS & TRUST CO
WASHINGTON, D. C.

CHECK NO.	DATE	AMOUNT
	August 21, 1980	$25.00

PAY ------------------ Twenty-five and 00/100 Dollars ------------------------

TO THE ORDER OF
Morford Machining Inc.
Attn: Pauline Morford
651 Welsted St.
Napoleon, Ohio 43545

Jo-Anne L. Coe

⑈00003105⑈ ⑆054000522⑆ 019⑈2044915⑈ ⑈0000002500⑈

For Deposit Only
Milford Machining, Inc.

DOLE FOR PRESIDENT COMMITTEE № 3106

104 N. SAINT ASAPH STREET
ALEXANDRIA, VIRGINIA 22314

15-52/540

NATIONAL SAVINGS & TRUST CO
WASHINGTON, D. C

CHECK NO.	DATE	AMOUNT
	August 21, 1980	$100.00

PAY -------- One Hundred and 00/100 Dollars ---------------------------------

TO THE ORDER OF
Dr. W.C. Rollo
Winshire Clinic Inc.
P.O. Box 756
Winnie, Texas 77665

Jo Anne L. Coe

⑈00003106⑈ ⑆054000522⑆ 019⑈2044915⑈ ⑈0000010000⑈

Dr H C Peller
Wilshire Clinic Inc.
For Deposit Only

2222 5 9 5 8 8

BANK
33-124

1110-0002

REPUBLIC NAT'L BANK
DALLAS, TEXAS
PAY ANY BANK-P.E.G.

SEP -4 80

1110-0002

PRESIDENT DOLE '80
NATIONAL HEADQUARTERS
104 NORTH ST. ASAPH STREET
OLD TOWN ALEXANDRIA, VIRGINIA 22314
703-836-8681

August 21, 1980

Mr. Jack Vidrich, M.D.
460 W. Rivo Alto Drive
Miami Beach, Florida 33139

Dear Mr. Vidrich:

As you may be aware, corporate contributions are strictly prohibited by the Federal Election Campaign Act and cannot be accepted by the Dole for President Committee. A review of our records indicates that your contribution of $25 on August 16, 1979, was apparently drawn on a corporate account. Therefore, it is necessary to refund your contribution.

We apologize for any inconvenience caused and thank you for your support.

Sincerely,

John M. Bronish

for JOANNE L. COE
Treasurer

DOLE FOR PRESIDENT COMMITTEE
104 N. SAINT ASAPH STREET
ALEXANDRIA, VIRGINIA 22314

№ 3104

15-52/540

NATIONAL SAVINGS & TRUST CO.
WASHINGTON, D. C.

CHECK NO.	DATE	AMOUNT
	August 21, 1980	$25.00

PAY ------------------- Twenty-five and 00/100 Dollars ---------------------------

TO THE ORDER OF
Jack Widrich, M.D.
460 W. Rivo Alto Dr.
Miami Beach, Florida 33139

Jo-Anne L. Coe

⑈00003104⑈ ⑆054000522⑆ 019⑈ 2044915⑈ ⑈0000002500⑈

Jack Wedinel MD

21076

PAY TO ANY BANK, BANKER, OR TRUST COMPANY

AUG 27 1980

FLAGSHIP NATIONAL BANK OF MIAMI

DOLE FOR PRESIDENT COMMITTEE
104 N. SAINT ASAPH STREET
ALEXANDRIA, VIRGINIA 22314

№ 3129

15-52/540

NATIONAL SAVINGS & TRUST CO.
WASHINGTON, D. C.

CHECK NO.	DATE	AMOUNT
	10/31/80	$337.70

PAY ----Three Hundred - Thirty seven and 70/100 Dollars -------------

TO THE ORDER OF
James Shaver
RR# 1
Goodland, Kansas 67735

1 1 0 6 0 7 1 7 9

Jo-Anne L. Coe

Contrib Refund

⑈000031129⑈ ⑆054000522⑆ 019⑈2044915⑈ ⑈0000033770⑈

18-92-5-1010 18-92-5-1010

PAY ANY BANK

SECURITY NATIONAL BANK KANSAS CITY KANSAS

18-92-5-1010 18-92-5-1010

PRESIDENT DOLE '80

2718 S, Uhle St.
Arlington, Va. 22206

October 31, 1980

Mr. James Shaver
Rural Route #1
Goodland, Ks. 67735

Dear Mr. Shaver;

Enclosed please find a check in the amount of $337.70 from the Dole for President Committee. This check represents a refund of the amount you contributed to the campaign through the sale of grain at the Goodland Grain Co.

As you may or may not be aware, The Federal Election Campaign Act prohibits corporate contributions to a candidate for federal office. While the law allows you to contribute to the campaign through the sale of grain, The Federal Election Commission has informed us that the only legal way for us to accept the contribution, would be for you to deposit the proceeds of the sale in your own personal account from which you could make your contribution. Therefore, I recommend that, if you wish to make your contribution one which we can accept, deposit the enclosed in your personal account and send a new check in the same amount drawn on that account.

I apologize for any inconvenience this may cause but I am sure you can appreciate our efforts to comply fully with federal law. Thank you for your cooperation.

Sincerely,

Jo-Anne L. Coe
Treasurer

DOLE FOR PRESIDENT COMMITTEE № 3128
104 N. SAINT ASAPH STREET
ALEXANDRIA, VIRGINIA 22314

15-52/540

NATIONAL SAVINGS & TRUST CO.
WASHINGTON, D. C.

8570330 0476

CHECK NO.	DATE	AMOUNT
	10/29/80	$15.00

------------- Fifteen and 00/100 Dollars -------------------------

Marguerite Schlitt
c/o Ed Schlitt Agency
P.O. Box 6007
Vero Beach, Florida 32960

Jo-Anne L. Coe

Contrib. Refund

⑈00003128⑈ ⑆054000522⑆ 019⑈2044915⑈ ⑇0000001500⑇

Marguerite M. Schlitt

FOR DEPOSIT ONLY
ED SCHLITT AGENCY, A PARTNERSHIP
000-348-1

0 5 6 2

NOV 25 90

NOV 25 90

1990

NATIONAL SAVINGS AND TRUST COMPANY
WASHINGTON, D.C. 20005

15-52
540

CASHIER'S CHECK

WASHINGTON, D.C. JANUARY 16, 1980 No. 72125

PAY TO THE ORDER OF ** PRESTON REDD ************************ $ 150.00

NAT'L. SAV. AND TR. CO. 150 AND 00 CTS

MEMO

AUTHORIZED SIGNATURE

⑈072125⑈ ⑆054000522⑆ 019⑈9989971⑈ ⑈0000015000⑈

N.S. & T. CO.
JAN 16 '80
30

PAY ANY BANK, P.E.G.
F.R.B. BALTIMORE 3
0520-0527-8

FEB 6 1980

F.R.B. K.C. MO.
10-3

PAY ANY BANK, P.E.G.
F.R.B. BALTIMORE 3
0520-0527-8
FEB 1980

PAY ANY BANK
F.R.B. of K
1010-0004
FB 05 '80
18-4

January 11, 1980

Mr. Preston Redd
Redd Beef Feeders, Inc.
Box 966
Hugoton, Kansas 67951

Dear Mr. Redd:

Thank you for your generous contribution of $150 on 5/16/79 and 8/20/79 which is both appreciated and needed for our campaign effort. As you may be aware, corporate contributions are strictly prohibited by the Federal Election Campaign Act and cannot be accepted by the Dole for President Committee. Therefore, it is necessary to refund your contribution which is apparently written on a corporate account and ask that you return a contribution on a personal account, if you wish to support our campaign effort.

We apologize for any inconvenience caused and hope that you will return a personal contribution. Again, thank you for your support.

Sincerely,

Joann M. McSorley
Assistant Treasurer

Contributor: Mr. Preston Redd
Corporation: Redd Beef Feeders, Inc.
Address: Box 966, Hugoton Kansas 67951
Check Date: 5/16/79 and 8/20/79 Check Amount: $50.00 and $100.00

PRESIDENT DOLE '80
NATIONAL HEADQUARTERS
104 NORTH ST. ASAPH STREET
OLD TOWN ALEXANDRIA, VIRGINIA 22314
703-836-8681

January 11, 1980

Mr. William P. Milt III
WPM Exploration, Inc.
PO Box 52592
Lafayette LA 70505

Dear Mr. Milt:

Thank you for your generous contribution of $100.00 on 12/20/79 which is both appreciated and needed for our campaign effort. As you may be aware, corporate contributions are strictly prohibited by the Federal Election Campaign Act and cannot be accepted by the Dole for President Committee. Therefore, it is necessary to refund your contribution which is apparently written on a corporate account and ask that you return a contribution on a personal account, if you wish to support our campaign effort.

We apologize for any inconvenience caused and hope that you will return a personal contribution. Again, thank you for your support.

Sincerely,

Joann M. McSorley
Assistant Treasurer

Contributor: William P. Milt III
Corporation: WPM Exploration, Inc.
Address: PO Box 52592, Lafayette LA 70505
Check Date: 12/20/79 Check Amount: $100.00

NATIONAL SAVINGS AND TRUST COMPANY
WASHINGTON, D.C. 20005

15-52
540

CASHIER'S CHECK

WASHINGTON, D.C. JANUARY 16, 1980 No. 72130

PAY TO THE ORDER OF ** WILLIAM P. MILT, III ****************************** $ 100.00

NAT'L. SAV. AND TR. CO $100 AND 00 CTS

MEMO

AUTHORIZED SIGNATURE

⑈072130⑈ ⑆054000522⑆ 019⑈9989971⑈ ⑉0000010000⑉

N. S. & T. CO.
JAN 16 '80
30

for deposit only
WPM Exploration Inc.

F.R.B.
G11
PAY ANY BANK, P.E.G.
GUARANTY BANK
& TRUST CO.
LAFAYETTE, LOUISIANA
84-44

JA '80
FIRST N. B. OF C.
NEW ORLEANS LA
PAY ANY BANK
14-2

64-10
TRUST COMPANY BANK
ATLANTA, GEORGIA
PAY ANY BANK

STATE BANK of STANLEY
SINCE 1905

913 - 681-2511 • Post Office Box 23008, STANLEY, KANSAS 66223

DAVID C. OWEN
Chairman of the Board
President
STANLEY D. BUSS
Executive Vice President
WALTER D. DOTSON
Vice President
H. J. WELTON
Cashier
NANCY A. TAYLOR
Assistant Cashier
ROBERT L. JACKSON JR. Director
LYNN L. McCARTHY Director
RICHARD W. RADKE DDS Director
M R WINDHAM Director

November 26, 1980

Mrs. Jo Anne Coe
c/o Senator Robert Dole
New Senate Office Building
Suite 4315
Washington, D.C. 20510

Dear Jo Anne:

In response to your inquiry about the loan which State Bank of Stanley made to Elizabeth Dole on December 14, 1979, we submit the following information.

On June 6, 1979, we received a wire transfer from Elizabeth Dole via Commercial National Bank of Kansas City, Kansas, depositing in State Bank of Stanley, to be used for the purchase of a Certificate of Deposit.) of these funds represent proceeds from Pension Trust Fund.

On December 14, 1979, the State Bank of Stanley loaned Elizabeth Dole $50,000, for a term of six months, at an interest rate of 13.5%, secured by her Certificate of Deposit purchased with the above-mentioned funds. It is my understanding that Mrs. Dole loaned the proceeds of this $50,000 note to the Dole For President Committee, and State Bank of Stanley did wire transfer that amount to the First American Bank of Virginia for credit to the Dole For President Committee on December 20, 1979.

If you need further information, please don't hesitate to contact us.

Sincerely yours,

David C. Owen

David C. Owen
President

DCO/ks

cc: Mrs. Robert Dole

SBS

STATE BANK of STANLEY
SINCE 1905

913 - 681-2511 • Post Office Box 23008, STANLEY, KANSAS 66223

November 26, 1980

Mrs. Jo Anne Coe
c/o Senator Robert Dole
New Senate Office Building
Suite 4315
Washington, D.C. 20510

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If you need further information, please don't hesitate to contact us.

Sincerely yours,

David C. Owen

David C. Owen
President

DCO/ks

cc: Mrs. Robert Dole

[redacted]

8 2 0 4 0 3 0 1 9 6 9

[redacted]

Robert Bogin
Office of General Counsel
Federal Election Commission

10 DEC 9 AM 11: 25

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

[redacted]

SEDAM & HERGE
ATTORNEYS AT LAW
[illegible] HOUSE ROAD
McLEAN, VIRGINIA 22102

Robert Bogin, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

STATE BANK of STANLEY
SINCE 1905

913 - 681-2511 • Post Office Box 23008, STANLEY, KANSAS 66223

November 26, 1980

Mrs. Jo Anne Coe
c/o Senator Robert Dole
New Senate Office Building
Suite 4315
Washington, D.C. 20510

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If you need further information, please don't hesitate to contact us.

Sincerely yours,

David C. Owen

David C. Owen
President

DCO/ks

cc: Mrs. Robert Dole

pg 4 of 5

RECEIVED

80 NOV28 A9: 47

GCC# 3430

911379

Bogin

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR.

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124
TWX/TELEX: 710-831-0896
CABLE: SEDAMHERGE

November 25, 1980

Robert Bogin, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1257 (80)

Dear Mr. Bogin:

The purpose of this letter is to confirm, on behalf of the Dole for President Committee and Mrs. Elizabeth Hanford Dole, respondents in the above-captioned matter, that we are in the process of gathering documentation necessary to demonstrate that the funds loaned by Mrs. Dole to the Committee were personal funds as defined in 11 CFR 110.10(B).

We apologize for the fact that this process is taking longer than originally anticipated, but it requires securing documents from third parties. Given the forthcoming holiday, we fully expect to be able to provide you with the documentation before mid-December.

We appreciate your cooperation.

Sincerely,

J. Curtis Herge

J. Curtis Herge

0 NOV28 P4: 02

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GCC# 3430

9113 79

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

ROBERT R. SPARKS, JR.
MICHAEL D. HUGHES
A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
J. STANLEY PAYNE, JR

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 393-7124

TWX/TELEX: 710-831-0896

CABLE: SEDAMHERGE

November 25, 1980

Robert Bogin, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1257 (80)

Dear Mr. Bogin:

The purpose of this letter is to confirm, on behalf of the Dole for President Committee and Mrs. Elizabeth Hanford Dole, respondents in the above-captioned matter, that we are in the process of gathering documentation necessary to demonstrate that the funds loaned by Mrs. Dole to the Committee were personal funds as defined in 11 CFR 110.10(B).

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We appreciate your cooperation.

Sincerely,

J. Curtis Herge

J. Curtis Herge

0 NOV 28 P4: 02

SEDAM & HERGE
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

80 NOV 28 A 9: 47

Robert Bogin, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MWE

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY

DATE: NOVEMBER 3, 1980

SUBJECT: MUR 1257 - Interim Investigative Report #1, dated 10-30-80; Received in OCS 10-30-80, 3:55

The above-named document was circulated to the Commission on a 24 hour no-objection basis at 2:00, October 31, 1980.

There were no objections to the Interim Investigative Report at the time of the deadline.

October 30, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached Interim Invest Report distributed to the Commission. Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

80 OCT 30 P 3: 55

In the Matter of	)	
	)	MUR 1257(80)
Dole for President Committee	)	
Elizabeth Hanford Dole	)	

INTERIM INVESTIGATIVE REPORT #1

Respondents have been notified of the Commission's reason to believe findings and have retained counsel. Counsel has responded to the Commission's findings. (Attachment). Counsel has further advised this Office that documentation and/or affidavits would be forthcoming to support the factual allegations presented in the response. After undertaking a review of the forthcoming documentation, this Office will forward a report to the Commission with the appropriate recommendation.

30 Oct 1980
Date

Charles N. Steele
General Counsel

Attachment

Letter from Counsel

Glenn #
30469

SEDAM & HERGE

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM JR
J. CURTIS HERGE

BARBARA L. ABERNETHY
A. MARK CHRISTOPHER
MICHAEL D. HUGHES
ROBERT R. SPARKS JR

THOMAS M. DAVIS III
OF COUNSEL

1700 PENNSYLVANIA AVENUE N.W.
WASHINGTON D.C. 20006
(202) 821-1000

October 20, 1980

The Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin

Re: MUR 1257(80)

Dear Mr. McGarry:

This letter is written in response to your letter to Mrs. Elizabeth H. Dole, dated October 6, 1980, in which it was noted that the Federal Election Commission had found reason to believe that Mrs. Dole may have violated 2 U.S.C. §441a(f) by knowingly making a contribution in excess of the $1,000 limit of 2 U.S.C. §441(a)(1)(A). We have been engaged by Mrs. Dole to represent her in this matter, which you have designated MUR 1257.

On behalf of Mrs. Dole, we refer you to our response of October 16, 1980, written on behalf of the Dole for President Committee, in which we submitted factual and legal material to demonstrate why no action should be taken in this matter.

Sincerely,

J. Curtis Herge

J. Curtis Herge

cc: Mrs. Elizabeth H. Dole
Mrs. Jo-Anne Coe

SEDAM & HERGE
ATTORNEYS AT LAW
7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

88 OCT 22 A8:50

The Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin

30269

Bogin

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

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MICHAEL D. HUGHES
ROBERT R. SPARKS, JR.

THOMAS M. DAVIS III
OF COUNSEL

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000

October 20, 1980

The Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin

Re: MUR 1257(80)

Dear Mr. McGarry:

This letter is written in response to your letter to Mrs. Elizabeth H. Dole, dated October 6, 1980, in which it was noted that the Federal Election Commission had found reason to believe that Mrs. Dole may have violated 2 U.S.C. §441a(f) by knowingly making a contribution in excess of the $1,000 limit of 2 U.S.C. §441(a)(1)(A). We have been engaged by Mrs. Dole to represent her in this matter, which you have designated MUR 1257.

On behalf of Mrs. Dole, we refer you to our response of October 16, 1980, written on behalf of the Dole for President Committee, in which we submitted factual and legal material to demonstrate why no action should be taken in this matter.

Sincerely,

J. Curtis Herge

J. Curtis Herge

cc: Mrs. Elizabeth H. Dole
Mrs. Jo-Anne Coe

P 5 6 5

8 0 0 4 0 1 0 4 0 0

700 New Hampshire Avenue, N. W.
Apartment 112
Washington, D. C. 20037

Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Dear Commissioner McGarry:

This will acknowledge your letter of October 6, and will serve to notify you that the law firm of Sedam and Herge has been engaged to represent me in connection with all matters relating to MUR 1257 (80).

Accordingly, Sedam and Herge is hereby authorized and instructed to communicate with the Federal Election Commission on all matters relating to that investigation and is authorized to receive any notifications and other communications from the Commission in connection with this matter. For your information, counsel's address is 7600 Old Springhouse Road, McLean, Virginia, 22101; telephone (703) 821-1000.

Sincerely,

Elizabeth Dole

Elizabeth Dole

cc: Mr. Robert Bogin, Office of General Counsel, Federal Election Commission

700 New Hampshire Avenue, N. W.
Apartment 112
Washington, D. C. 20037

forward to
OGC

Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

GCC #
3032

80 OCT 20 A11:35

700 New Hampshire Avenue, N. W.
Apartment 112
Washington, D. C. 20037

Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

Dear Commissioner McGarry:

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Sincerely,

Elizabeth Dole

Elizabeth Dole

cc: Mr. Robert Bogin, Office of General Counsel, Federal Election Commission

8 0 0 4 0 3 0 4 9 9 3

700 New Hampshire Avenue, N. W.
Apartment 112
Washington, D. C. 20037

OCT 20

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
Washington, D. C. 20463

Bogin

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD
McLEAN, VIRGINIA 22102

(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 821-1000

80 OCT 17 4: 19

October 16, 1980

Honorable John Warren McGarry
Vice-Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin, Esq.

Re: MUR 1257

Dear Mr. McGarry:

This letter is written in response to your letter to Mrs. Jo-Anne Coe, Treasurer of Dole for President Committee, dated October 6, 1980, in which it was noted that the Federal Election Commission had found reason to believe that the Committee may have violated 2 U.S.C. §441a(f) by knowingly accepting a contribution in excess of the $1,000 limit of 2 U.S.C. §441a(a)(1)(A). We have been engaged by the Dole for President Committee (hereinafter the "Committee") to represent it in this matter, which you have designated MUR 1257.

Upon information and belief, the facts in this matter are as follows:

1. On December 20, 1979, Elizabeth Hanford Dole loaned the Committee $50,000.

2. On January 16, 1980, the Committee repaid $5,000 of the loan.

3. Additional payments of $20,000, $10,000 and $18,328.77 were made on February 1, February 22, and in March 1980, respectively.

4. The money loaned to the Committee by Mrs. Dole was from funds received by Mrs. Dole in remuneration of employment and other sources during the period of 1976 through 1979.

5. Senator and Mrs. Dole were married on December 5, 1975.

The Presidential Primary Matching Funds Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. §9035(a). 26 U.S.C. §9035(b) defines immediate family as:

> A candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouses of such persons.

As Mrs. Dole is the spouse of Senator Dole, she is a member of his immediate family and contributions by her which did not exceed $50,000 in the aggregate are permissible in accordance with 26 U.S.C. §9035(a).

Even if Mrs. Dole were not a member of Senator Dole's "immediate family," a loan which did not exceed $50,000 would be permissible as a contribution from Senator Dole's "personal funds." The term "personal funds" has the same meaning as specified in 11 CFR §110.10, 11 CFR §9035.2. 11 CFR §110.10(B) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate has legal or rightful title or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

KAN. STAT. ANN., 1979 Supp §23-201 states as follows:

89 245

(a) The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents, issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or by gift from any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.

(b) Property, other than property described in subsection (a) or property excluded by a written agreement by the parties, acquired by either spouse after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy or tenancy in common, shall be marital property. Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto. [Emphasis added.]

As stated above, upon information and belief, the money loaned to the Committee was money acquired by Mrs. Dole while she was married to Senator Dole. As such, said money was "marital property" under Kansas Law, and was held in common ownership by Senator and Mrs. Dole. Therefore, the money loaned to the Committee by Mrs. Dole was "personal funds" as defined under 11 CFR §110.10(B).

We respectfully request that the Commission find no probable cause to believe that a violation has occurred.

We appreciate this opportunity to respond to your letter and look forward to being of further assistance to you should you require any additional information.

Sincerely,

J. Curtis Herge

J. Curtis Herge

3010

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

McLEAN, VIRGINIA 22102

(703) 821-1000

1700 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D.C. 20006

(202) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE

BARBARA L. ABERNETHY
A. MARK CHRISTOPHER
MICHAEL P. HUGHES
ROBERT R. SPARKS, JR.

THOMAS M. DAVIS III
OF COUNSEL

0 C 17 P 4: 19

October 16, 1980

Honorable John Warren McGarry
Vice-Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin, Esq.

Re: MUR 1257

Dear Mr. McGarry:

This letter is written in response to your letter to Mrs. Jo-Anne Coe, Treasurer of Dole for President Committee, dated October 6, 1980, in which it was noted that the Federal Election Commission had found reason to believe that the Committee may have violated 2 U.S.C. §441a(f) by knowingly accepting a contribution in excess of the $1,000 limit of 2 U.S.C. §441a(a)(1)(A). We have been engaged by the Dole for President Committee (hereinafter the "Committee") to represent it in this matter, which you have designated MUR 1257.

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3. Additional payments of $20,000, $10,000 and $15,328.77 were made on February 1, February 22, and in March 1980, respectively.

4. The money loaned to the Committee by Mrs. Dole was from funds received by Mrs. Dole in remuneration of employment and other sources during the period of 1976 through 1979.

5. Senator and Mrs. Dole were married on December 5, 1975.

The Presidential Primary Matching Funds Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. §9035(a). 26 U.S.C. §9035(b) defines immediate family as:

> A candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouses of such persons.

As Mrs. Dole is the spouse of Senator Dole, she is a member of his immediate family and contributions by her which did not exceed $50,000 in the aggregate are permissible in accordance with 26 U.S.C. §9035(a).

Even if Mrs. Dole were not a member of Senator Dole's "immediate family," a loan which did not exceed $50,000 would be permissible as a contribution from Senator Dole's "personal funds." The term "personal funds" has the same meaning as specified in 11 CFR §110.10, 11 CFR §9035.2. 11 CFR §110.10(B) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate has legal or rightful title or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

KAN. STAT. ANN., 1979 Supp §23-201 states as follows:

> (a) The property, real and personal, which any person in this state may own at the time of his or her marriage, and the rents, issues, profits or proceeds thereof, and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or by gift from any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for the spouse's debts.
>
> (b) Property, other than property described in subsection (a) or property excluded by a written agreement by the parties, acquired by either spouse after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy or tenancy in common, shall be marital property. Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto. [Emphasis added.]

As stated above, upon information and belief, the money loaned to the Committee was money acquired by Mrs. Dole while she was married to Senator Dole. As such, said money was "marital property" under Kansas Law, and was held in common ownership by Senator and Mrs. Dole. Therefore, the money loaned to the Committee by Mrs. Dole was "personal funds" as defined under 11 CFR §110.10(B).

We respectfully request that the Commission find no probable cause to believe that a violation has occurred.

We appreciate this opportunity to respond to your letter and look forward to being of further assistance to you should you require any additional information.

Sincerely,

J. Curtis Herge

J. Curtis Herge

SEDAM & HERGE

ATTORNEYS AT LAW

7600 OLD SPRINGHOUSE ROAD

McLEAN, VIRGINIA 22102

Forward to Office of Gen Counsel

Honorable John Warren McGarry
Vice-Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Robert Bogin, Esq.

MUR #
5070

PRESIDENT DOLE '80

NATIONAL HEADQUARTERS

2718 South Uhle Street
Arlington, Virginia 22206
703/920-2732

Honorable John Warren McGarry
Vice-Chairman
Federal Election Commission
Washington, D. C. 20463

Dear Mr. McGarry:

This will acknowledge your letter of October 6, and will serve to notify you that the law firm of Sedam and Herge has been engaged by the Dole for President Committee in connection with all matters relating to MUR 1257 (80).

Accordingly, Sedam and Herge are hereby authorized and instructed to communicate with the Federal Election Commission on all matters relating to that investigation, and is authorized to receive any notifications and other communications from the Commission in connection with this matter. For your information, counsel's address is 7600 Old Springhouse Road, McLean, Virginia 22101; telephone, 703/821-1000.

Sincerely yours,

Jo-Anne L. Coe

Mrs. Jo-Anne L. Coe
Treasurer

cc: Mr. Robert Bogin
Office of General Counsel
Federal Election Commission

Mr. J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Va. 22101

0 OCT 15 P 3: 32

RECEIVED

80 OCT 15 P12: 54

PRESIDENT DOLE '80

NATIONAL HEADQUARTERS
XXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXX

2718 South Uhle Street
Arlington, Virginia 22206
703/920-2732

Honorable John Warren McGarry
Vice-Chairman
Federal Election Commission
Washington, D. C. 20463

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Accordingly, Sedam and Herge are hereby authorized and instructed to communicate with the Federal Election Commission on all matters relating to that investigation, and is authorized to receive any notifications and other communications from the Commission in connection with this matter. For your information, counsel's address is 7600 Old Springhouse Road, McLean, Virginia 22101; telephone, 703/821-1000.

Sincerely yours,

Jo-Anne L. Coe

Mrs. Jo-Anne L. Coe
Treasurer

cc: Mr. Robert Bogin
Office of General Counsel
Federal Election Commission

Mr. J. Curtis Herge
Sedam and Herge
7600 Old Springhouse Road
McLean, Va. 22101

OCT 15 P3: 28

Bob Dole. President.

P.O. BOX 23092, WASHINGTON, D.C. 20024

Mr. Robert Bogin
Office of General Counsel
Federal Election Commission
Washington, D. C. 20463

Bob Dole. President.

P.O. BOX 23092 WASHINGTON, D.C. 20024

Honorable John Warren McGarry
Vice Chairman
Federal Election Commission
Washington, D. C. 20463

General Counsel
Office

80 OCT 15 P12:2?

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Elizabeth Hanford Dole
700 New Hampshire Avenue, N.W.
Apartment 112
Washington, D.C. 20037

RE: MUR 1257 (80)

Dear Ms. Dole:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities has found reason to believe that you violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe, if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

Letter to Elizabeth Hanford Dole
Page Two
MUR 1257

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Robert Bogin, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

John Warren McGarry

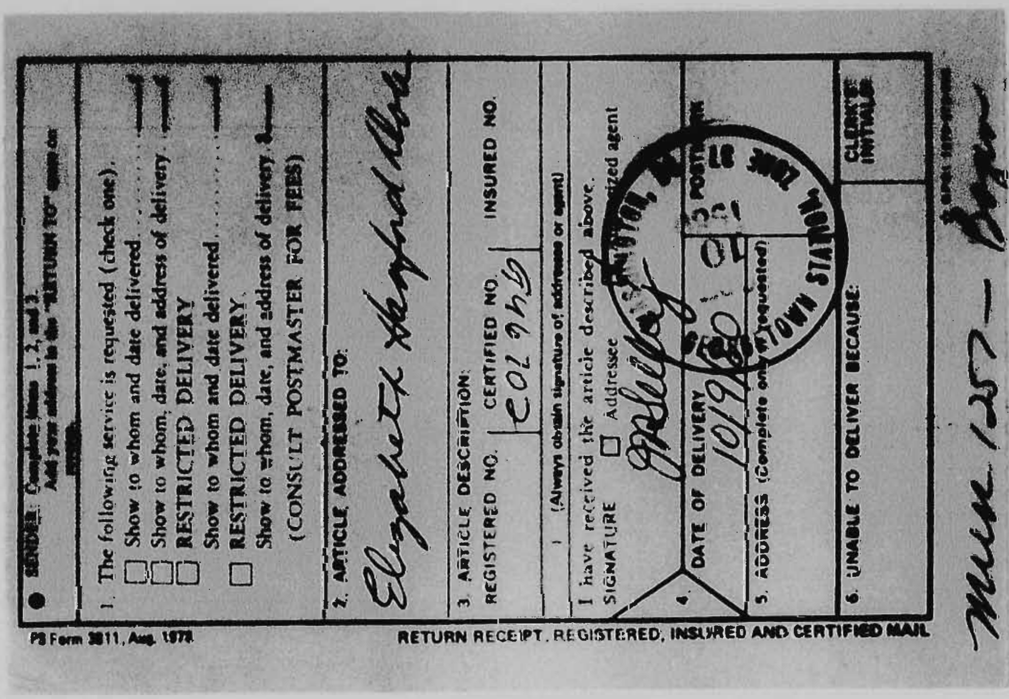
JOHN WARREN McGARRY
Vice-Chairman

32040304999

cc: Senator Robert Dole

Enclosures

Summary of Possible Violations
Procedures


SENDER: Complete items 1, 2, and 3.
1. The following service is requested (check one).
Show to whom and date delivered
Show to whom, date, and address of delivery
RESTRICTED DELIVERY Show to whom and date delivered
RESTRICTED DELIVERY Show to whom, date, and address of delivery
(CONSULT POSTMASTER FOR FEES)
2. ARTICLE ADDRESSED TO:
Elizabeth Hanford Dole
3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
4. DATE OF DELIVERY
10/9/80
5. ADDRESS (Complete only if requested)
6. UNABLE TO DELIVER BECAUSE:
CLERK'S INITIALS
PS Form 3811, Aug. 1978
RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL
MUR 1257 — Bogin

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE OCT 6 1980

MUR NO. 1257
STAFF MEMBER(S) & TEL. NO.
Robert Bogin

RESPONDENT Elizabeth Hanford Dole

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

BACKGROUND

Upon review of an audit performed in the normal course of carrying out its supervisory responsibilities, the Commission found reason to believe that Elizabeth Hanford Dole violated 2 U.S.C. § 441a(a)(1)(A) by making a loan to the Dole for President Committee in excess of the $1000 contribution limit.

FACTUAL BASIS AND LEGAL ANALYSIS

This matter is generated by an audit finding noted in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole loaned the Dole for President Committee $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional payments of $20,000, $10,000 and $18,328.77 were made on February 1, 22 and March, 1980 respectively.

The Presidential Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035.2.

11 C.F.R. § 110.10(B) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a.

Thus, unless Senator Dole at the time he became a candidate had the right of beneficial enjoyment under Kansas law and had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN STAT. ANN. § 23-201. This provision provides:

> The property, real and personal, which any woman in this state may own at the time of her marriage..., and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Based on the foregoing analysis, the Federal Election Commission has found reason to believe that Elizabeth Dole violated 2 U.S.C. § 441a(a)(1)(A).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jo-Anne Coe, Treasurer
Dole for President Committee
2213 Dirksen Building
Washington, D.C.

RE: MUR 1257 (80)

Dear Ms. Coe:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities has found reason to believe that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe, if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

Letter to Jo-Anne Coe
Page Two
MUR 1257

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Robert Bogin, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

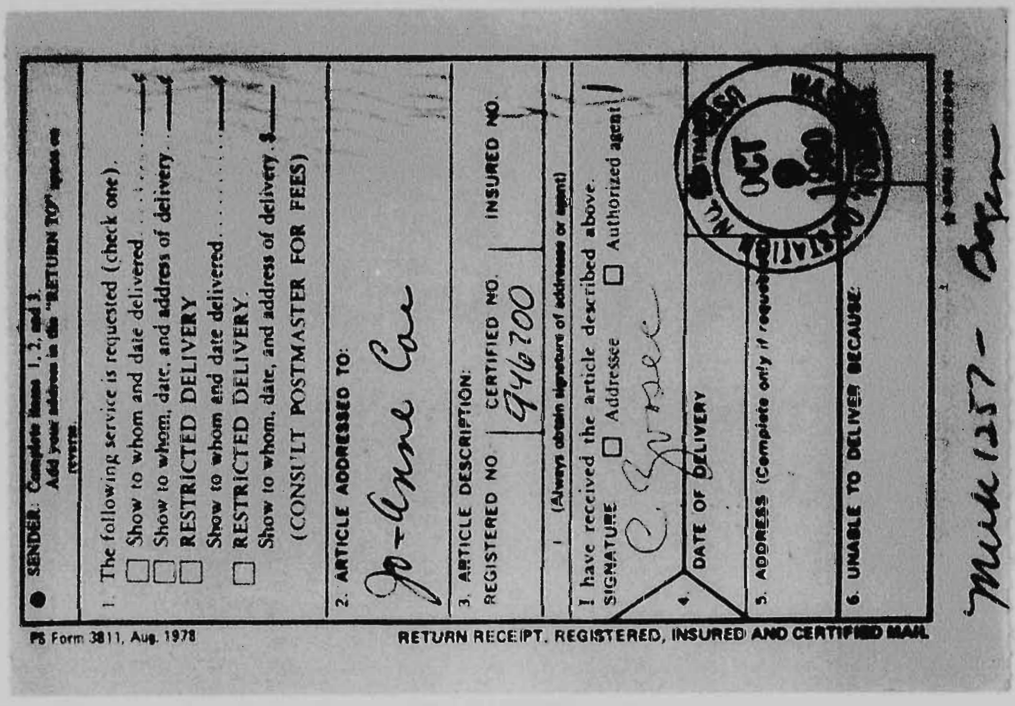
John Warren McGarry

JOHN WARREN McGARRY
Vice-Chairman

cc: Senator Robert Dole

Enclosures

Summary of Possible Violations
Procedures


SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered
☐ Show to whom, date, and address of delivery
☐ RESTRICTED DELIVERY Show to whom and date delivered
☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery $
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Jo-Anne Coe

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 946700 | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
C. Greer

4. DATE OF DELIVERY
OCT 1980

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

PS Form 3811, Aug. 1978 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

MUR 1257 - Bogin

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE OCT 6 1980

MUR NO. 1257
STAFF MEMBER(S) & TEL. NO.
Robert Bogin

RESPONDENT Dole for President Committee

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

BACKGROUND

That the Dole for President Committee violated 2 U.S.C. § 441a(f) by knowingly accepting a contribution in excess of the $1000 limit of 2 U.S.C. § 441a(a)(1)(A).

FACTUAL BASIS AND LEGAL ANALYSIS

This matter is generated by an audit finding noted in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole loaned the Dole for President Committee $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional payments of $20,000, $10,000 and $18,328.77 were made on February 1, 22 and March, 1980 respectively.

The Presidential Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035.2.

11 C.F.R. § 110.10(B) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a.

Thus, unless Senator Dole at the time he became a candidate had the right of beneficial enjoyment under Kansas law and had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN STAT. ANN. § 23-201. This provision provides:

> The property, real and personal, which any woman in this state may own at the time of her marriage..., and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Based on the foregoing, the Federal Election Commission has found reason to believe that the Dole for President Committee violated 2 U.S.C. § 441a(f).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Dole for President Committee) MUR 1257
Elizabeth Dole)

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission's Executive Session on September 30, 1980, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 1257:

1. Find reason to believe that Elizabeth Hanford Dole violated 2 U.S.C. §441a(a)(1)(A).

2. Find reason to believe that the Dole for President Committee violated 2 U.S.C. §441a(f).

3. Take no action with respect to a possible 2 U.S.C. §441b violation and direct that the footnote be deleted from page three of the General Counsel's September 23, 1980 report in this matter.

4. Authorize the sending of the letters of notification attached to the General Counsel's September 23, 1980 report.

Commissioners Aikens, Harris, McGarry, Reiche, and Tiernan voted affirmatively for the decision; Commissioner Friedersdorf dissented.

Attest:

10/3/80 Marjorie W. Emmons

Date

Marjorie W. Emmons
Secretary to the Commission

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/MARGARET CHANEY mwe mc

DATE: SEPTEMBER 25, 1980

SUBJECT: OBJECTION - MUR 1257 - First General Counsel's Report dated 9-23-80· Received in OCS 9-23-80, 4:59

The above-named document was circulated on a 48 hour vote basis at 11:00, September 24, 1980.

Commissioner Friedersdorf submitted an objection at 11:30, Septembet 25, 1980.

This matter will be placed on the Executive Session Agenda for Tuesday, September 30, 1980.

September 23, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 1257

Please have the attached First GC Report distributed to the Commission on a 48 hour tally basis. Thank you.

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

80 SEP 23 P4: 59

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 9-23-80

MUR # 1257
STAFF MEMBER(S)
Robert Bogin

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Dole for President Committee
Elizabeth Dole

RELEVANT STATUTE: 2 U.S.C. § 441a

INTERNAL REPORTS CHECKED: Audit Reports
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Elizabeth Dole made and the Dole for President Committee knowingly accepted a contribution in excess of the $1,000 limit proscribed by 2 U.S.C. § 441a.

FACTUAL AND LEGAL ANALYSIS

This matter is generated by an audit finding noted in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole loaned the Dole for President Committee $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional payments of $20,000, $10,000 and $18, 328.77 were made on February 1, 22 and March 19, 1980 respectively. As the attached documents demonstrate, the loan to the Committee was made by Elizabeth Dole. See letter dated December 14, 1979, to the Committee from Elizabeth Hanford Dole. (p.3 of Attachment). In addition, the proceeds of the loan to the Committee were derived from a loan from a bank that used Mrs. Dole's certificate of deposit as collateral for the loan. See Assignment of Certificate of Deposit signed by Elizabeth Hanford Dole. (p.5 of Attachment).

The Presidential Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds has the same meaning as specified in 11 C.F.R § 110.10. 11 C.F.R. § 9035.2

11 C.F.R. § 110.10(b) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a. See Explanation and Justification of Commission Regulation 9003.2. 45 Fed. Reg. 43371, 43373 (June 27, 1980). Thus, unless Senator Dole at the time he become a candidate had the right of benefical enjoyment under Kansas 1/ law and had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations. See MUR 1042.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN STAT. ANN. § 23-201. This provision provides:

> The property, real and personal, which any woman in this state may own at the time of her marriage..., and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Since there is no evidence that Senator Dole had legal right of access or control over the $50,000 loaned by Mrs. Dole the Commission should find reason to believe that Elizabeth

---

1/ The applicable state law would appear to be that of Kansas since the Mrs. Dole is in all likelihood a Kansas voter and resident.

Dole and the Committee violated 2 U.S.C. § 441a in connection with the loan and authorize an investigation into this matter. 2/

Recommendation

1. Find reason to believe that Elizabeth Hanford Dole violated 2 U.S.C. § 441a(a)(1)(A).

2. Find reason to believe that the Dole for President committee violated 2 U.S.C. § 441a(f).

3. Authorize the attached letters of notification.

Attachments

Audit Finding F
Proposed letters to respondents - 2

Possible Excessive Contributions From The Candidate's Immediate Family

Section 9035.2(a) of Title 11 of the Code of Federal Regulations states that "no candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the Office of President in excess of, in the aggregate $50,000.00" (also see 26 U.S.C. 9035).

As a result of a review of Committee records, the Audit staff noted that the limitation on contributions by a candidate's immediate family may have been exceeded by $4,051.24 as follows:

Contributions from immediate family members	$ 500.00
Expenses incurred by immediate family member not reimbursed	222.47
Loan to the Committee from an immediate family member	50,000.00 4/
Loan interest incurred by an immediate family member on behalf of the Committee	3,328.77 5/
Total contributions, expenses incurred and loans	$54,051.24

The apparent excessive condition existed from December 20, 1979 to January 16, 1980 when a $5,000 loan payment was made. The candidate was certified eligible for Presidential primary matching funds on January 15, 1980 and received such funds on January 16, 1980. The candidate's letter of agreement pursuant to 11 C.F.R. Section 9033.1 was dated December 31, 1979, with an addendum dated January 2, 1980.

In addition, the Audit staff's review of the documentation supporting the $50,000 loan disclosed the following facts: (See Attachment F, pages 3 to 8)

a. The family member apparently obtained the funds to loan to the Committee from the proceeds of a loan from the State Bank of Stanley (Stanley, Kansas) dated December 14, 1979.

4/ This loan/contribution may be in violation of 2 U.S.C. 441a(a)(1)(A) which states that no person shall make contributions to any candidate with respect to any election which exceeds $1,000. This will be dependent upon interpretations of 26 U.S.C. 9035.2(a).

5/ This loan interest is stated in total amount due on June 11, 1980. The loan term was from December 14, 1979 to June 11, 1980 with the interest to accrue to $3,328.77.

b. In a letter from the President of the State Bank of Stanley to the family member, the loan interest rate charged the family member was "considerably below the existing prime rate." The rate charged was 13.5% on December 14, 1979. 6/ The President of the bank is the Chairman of the candidate's Senate committee.

c. The loan from the State Bank of Stanley was apparently disbursed directly to the Committee by wire transfer on December 20, 1979, with no evidence that the loan proceeds were ever credited to the family member.

d. The same loan terms (time and rate) between the family member and the bank existed between the Committee and the family member.

e. A note secured by a certificate of deposit was signed by the family member and held by the bank but no note existed between the family member and the Committee. There was a letter from the family member to the Committee setting forth the terms of the loan.

f. Payments totaling $30,000 from the Committee were wired directly to the State Bank of Stanley in February, 1980. These payments appeared to have been applied directly to the family member's loan at the bank and not credited to a deposit account of the family member. We were unable to verify which account received the funds.

g. The entire amount of interest ($3,328.77) was paid by the Committee in March, 1980. The interest was not due in total until June 11, 1980. (After discussion with Committee officials, a rebate of loan interest was listed as refundable on the Committee's Statement of Net Outstanding Campaign Obligations).

Recommendation

It is recommended that this matter be referred to the Office of General Counsel for analysis, and if deemed appropriate, considered as a possible MUR.

6/ The statements in this letter, the correspondingly favorable rate and the appearance that the loan may have been arranged directly for the Committee raise the question as to whether the loan from the State bank was made in the ordinary course of business (See 2 U.S.C. 441b(b)(2)).

STATE BANK of STANLEY
SINCE 1905

913 - 681-2511 • Post Office Box 8, STANLEY, KANSAS 66223

December 14, 1979

Ms. JoAnne Coe
Dole for President Committee
7700 Leesburg Pike
Suite 201
Falls Church, Virginia 22043

Dear JoAnne:

Please find enclosed a note for Elizabeth Dole in the amount of $50,000.00, per your request. I am also enclosing an Assignment form which requires Elizabeth's signature.

The interest rate on this note is 13.5%, since we are required by law to charge at least 1% over the rate we pay on the Certificate of Deposit. This rate is considerably below the existing prime rate, so I think it is a fair situation.

Please return the note and Assignment to me, along with instructions as to where you would like the money sent. If you prefer, I can wire transfer to your bank in Washington, if you will give me the instructions to do so.

Sincerely yours,

Dave

David C. Owen

[illegible]
[illegible]
[illegible]

DCO/ks "[illegible]"

Enclosures 961-64-765

KANSAS

STANDING COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
JUDICIARY

United States Senate

WASHINGTON, D.C. 20510

December 17, 1979

Attachment
Page 4 of 8

Mr. David C. Owen
President
State Bank of Stanley
P. O. Box 8
Stanley, Kansas 66223

Dear Dave:

Enclosed is the Promissory Note with Elizabeth's signature, as well as the signed Assignment for the C/D.

I will appreciate your making arrangements for a wire transfer of the funds to the campaign's bank account: First American Bank of Virginia, King and Royal Street, Alexandria, Va. 22314. Account name, "Dole for President Committee", Account Number: 061 64 765.

As I indicated, these funds are needed at the earliest possible time, and I will therefore appreciate your expediting the bank transfer.

Sincerely yours,

Jo-Anne Coe

Jo-Anne Coe

Enclosure

3 2 0 4 0 5 0 5 0 1 5

ASSIGNMENT OF CERTIFICATE OF DEPOSIT

TO: State Bank of Stanley

P.O. Box 8, Stanley, Kansas

FOR VALUE RECEIVED, I/We hereby assign to you my/our Certificate of Deposit No. 1591 as security for FIFTY THOUSAND DOLLARS ($ 50,000.00).

This assignment shall be continuing one and shall be effective for any renewals of above loan until same is entirely paid, and shall operate as security for payment for any other debts or liabilities of the undersigned to you now in existence or hereafter contracted.

You are hereby authorized to cash the above Certificate of Deposit for note or notes representing unpaid balance of above loans at maturity or thereafter, with interest and costs, if not otherwise paid.

Elizabeth Hanford Dole (Seal)
Elizabeth Hanford Dole

(Seal)

Witnessed by:
Jo-Anne L. Coe

Dole, Elizabeth Hanford
Watergate South, Apt. 112
700 New Hampshire Avenue, NW
Washington, D.C. 20037

STATE BANK of STANLEY
SINCE 1905
Box 8, STANLEY, KANSAS 66223

For value received, Consumers promise to pay to the order of the Lender named herein the Total of Payments shown below.

PREPAYMENT. Consumers may prepay this loan in full at any time without penalty, in which case any unearned FINANCE CHARGE will be refunded based upon the "Rule of 78", if in excess of $1.00, provided, however, that the Lender will collect or retain a minimum FINANCE CHARGE of $5.00 when the Amount Financed is $75.00 or less, or $7.50 when the Amount Financed exceeds $75.00. In the event of partial prepayment, any unearned amounts of the FINANCE CHARGE may be retained by the Lender.

DELINQUENCY CHARGES. If any installment is not paid in full within 10 days after its scheduled due date, the Lender shall be entitled to a delinquency charge, computed by either one of the following methods: (a) an amount, not exceeding $2.50, which is equal to 5% of the unpaid amount of the installment, or (b) the deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

DEFERRAL CHARGES. If any installment is not paid in full within 10 days after its scheduled due date, the Lender may elect to unilaterally defer all or part of one or more unpaid installments, and collect a charge not exceeding an amount equal to the ANNUAL PERCENTAGE RATE stated herein, applied to the amounts deferred for the period of deferral.

ACCELERATION OF PAYMENT. Lender may accelerate payment or performance of this note if: (a) any sum is not paid when due, or (b) the Lender or holder believes that the prospect of payment, performance, or realization of collateral is significantly impaired, or (c) upon the commencement of any proceedings under any bankruptcy or insolvency laws by or against any party liable hereon directly or contingently.

Lender may apply any moneys belonging to Consumers or any other party liable hereon, which are on deposit with Lender in satisfaction of all amounts due any holder of this note.

Consumers and all other signers waive presentment, notice of dishonor and protest, and consent to: (a) any and all extensions of time for any term or terms regarding any payment due under this note, partial payments or renewals before or after maturity, (b) any substitution or release of collateral, and (c) the addition or release of any party or guarantor. Acceptance of partial payment or performance shall not operate as a waiver of any requirement of this note.

This loan is secured by deposits of Consumers and all other parties liable hereon. Consumers also grant to Lender a security interest in the following property, together with all parts and equipment used in connection therewith, additions, replacements, accessions, proceeds, products, and similar after-acquired property, provided, this security interest shall not attach to after-acquired consumer goods, except accessions, unless the Consumers acquire rights in such after-acquired consumer goods within ten days after the Lender gives value. This security interest is given to secure payment of all the Consumers' present and future indebtedness of any type to Lender, including without limitation future advances, all expenditures by Lender for taxes, insurance, repairs to and maintenance of collateral, and all expenses of Lender in realizing on its security interest.

Assignment of Certificate of Deposit No. 1591

Collateral will be located in ______________ County at ☐ Consumer's Address

☐ Other Address ______________

Collateral covered by Security Agreement is to be used by Consumers primarily for:
☐ Personal, Family, or Household purposes
☐ Agricultural ☐ Business

Collateral is:
☐ Being acquired with loan proceeds
☐ Now owned by Consumers

DATE FINANCE CHARGE BEGINS TO ACCRUE	NUMBER OF PAYMENTS	FREQUENCY OF PAYMENTS	AMOUNT OF PAYMENTS		DUE DATES OF PAYMENTS		
			Regular	Final	First Payment	Other Payments Same Day of Each Month	Final Payment
12/14/79	1	☒ 180 days ☐ Monthly	$	$50,000.00+Int.			6/11/80

CREDIT LIFE & DISABILITY INSURANCE are not required to obtain this loan. Such insurance will only be provided if Consumers request Lender to obtain such insurance by checking the type of coverage desired and signing below.

☐ Credit Life Insurance for the term of loan, or until ....
Cost for One Person $ .... Cost for Two Persons $ ....

☐ Disability Insurance for the term of loan, or until ....
Cost for One Person $ ....

☐ I/We do not want Credit Life or Disability Insurance.

PROPERTY & VENDOR'S SINGLE INTEREST INSURANCE may be obtained by Consumers through any person of their choice. If obtained through Lender, the costs will be:

☐ Property Insurance for .... months at a cost of $ ....

☐ Vendor's Single Interest Insurance for .... months $ ....
(The Insurer issuing this policy waives its right to subrogation against Consumers

☒ ....do not.............. $ ....

I/We desire the insurance checked above. Date

X Elizabeth Hanford Dole
Elizabeth Hanford Dole

X

X

1. Proceeds $50,000.00
2. Other Charges, Itemized
   ______________ $______
   ______________ $______
   ______________ $______
3. Amount Financed (1 & 2) $50,000.00
4. FINANCE CHARGE $3,328.77
5. Total of Payments $53,328.77

ANNUAL PERCENTAGE RATE 13.5 %

This loan is subject to Sections 1 thru 131 of the Kansas Uniform Consumer Credit Code.
I/We agree to the terms of this Promissory Note & Disclosure Statement, and terms of
☐ Security Agreement, including the terms on the reverse side.

I/We have received a completed copy of this form.

X Elizabeth Hanford Dole
Elizabeth Hanford Dole

X

X

1. Do not sign this agreement before you read it.
2. You are entitled to a copy of this agreement.
3. You may prepay the unpaid balance at any time without penalty.

LENDER SIGNATURE

representing the Lender and Secured Party

Burns Olaine Form 2040

NOTICE: SEE OTHER SIDE FOR IMPORTANT INFORMATION

700 New Hampshire Avenue, N.W.
Apartment 112
Washington, D.C. 20037
December 14, 1979

Dole for President Committee
104 North St. Asaph Street
Alexandria, Virginia 22314

Gentlemen:

I have today instructed State Bank of Stanley, Kansas, to transfer to your bank account (No. 061-64-765, First American Bank of Virginia), $50,000, representing a loan from me to the Committee.

The interest rate on this personal loan is 13.5%, with finance charges beginning to accrue effective today's date. Finance charges total $3,328.77, and the note is payable within 180 days from today (or June 11, 1980).

A copy of my correspondence with the State Bank of Stanley regarding this loan is enclosed for your records.

Sincerely yours,

Elizabeth H. Dole

ELIZABETH HANFORD DOLE

FIRST AMERICAN
FIRST AMERICAN BANK OF VIRGINIA
1970 Chain Bridge Road McLean, Virginia 22101

PAGE 3

0 01 04 705
ACCOUNT NUMBER

12/31/79
DATE OF STATEMENT

BALANCE FROM PREVIOUS STATEMENT	NUMBER OF DEBITS	AMOUNT OF CHECKS-DEBITS	NO. OF DEP'S	AMOUNT OF DEPOSITS-CREDITS	MAINTENANCE CHARGE	STATEMENT BALANCE

NEW 6 MONTH CD-SAME RATE AS 6 MONTH TREASURY BILL

DATE	CHECKS-DEBITS	CHECKS-DEBITS	DEPOSITS-CREDITS	BALANCE
12 19	50.00	538.67		
	557.93	2,611.73		14,709.04
12 20	2,005.00DM	150.00	50,000.00CM	
	200.00	339.58		
	390.35	390.35		
	401.15	1,571.39		59,261.22
12 21	6,005.00DM	306.11		
	500.00			52,450.11
12 24	75.00	319.58	2,665.00	
	332.38	443.37		
	500.00	500.00		
	614.45	5,001.30		47,329.03
12 27	1,255.00DM	2,005.00DM	4,235.00	
	36.75	179.56	4,425.00	
	457.29	572.13		
	640.83	2,325.58		48,516.59
12 28	5,005.00DM	100.00	1,000.00	
	148.00	498.11	8,295.00	52,060.40
12 31	28.58	208.48		
	1,000.00			50,323.42

PLEASE EXAMINE AT ONCE AND ADVISE US PROMPTLY OF ANY DIFFERENCE.
SEE FORM FOR RECONCILING ON BACK

$20,202.71 $12,061.24 $70,620.00

CC — CERTIFIED CHECK
SC — SERVICE CHARGE
DM — DEBIT MEMO
CM — CREDIT MEMO
LS — LISTED CHECKS
OD — OVERDRAWN
RT — RETURN

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JoAnne Coes, Treasurer
Dole for President Committee
Washington, D.C.

RE: MUR 1257 (80)

Dear Ms. Coes:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities has found reason to believe that your committee violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your committee in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against your committee, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe, if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Robert Bogin, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

cc: Senator Robert Dole

Enclosures

Summary of Possible Violations
Procedures

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ______________________

MUR NO. 1257
STAFF MEMBER(S) & TEL. NO.
Robert Bogin

RESPONDENT Dole for President Committee

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

BACKGROUND

That the Dole for President Committee violated 2 U.S.C. § 441a(f) by knowingly accepting a contribution in excess of the $1000 limit of 2 U.S.C. § 441a(a)(1)(A).

FACTUAL BASIS AND LEGAL ANALYSIS

This matter is generated by an audit finding noted in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole loaned the Dole for President Committee $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional payments of $20,000, $10,000 and $18,328.77 were made on February 1, 22 and March, 1980 respectively.

The Presidential Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035.2.

11 C.F.R. § 110.10(b) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a.

Thus, unless Senator Dole at the time he became a candidate had the right of beneficial enjoyment under Kansas law and had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN STAT. ANN. § 23-201. This provision provides:

> The property, real and personal, which any woman in this state may own at the time of her marriage..., and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Based on the foregoing, the Federal Election Commission has found reason to believe that the Dole for President Committee violated 2 U.S.C. § 441a(f).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Elizabeth Hanford Dole
700 New Hampshire Avenue, N.W.
Apartment 2
Washington, D.C. 20037

RE: MUR 1257 (80)

Dear Ms. Dole:

This letter is to notify you that the Federal Election Commission, in the normal course of its supervisory responsibilities has found reason to believe that you violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A summary of the possible violation is enclosed.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter within 10 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In absence of any information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred, and proceed with formal conciliation. Of course, this does not preclude the settlement of this matter through informal conciliation prior to a finding of probable cause to believe, if you so desire.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter, please advise the Commission by sending a letter of representation stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Robert Bogin, the attorney assigned to this matter at (202) 523-4000. For your information, we have attached a brief description of the Commission's procedures for handling possible violations.

Sincerely,

cc: Senator Robert Dole

Enclosures

Summary of Possible Violations
Procedures

FEDERAL ELECTION COMMISSION

NOTIFICATION OF REASON TO BELIEVE FINDING

DATE ______________________ MUR NO. 1257

STAFF MEMBER(S) & TEL. NO.

Robert Bogin

RESPONDENT Elizabeth Hanford Dole

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

BACKGROUND

Upon review of an audit performed in the normal course of carrying out its supervisory responsibilities, the Commission found reason to believe that Elizabeth Hanford Dole violated 2 U.S.C. § 441a(a)(1)(A) by making a loan to the Dole for President Committee in excess of the $1000 contribution limit.

FACTUAL BASIS AND LEGAL ANALYSIS

This matter is generated by an audit finding noted in the audit report of the Dole for President Committee. On December 20, 1979, Elizabeth Hanford Dole loaned the Dole for President Committee $50,000. On January 16, 1980, the Committee repaid $5,000 of the loan. Additional payments of $20,000, $10,000 and $18,328.77 were made on February 1, 22 and March, 1980 respectively.

The Presidential Primary Matching Fund Account Act permits a candidate to make expenditures from his personal funds or the funds of his immediate family up to $50,000 in connection with the election. 26 U.S.C. § 9035(a). The term "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035.2.

11 C.F.R. § 110.10(b) defines personal funds to mean:

> Any assets to which at the time he or she became a candidate, the candidate had legal or rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable state law, and which the candidate had legal right of access to or control over, including funds from immediate family members.

Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a.

Thus, unless Senator Dole at the time he became a candidate had the right of beneficial enjoyment under Kansas law and had a legal right of access or control over the funds contributed to the Committee, the $50,000 loan to the Committee would be in excess of the 2 U.S.C. § 441a limitations.

Under Kansas law, real or personal property granted or devised to a husband and wife presumes the creation of a tenancy in common with respect to such property unless explicitly stated otherwise. KAN. STAT. ANN. § 58-501. In addition, there is no presumption as there is in community property states, that all of the property of one spouse obtained during marriage would be considered to be the property of the other spouse. KAN STAT. ANN. § 23-201. This provision provides:

> The property, real and personal, which any woman in this state may own at the time of her marriage..., and any real, personal or mixed property which shall come to her by descent, devise or bequest, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable for his debts.

Based on the foregoing analysis, the Federal Election Commission has found reason to believe that Elizabeth Dole violated 2 U.S.C. § 441a(a)(1)(A).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1980

MEMORANDUM

TO: Robert J. Costa

THROUGH: William P. Loughrey

FROM: Charles N. Steele
General Counsel

SUBJECT: Post Primary Interim Audit Report on The Dole for President Committee, Inc. - A-757

The Office of General Counsel has reviewed the audit report on the Dole for President Committee, Inc. (Committee) and makes the following comments:

1. Transfers-In and Earmarked Contributions (Finding II. A. 3)

In the Audit report Section 434(b)(2) is erroneously cited. The proper citation is former § 434(b)(4) and 11 C.F.R. § 104.17(b)(4).

2. Undocumented Expenditures (Finding II. B. 1)

Recitation in the audit report of 11 C.F.R. § 9033.1(a)(1) is incomplete. It should read as follows:

> 11 C.F.R. § 9033.1(a)(1) sets forth the documentation necessary to determine a qualified campaign expense as a receipted bill which is from the payee and states the particulars of the expenditure; or in the absence of such receipted bill a cancelled check negotiated by the payee plus one of the following documents generated by the payee which states the particulars of the expenditure; a bill, invoice, voucher or contemporaneous memorandum. Where these documents are not available, then the Commission will accept a voucher or contemporaneous memorandum from the candidate or committee. The Commission will accept a cancelled check stating the particulars of the expenditure, or the Commission may accept a cancelled check and collateral evidence to document the qualified campaign expenses.

Of the 95 disbursements identified in Attachment D to the Audit Report, all but 2 of the disbursements are considered improperly documented because the Committee did not present any documentation other than cancelled checks or copies of cashier's checks to demonstrate that the expenditures in question are qualified campaign expenses. The Office of General Counsel does not disagree with your recommendation that the Committee submit the required documentation to support these expenditures within 30 days of receipt of this report.

Two of the disbursements identified in Schedule D were supported by some documentation. The disbursement to Response Marketing Group., Inc. for $1,000 was written on Committee check number 113. The particular listed as rent was listed on the face of the check. It is the opinion of this Office that this expenditure is sufficiently documented pursuant to 11 C.F.R. § 9033.1(a)(1)(i)(C). It is this Office's recommendation that this expenditure be deleted from Attachment D.

With respect to the other disbursement supported by some documentation, it is this Office's understanding that the auditor questioned the expenditure to Response Marketing, check number 1008, that was supported by an invoice stating that the disbursement was for "Senate Design Letterhead." This invoice raised the question as to whether this expenditure was for Senator Dole's presidential campaign. This Office does not disagree with your recommendation to include this disbursement in Attachment D since it is not unreasonable to assume that this disbursement is not a qualified campaign expense. The Committee has the burden of proving that this expenditure was qualified.

3. <u>Possible Excessive Contributions From the Candidate's Immediate Family</u>. (Finding II. B. 2)

This Office concurs with your recommendation that this matter should be referred to this Office.

4. <u>Determination of Net Outstanding Campaign Obligations</u> (Finding II. B. 3)

It is the opinion of this Office that the third sentence of the Recommendation be deleted. There is no statutory authority for the Commission to hold matching fund payments in abeyance pending receipt of documentation to support expenditures or repayment to the Treasury of unqualified campaign expenses.

MUR 1257

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM

TO: CHARLES N. STEELE

FROM: BILL LOUGHREY B.L.

SUBJECT: AUDIT REPORT--DOLE FOR PRESIDENT COMMITTEE

DATE: MAY 22, 1980

The attached audit report of the Dole for President Committee is forwarded to your office for review. Under the Commission-approved audit procedures of October 25, 1979, your office has four weeks to comment on this report. Accordingly, this office expects to forward this report, along with your comments, to the Commission on Friday, June 27.

Attachment

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

May 21, 1980

MEMORANDUM

TO: CHARLES STEELE
GENERAL COUNSEL

THROUGH: ORLANDO B. POTTER O.B.P.
STAFF DIRECTOR

FROM: BOB COSTA RC

SUBJECT: POST-PRIMARY INTERIM AUDIT REPORT ON THE DOLE FOR PRESIDENT COMMITTEE, INC.

Attached please find a copy of the post-primary interim audit report on the Dole For President Committee, Inc. for your review and legal analysis. Please note that Finding B.2 has been specifically recommended for your analysis and, if deemed appropriate, consideration as a possible MUR. Further, the statutory and regulatory citations relating to disclosure in this report are taken from Public Law 94-283 and Commission regulations promulgated under P.L. 94-283. All indications present with respect to the Committee's disclosure reports support this premise, in that the Committee chose to follow 11 C.F.R. 104.17 in lieu of 11 C.F.R. 104.3(a) and (b).

Should you have any questions, please contact either Russ Bruner or Ron West on extension 3-4155.

Attachment as stated

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

INTERIM REPORT OF THE AUDIT DIVISION ON THE DOLE FOR PRESIDENT COMMITTEE, INC.

I. Background

A. Overview

This interim report is based on an audit of the Dole For President 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 9038(a) of Title 26 of the United States Code which states that "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 payments under Section 9037."

In addition, Section 9039(b) of Title 26 of the United States Code and Section 9038.1(b) of Title 11 of the Code of Federal Regulations state, in relevant part, that the Commission may conduct other examinations and audits from time to time as it deems necessary.

The Committee registered with the Federal Election Commission as the principal campaign committee for the Honorable Robert J. Dole on February 21, 1979. 1/ The Committee maintained its headquarters in Alexandria, Virginia.

1/ The Committee registered as the Dole For President (Exploratory Committee) on February 21, 1979. Successor committee names are Dole For President Committee and Dole For President Committee, Inc.

The audit covered the period from inception through March 27, 1980, the date determined by the Commission to be the date of ineligibility for purposes of incurring qualified campaign expenses. At the time of the completion of the audit, the Committee had reported its financial activity through February 29, 1980. That activity plus our reconciliation of the activity for the remainder of the period through March 27, 1980, revealed the following:

Opening Cash Balance	$ -0-
Total Receipts	1,421,330.38
Total Expenditures	1,393,290.48
Closing Cash Balance	34,659.73 2/

This report is based upon documents and working papers which support each of the factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to Commissioners and appropriate staff for review.

B. Key Personnel

The principal officers of the Committee during the period audited were Gerald Nash, Chairman and Ann Dore McLaughlin, Treasurer.

C. Scope

The audit included such tests as verification of reported receipts, expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Interim Audit Findings and Recommendations

A. Findings Relating To Title 2 of The United States Code

1. Limitations On Contributions

Section 441a(a)(1)(A) states that no person shall make contributions to any candidate or his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000.

During the review of the Committee's contribution records, the Audit staff noted ten (10) contributors who exceeded the $1,000 contribution limitation by a total of $6,131.00 (See Attachment A).

2/ Apparent overstatement of $6,619.83 in ending cash due to various arithmetical errors in reported receipts activity.

Committee officials believed they could provide additional documentation to allocate the contributions to more than one individual.

Recommendation

The Audit staff recommends that the Committee refund the portion of each contribution noted above which is in excess of the limitation and submit evidence of the refunds (i.e. photocopy of the front and back of each cancelled check used for the refunds) to the Audit staff for review within 30 days of receipt of this report or provide evidence within the 30 day period which demonstrates that the contributions were to be attributed to more than one contributor and therefore not excessive.

2. Apparent Corporate Contributions

Section 441b(a) states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any Federal election.

During the review of the Committee's contribution records, the Audit staff discovered 13 contributions totaling $4,068.70 from business entities which were verified to be incorporated at the time that the funds were received (See Attachment B). Of these 13 apparent corporate contributions, two (2) were apparently refunded by the Committee by cashier's check but no copies of cancelled checks were on file to support the refunds.

Recommendation

The audit staff recommends that the Committee refund the 13 corporate contributions noted above and submit evidence of the refunds (i.e. copy front and back of each cancelled check used for the refunds) to the Audit staff for review within 30 days of receipt of this report. Alternatively the Committee may provide evidence within the 30 day period which demonstrates that the contributions were not funded from corporate sources such as from an individual's non-reimbursable drawing account even though drawn on a corporate check. The Committee may also provide evidence that refunds had previously been made by providing copies of cancelled cashier's checks to the Audit staff for review within the same 30 day period as stated above.

3. Transfers-In and Earmarked Contributions

Section 434(b)(2) states, in relevant part, that each report shall disclose the name and address of each political committee from which a transfer of funds was received, together with the date and amount.

Section 110.6(c)(3) of Title 11 of the Code of Federal Regulations states, in part, that the recipient of earmarked contributions shall disclose on his next report each conduit through which the contributions passed.

The Audit staff's review of the Committee's receipt records revealed that 77 transfers-in and earmarked contributions totaling $8,003.00 from political committees and/or individuals were either not itemized or reported as required. (See Attachment C).

Recommendation

The Audit staff recommends that the Committee file amendments to the appropriate disclosure reports disclosing the transfers-in and earmarked contributions noted above within 30 days of receipt of this report.

B. Findings Relating To Title 26 of The United States Code

1. Undocumented Expenditures

Section 9038.2(a)(2) of Title 11 of the Code of Federal Regulations requires the candidate to repay any amounts determined to have been used for payments of other than qualified campaign expenses. Section 9033.1(a)(1) sets forth the documentation necessary to determine a qualified campaign expense as a receipted bill or the following documents which state the particulars of the expenditure: cancelled check; bill, invoice or contemporaneous memoranda from the payee; voucher or contemporaneous memoranda from the candidate or the committee; or a cancelled check and collateral evidence to document the qualified campaign expense.

The Audit staff identified 95 disbursements totaling $173,260.33 which were made by Committee check, wire transfer or cashier's check and not adequately documented as to the particulars of the expenditures or verifiable as to representing qualified campaign expenses. (See Attachment D) The expenditures were made for purposes such as the following:

a. Payments apparently made per contract: 15 totaling $90,846.85.

b. Advances and travel reimbursements: 22 totaling $21,373.07.

c. Apparent salary or casual labor: 10 totaling $3,986.68.

d. Other services:
3 totaling $19,677.32.

e. State account expenses - Iowa:
33 totaling $26,050.53.

f. State account expenses - New Hampshire:
12 totaling $11,325.88.

The Committee officials believed that they could obtain documentation for many of the expenditures noted above. 3/

Recommendation

The Audit staff recommends that the Committee submit the required documentation to support the above expenditures within 30 days of receipt of this report. Further, it is our opinion that should the Committee be unable to provide the required documentation, the undocumented expenditures should be viewed as unqualified campaign expenses and the value be repaid in full to the U.S. Treasury.

2. Possible Excessive Contributions From The Candidate's Immediate Family

Section 9035.2(a) of Title 11 of the Code of Federal Regulations states that "no candidate who has accepted matching funds shall knowingly make expenditures from his or her personal funds, or funds of his or her immediate family, in connection with his or her campaign for nomination for election to the Office of President in excess of, in the aggregate $50,000.00" (also see 26 U.S.C. 9035).

As a result of a review of Committee records, the Audit staff noted that the limitation on contributions by a candidate's immediate family may have been exceeded by $4,051.24 as follows:

3/ Many of the expenditures were also not documented in accordance with 2 U.S.C. 432(d). Any finding relating to this matter will be formulated after review of the additional documentation provided by the Committee.

Contributions from immediate family members	$ 500.00	
Expenses incurred by immediate family member not reimbursed	222.47	
Loan to the Committee from an immediate family member	50,000.00	4/
Loan interest incurred by an immediate family member on behalf of the Committee	3,328.77	5/
Total contributions, expenses incurred and loans	$54,051.24	

The apparent excessive condition existed from December 20, 1979 to January 16, 1980 when a $5,000 loan payment was made. The candidate was certified eligible for Presidential primary matching funds on January 15, 1980 and received such funds on January 16, 1980. The candidate's letter of agreement pursuant to 11 C.F.R. Section 9033.1 was dated December 31, 1979, with an addendum dated January 2, 1980.

In addition, the Audit staff's review of the documentation supporting the $50,000 loan disclosed the following facts: (See Attachment E)

a. The family member apparently obtained the funds to loan to the Committee from the proceeds of a loan from the State Bank of Stanley (Stanley, Kansas) dated December 14, 1979.

b. In a letter from the President of the State Bank of Stanley to the family member, the loan interest rate charged the family member was "considerably below the existing prime rate." The rate charged was 13.5% on December 14, 1979. 6/ The President of the bank is the Chairman of the candidate's Senate committee.

4/ This loan/contribution may be in violation of 2 U.S.C. 441a(a)(1)(A) which states that no person shall make contributions to any candidate with respect to any election which exceeds $1,000. This will be dependent upon interpretations of 26 U.S.C. 9035.2(a).

5/ This loan interest is stated in total amount due on June 11, 1980. The loan term was from December 14, 1979 to June 11, 1980 with the interest to accrue to $3,328.77.

6/ The statements in this letter, the correspondingly favorable rate and the appearance that the loan may have been arranged directly for the Committee raise the question as to whether the loan from the State bank was made in the ordinary course of business (See 2 U.S.C. 441b(b)(2)).

c. The loan from the State Bank of Stanley was apparently disbursed directly to the Committee by wire transfer on December 20, 1979, with no evidence that the loan proceeds were ever credited to the family member.

d. The same loan terms (time and rate) between the family member and the bank existed between the Committee and the family member.

e. A note secured by a certificate of deposit was signed by the family member and held by the bank but no note existed between the family member and the Committee. There was a letter from the family member to the Committee setting forth the terms of the loan.

f. Payments totaling $30,000 from the Committee were wired directly to the State Bank of Stanley in February, 1980. These payments appeared to have been applied directly to the family member's loan at the bank and not credited to a deposit account of the family member. We were unable to verify which account received the funds.

g. The entire amount of interest ($3,328.77) was paid by the Committee in March, 1980. The interest was not due in total until June 11, 1980. (After discussion with Committee officials, a rebate of loan interest was listed as refundable on the Committee's Statement of Net Outstanding Campaign Obligations).

Recommendation

It is recommended that this matter be referred to the Office of General Counsel for analysis, and if deemed appropriate, considered as a possible MUR.

3. Determination Of Net Outstanding Campaign Obligations

Section 9034.5(b) of Title 11, Code of Federal Regulations requires that the candidate submit a Statement of Net Outstanding Campaign Obligations (NOCO) which contains, among other items, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs within 15 days of the candidate's date of ineligibility.

The Committee filed a Statement of Net Outstanding Campaign Obligations on April 11, 1980. This statement, and the results of our verification of the items contained thereon, appear below:

	NOCO	AUDIT	NOCO	AUDIT	
Cash-on-Hand 3/27/80 7/			$36,596.00	$34,659.73	
Refunds Due the Committee:					
Loan Interest Rebate	$ 1,660.00	$ 1,553.42			
IRS Tax Refund	17,145.75	17,960.72			
State Tax Refund	1,538.49	1,538.49			
Postage Deposit	862.38	862.38			
Telephone Deposit	14,000.00	5,809.30			
Airline Refund(estimated)	500.00	2,497.00			
Office Rent Deposit	625.00	625.00			
Advertising Prepayment	- 0 -	1,453.52			
			$36,331.62	$32,299.83	
Deposits (contributions & refunds) received between 3/28 and 4/11/80			$ 9,871.75	$ 4,889.38	8/
Total Assets			$82,799.37	$71,848.94	
Debts Owed by the Committee:					
Outstanding Debts			$110,596.32	$103,414.92	9/ 10/
Winding Down Costs			59,412.77	17,065.54	11/12/13/
Total Debts			$170,009.09	$120,480.46	
Net Outstanding Campaign Obligations (Deficit)			($ 87,209.72)	($ 48,631.52)	

7/ The date of March 27, 1980 is the date determined by the Commission to be the date of ineligibility for purposes of incurring qualified campaign expenses.

8/ Represents refunds and rebates of qualified campaign expenses outstanding as of 3/27/80. The difference of $4,982.37 between the Committee's figure and audit's figure apparently represents contributions received after 3/27/80 which should be reflected on the next NOCO statement.

9/ See Attachment F for a schedule of debts requiring supporting documentation.

10/ The totals do not include a contingent liability of $104,439.14 which is in litigation.

11/ The NOCO balance includes $42,498.10 categorized as Winding Down Costs which represents checks issued between March 28 and April 11, 1980. The Committee checks were outstanding as of the completion date of our fieldwork and no further documentation was provided relating to these expenditures; however, the entries in the Committee's Cash Disbursements Journal did support this total. If these expenses are verified at a later date to be qualified campaign expenses, they would properly be included with debts on the April 11, 1980 NOCO statement. Our review of the specific disbursements appeared to indicate that all of the expenses were incurred prior to 3/27/80 and were not winding down costs but rather accounts payable for apparent qualified campaign expenses as of 3/27/80. It should be noted that the Committee did not include an estimate of winding down costs in their NOCO statement.

12/ The NOCO balance includes an estimated telephone expense of $3,000.00. The actual bill on hand was in the amount of $2,832.87 and therefore verified by Audit at that amount.

13/ The NOCO balance includes $150.00 which represents the Committee's estimate of IBM Corporation bills. The actual bills on hand totaled $468.00 and were therefore verified by Audit at that amount.

As noted above, the Audit staff's verification of the items on the NOCO statement revealed various differences which resulted in a net difference (overstatement) in outstanding campaign obligations of $38,578.20.

Recommendation

The Audit staff recommends that the Committee attempt to locate support for the unverified items above and submit such evidence as may be located to the Audit staff for review within 30 days of receipt of this report. After reviewing any documentation, the NOCO figure will be adjusted accordingly. Further, in view of the amount of unsupported expenditures (Finding B.1) it is our opinion that any future payments due for matching funds submissions should be held in abeyance until the value of unsupported expenditures is either reduced significantly or repayment is made to the U.S. Treasury. Also, the Committee should consider including a reasonable estimate of winding down costs in their next NOCO statement.

4. Apparent Unqualified Campaign Expense

Section 9038(b)(2)(A) of Title 26 of the United States Code states, in part, that the candidate shall pay to the Secretary of the Treasury an amount equal to the amount expended from the matching payment account which was used for any purpose other than to defray qualified campaign expenses (also see 11 C.F.R. 9038.2(a)(2)(i)).

Section 9032(9)(A) & (B) of Title 26 of the United States Code define the term "qualified campaign expense" to mean "a purchase, payment, distribution, loan, advance, deposit, or gift of money or of anything of value incurred by a candidate, or by his authorized committee, in connection with his campaign for nomination for election, and neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which the expense is incurred or paid."

The Audit staff's review of the vendor files revealed a payment of $6,312.03 to the Virginia Department of Taxation on February 29, 1980. The purpose of the expenditure, as stated on the copy of the check, was "Virginia withholding tax, plus interest and penalty." Our review of copies of Form VA-5, Employer's Return of Virginia Income Tax Withheld, attached to the check copy revealed that state taxes had apparently not been withheld on Committee salaries for the period April through December, 1979. Due to the late filing of withholding taxes, the Committee paid $1,397.88 in penalty and interest to the State of Virginia. The remainder of the check amount, $4,914.15, represented taxes which should have been withheld over the period.

We feel that the assessment of penalty and interest in the amount of $1,397.88 was due to the Committee's non-compliance with State law and was not incurred in the normal course of a candidate's campaign for nomination for election. We therefore believe that this expenditure was not a qualified campaign expense.

Recommendation

The Audit staff recommends that, absent a showing to the contrary within 30 days of notification, the Committee repay the amount of the unqualified campaign expense ($1,397.88) to the U.S. Treasury.

Contributions In Excess of $1,000 Limitation

Contributor	Date of Deposit	Amount	Exceeded Limitation
V. Richard Hoover	5/15/79	$ 1,000	-
V. Richard Hoover (Attributed to Paul R. Hoover)	10/22/79	500	$ 500 1/
V. Richard Hoover (Attributed to Ellen Kay Hoover)	10/22/79	500	500 1/
Lasker, Stone & Stern (Attributed to Mr. & Mrs. B. Lasker)	9/13/79	2,000	1,000 1/
Lewis Rudin	4/17/79	250	250
Lewis Rudin	4/18/79	1,000	-
Joseph B. Diliberto	4/12/79	500	500
Joseph B. Diliberto	4/12/79	1,000	-
Allen S. Johnson, Jr.	1/ 2/80	1,600	600
David S. Gottesman	1/10/80	1,281	281
David H. McConnell	1/21/80	2,000	1,000
A. R. Hixson, Jr.	5/17/79	1,000	-
A. R. Hixson, Jr.	1/ 3/80	500	500
E. B. Shawver, II	5/17/79	500	-
E. B. Shawver, II	10/31/79	500	-
E. B. Shawver, II	1/21/80	500	500
W. Clement Stone	5/23/79	500	500
W. Clement Stone	1/21/80	1,000	-
Total		$16,131	$6,131

1/ Documentation to support such allocation was not located.

APPARENT CORPORATE CONTRIBUTIONS

Contributor	Date of Deposit	Amount	
Jack Widrich, MD - Professional Association	8/21/79	25.00	
Morford Machining, Inc.	8/29/79	25.00	
Brook Exploration Co.	11/ 6/79	1,000.00	1/
Redd Beef Feeders, Inc.	5/25/79	50.00	2/
Frontier Oil Co.	6/29/79	1,000.00	1/
Ed Schlitt Agency	1/ 2/80	15.00	
WPM Exploration, Inc.	1/ 3/80	100.00	2/
First Manhatten Co. (H.F. Van Itallie)	1/ 8/80	87.00	3/
First Manhatten Co. (Frits Markus)	1/ 8/80	786.00	3/
First Manhatten Co. (Arthur Zankel)	1/10/80	243.00	3/
Winshire Clinic, Inc.	1/ 8/80	100.00	
John W. Simpson, MD & Associates, Inc.	1/ 8/80	300.00	
Goodland Grain, Inc.	3/ 5/80	337.70	4/
Total		$4,068.70	

1/ Check was drawn on the business (corporate) account however, the contributor has attested to the personal nature of the contributed funds.

2/ The Committee indicated that this contribution was refunded to the contributor by Cashier's Check. There was no copy of the cancelled check on hand to verify the refund.

3/ Check apparently drawn on account of First Manhatten Co. "by order of" individual as noted.

4/ Documentation with the contribution indicates that the funds were from the sale of a commodity donated to the Committee by an individual. However, the contribution check was drawn on a corporate account.

TRANSFERS-IN NOT ITEMIZED AND/OR REPORTED

Transferor	Date of Deposit		Amount		
H & K PAC (Hill & Knowlton, Inc.)	6/26/79		$ 100	1/	
The E.F. Hutton PAC	7/24/79		250	1/	
J.C. Nichols Co. PAC (For: L. McCarthy)	7/30/79		1,000	1/	4/
Kansas Bank PAC - Federal	8/10/79		1,000	1/	
Good Government Program (For: N. Tietze)	9/11/79		50	1/	4/
Good Government Program (For: E. Gillespie)	9/11/79		50	1/	4/
Good Government Program (For: O. Scott)	9/11/79		50	1/	4/
Concerned Girls & Women of Kansas City	9/30/79		25	1/	4/
Countdown To Victory (For: R. & C. Hills)	12/ 6/79		300	1/	4/
Ashland Oil PAC (PACE)	12/13/79		1,000	1/	
Good Government Program (For: J. Swearinger)	12/21/79		500	1/	4/
Shriver For Congress	10/31/79		100	1/	
Hall PAC - Federal (For: W. Randall)	9/ 3/79		100	1/	4/
Hall PAC - Federal (For: H. Bower)	8/30/79	(Contribution date)	50	1/	4/
New York Telephone Federal PAC (For: G. Toepfer)	9/11/79	(Contribution date)	5	1/	4/
NBD Good Citizenship Committee	1/ 2/80		500	2/	
Non-Partisan Committee For Good Government	1/ 2/80		250	2/	
Morgan Stanley Better Government Fund	1/ 3/80		500	2/	
First National Bank of Boston PAC	5/ 1/79		218	3/	

CIVIC PLEDGE PROGRAM: (The following were earmarked contributions) 1/

Transferor	Date of Contribution	Amount
Abbott, William T.	9/11/79	$ 25
Allison, Floyd E.	9/11/79	25
Blakely, Max F.	9/11/79	25
Boone, Roscoe P.	9/11/79	50
Brigstocke, W.R.	9/11/79	25
Brown, James W.	9/11/79	95
Burch, Robert W.	9/11/79	25
Burris, Paul M.	9/11/79	25
Butler, Robert T.	9/11/79	25
Challis, Gail	9/11/79	25
Crill, James	9/11/79	15
Dalke, Alvin J.	9/11/79	50
Dempster, John B.	9/11/79	50
Fouquet, Joseph M.	9/11/79	25
Frazier, Max D.	9/11/79	25
Fulghum, James W.	9/11/79	50
Gervalia, James R.	9/11/79	25
Goo, Abraham M.S.	9/11/79	25
Goss, M. Smith	9/11/79	25
Harris, John R.	9/11/79	25

Transferor	Date of Contribution	Amount
Hein, Robert H.	9/11/79	$ 20
Hightower, Donald E.	9/11/79	25
Hodson, Harry L.	9/11/79	80
Isaacs, Carl D.	9/11/79	50
Jacot, Paul G.	9/11/79	50
Kauffman, Robert L.	9/11/79	25
Kemmerer, Clyde L.	9/11/79	15
Key, Luster W.	9/11/79	25
Lancaster, B. N.	9/11/79	50
Lathrop, William G.	9/11/79	20
McEvoy, George B.	9/11/79	25
Miller, Robert L.	9/11/79	50
Moffett, Robert W.	9/11/79	10
Neal, D. W.	9/11/79	50
Nelson, Jack A.	9/11/79	45
Palmer, B. F.	9/11/79	25
Parsons, William N.	9/11/79	10
Post, Claude Jr.	9/11/79	50
Quade, Larry L.	9/11/79	50
Rader, Larry D.	9/11/79	40
Roger, Kenneth L.	9/11/79	50
Schuler, Charles J.	9/11/79	50

Transferor	Date of Contribution	Amount
Shannon, Robert D.	9/11/79	$ 25
Simmons, William P. C.	9/11/79	25
Sivley, Robert J.	9/11/79	50
Stull, Russell E.	9/11/79	25
Thomas, Gerald D.	9/11/79	25
Thompson, Glenn O.	9/11/79	10
Tubbs, Harden H.	9/11/79	50
Ulmer, Jack L.	9/11/79	50
Van Middlesworth, D. A.	9/11/79	10
Vobach, Melvin	9/11/79	25
Wallace, Fred B.	9/11/79	50
Ward, Eldon W.	9/11/79	25
Weeks, Elton L.	9/11/79	50
Wherry, John E.	9/11/79	25
Williams, Martin J. Jr.	9/11/79	25
Wright, Leonard R.	9/11/79	10
Total		$8,003

1/ Transfers-in not itemized on the disclosure reports.

2/ Transfers-in not reported on the disclosure reports.

3/ Transfer in-kind not reported on the disclosure reports.

4/ Earmarked contribution.

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

Headquarter's Account

PAYMENTS APPARENTLY MADE PER CONTRACT

Payee	Check No.	Date	Amount	Particulars
Response Marketing Group, Inc.	9	3/23/79	$ 5,815.49	Fundraising Fees
Response Marketing Group, Inc.	113	5/ 2/79	1,000.00	Rent 1/
Response Marketing Group, Inc.	1008	6/15/79	2,676.47	Fundraising Fees 2/
Bill Russo	286	6/28/79	9,166.67	Professional Services 3/
Margaret Bell	311	7/ 2/79	925.00	Office Furniture
Russo & Associates	545	8/ 9/79	4,166.67	Consulting
Tom Bell	550	8/10/79	1,138.50	Salary Expense Reimbursements 3/
Russo & Associates	596	8/21/79	2,467.93	Consulting
Russo & Associates	632	8/31/79	2,083.00	Consulting Services
Russo & Associates	675	9/14/79	2,083.00	Consulting Services
Russo & Associates	720	9/28/79	2,083.00	Consulting Services

Payee	Check No.	Date	Amount	Particulars
Western Union	759	10/12/79	$ 1,019.85	Advance - Illinois
Harry Turner Associates	Wire	1/ 4/80	17,000.00	Deposit - Mailing, Printing, Postage
Harry Turner Associates	Wire	1/ 9/80	5,000.00	Deposit - Mailing, Printing, Postage
Harry Turner Associates	Wire	1/16/80	34,221.27	Postage, Mailing - Iowa
Total			$ 90,846.85	

Unless otherwise noted, the particulars of the above expenditures were obtained from the disclosure reports.

1/ Particulars were indicated on the cancelled check.

2/ Invoice & check amount $7,712.23. Itemized charge on invoice for "Senate Design Letterhead." (50,000 items)

3/ Cancelled check not located.

4/ Particulars were indicated on unsigned, carbon copy of cashier's check.

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

Headquarter's Account

ADVANCES AND TRAVEL REIMBURSEMENT

Payee	Check No.	Date	Amount	Particulars
M. Williams	734	10/ 1/79	$ 500.00	Travel Expense Reimbursement
M. Maseng	758	10/10/79	100.00	Travel Expense Reimbursement
C. Ellis	783	10/16/79	1,000.00	Travel Expense Reimbursement
M. Williams	1013	10/26/79	1,000.00	Travel Expense Reimbursement
T. Pickett	1036	10/31/79	500.00	Travel Advance
K. Schmett	1039	10/31/79	500.00	Travel Advance
G. Campbell	1065	11/ 1/79	1,000.00	Travel Reimbursement - New England
K. Davis	1131	11/15/79	100.00	Not itemized
L. Bergen	1337	1/ 2/80	500.00	Travel Advance
E. Stucky	1341	1/ 2/80	500.00	Travel Advance
C. Ellis	1343	1/ 4/80	500.00	Travel Advance
M. Maseng	1345	1/ 7/80	500.00	Travel Advance
J. McSorley	1346	1/ 7/80	175.00	Travel Reimbursement
Robin Dole	1361	1/11/80	400.00	Travel Advance
C. Roberts	72154CC	1/16/80	2,000.00	Travel Expense Reimbursement
C. Bigler	69417CC	1/16/80	2,818.47	Travel Expense Reimbursement
H. Thompson	72226CC	1/16/80	426.95	Expense Reimbursement-Party
J. Drozda	69419CC	1/16/80	2,000.00	Consulting - Fundraising
C. Roberts	Unknown CC	1/16/80	2,083.66	Travel Expense Reimbursement

Payee	Check No.	Date	Amount	Particulars
L. Bergen	Not numbered	2/ 1/80	$ 199.24	Travel Expense Reimbursement
G. Davis	Not numbered	2/ 5/80	1,500.00	Travel Expense
J. Drozda	Wire	2/ 7/80	3,069.75	Travel Expense
Total			$21,373.07	

Unless otherwise noted, the particulars of the above expenditures were obtained from the disclosure reports.

CC= Cashier's Check number obtained from Cash Disbursements Journal

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

Headquarter's Account

APPARENT SALARY OR CASUAL LABOR

Payee	Check No.	Date	Amount	Particulars
S. Richardson	Unknown CC	1/15/80	$ 375.00	Salary
E. Stucky	Unknown CC	1/15/80	375.00	Salary
M. Horan	Unknown CC	1/15/80	195.00	Salary
M. Devito	Unknown CC	1/15/80	401.00	Salary
C. Roberts	Unknown CC	1/16/80	2,000.00	Salary
B. Igiehou	69430 CC	1/16/80	113.75	Phone Banks
M. Walters	69427 CC	1/16/80	116.38	Phone Banks
R. McCallister	69428 CC	1/16/80	148.75	Phone Banks
M. Warwick	69429 CC	1/16/80	146.30	Phone Banks
K. Coswell, Jr.	69430 CC	1/16/80	115.50	Phone Banks
Total			$3,986.68	

CC = Cashier's Check number from Cash Disbursements Journal

Unless otherwise noted, the particulars of the above expenditures were obtained from the disclosure report.

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

Headquarter's Account

OTHER SERVICES

Payee	Check No.	Date	Amount	Particulars
Barwick Industries	Wire	5/10/79	$ 9,229.55	Air Travel
Northwestern Bell	69418 CC	1/16/80	9,012.89	Telephone Service - Iowa
C&P Telephone	69421 CC	1/16/80	1,434.88	Telephone Service
Total			$19,677.32	

CC = Cashier's Check number from Cash Disbursements Journal

Unless otherwise noted, the particulars of the above expenditures were obtained from the disclosure report.

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

State Account - Iowa

Payee	Check No.	Date	Amount	Particulars
Cash	Unknown	8/21/79	$ 500.00	Travel Advance
Republican State Finance Committee	156	10/13/79	1,375.00	Tickets - GOP Dinner
Republican State Finance Committee	158	10/13/79	1,000.00	Tickets - GOP Dinner
Deans Studio	205	11/15/79	206.00	Reprint Photos
S. Toevs	255	12/13/79	200.00	Travel Advance
Cash	274	12/18/79	1,059.30	Travel Expense Reimbursement
T. Pickett	275	12/18/79	1,142.39	Travel Expense Reimbursement
D. Cohen	276	12/18/79	544.52	Travel Expense Reimbursement
J. Mercerner	282	12/19/79	900.00	Consulting Fee
J. Mercerner	283	12/19/79	1,100.00	Travel Expense Reimbursement
C. Wert	48315 CC	1/23/80	156.49	Travel Expense 4/
J. Bradbury	48200 CC	1/18/80	332.37	Travel 4/
J. Bradbury	48153 CC	1/17/80	319.99	Travel 4/
M. Williams	48097 CC	1/16/80	1,500.00	Travel Advance 4/
Mrs. Beckford	48283 CC	1/21/80	200.00	Phone Bank Coordinator 4/
L. Demis (Yates)	48154 CC	1/17/80	200.00	Travel Advance 4/
K. Wells	48112 CC	1/16/80	250.00	Travel Advance 4/

4/ Particulars were indicated on unsigned, carbon copy of cashier's check.

Payee	Check No.	Date	Amount	Particulars
D. Cohen	48122 CC	1/16/80	$ 250.00	Travel Advance 4/
R. Morg	48115 CC	1/16/80	250.00	Travel Advance 4/
T. Pickett	48111 CC	1/16/80	500.00	Travel Advance 4/
D. Cohen	48110 CC	1/16/80	600.00	Travel Advance 4/
S. Severson	48119 CC	1/16/80	250.00	Travel Advance 4/
C. Hartman	48124 CC	1/16/80	250.00	Travel Advance 4/
Howard Johnson's	48207 CC	1/18/80	500.00	Rooms - Staff
Howard Johnson's	48205 CC	1/18/80	1,500.00	Rooms - Staff
Howard Johnson's	48206 CC	1/18/80	500.00	Rooms - Staff
Ramada Inn	48135 CC	1/16/80	2,500.00	Rooms - Staff
Ramada Inn	48202 CC	1/18/80	1,500.00	Rooms - Staff
Discount Printers	48096 CC	1/16/80	4,000.00	Printing
National Rent-a-Car	48232 CC	1/21/80	1,152.78	Car Rental 4/
Koupal, Schmett & Baily	48296 CC	1/22/80	495.00	Phone Expense Advance 4/
J. Mercerner	48160 CC	1/17/80	566.69	Services 4/
Buttons & Badges	48102 CC	1/16/80	250.00	Campaign Buttons
Total			$26,050.53	

4/ Particulars were indicated on unsigned, carbon copy of cashier's check.

EXPENDITURES LACKING SUPPORTING DOCUMENTATION

State Account - New Hampshire

Payee	Check No.	Date	Amount	Particulars
S. Severson	132	8/31/79	$ 140.00	Travel Expense Reimbursement
C. Ellis	Not Prenumbered	2/ 1/80	500.00	Travel Advance 1/
M. Williams	Not Prenumbered	2/ 1/80	500.00	Travel Advance 1/
C. Ellis	Not Prenumbered	2/ 8/80	300.00	Travel Advance
M. Maseng	Not Prenumbered	2/ 1/80	1,000.00	Travel Advance 1/
N.H. Poll	Not Prenumbered	2/22/80	2,000.00	Not indicated
C.I.E.	Not Prenumbered	1/30/80	321.00	Video Tapes
D. Sands	Not Prenumbered	1/14/80	175.00	Expenses 1/
J. Bricker	Not Prenumbered	1/14/80	153.47	Expenses 1/
Bank of New Hampshire	Not Prenumbered	1/16/80	5,282.96	Purchase Cashier's Checks
Holiday Inn	Not Prenumbered	2/14/80	452.06	Rooms 1/
Holiday Inn ("Exchange for cash" on reverse of check)	Not Prenumbered	2/22/80	501.39	Rooms 1/
Total			$11,325.88	

1/ Particulars were indicated on the cancelled check.

DAVID C. OWEN
Chairman of the Board
President
STANLEY D. BUSS
Executive Vice President
WALTER D. DOTSON
Vice President
H. J. WELTON
Cashier
ROBERT L. JACKSON JR. Director
LYNN L. McCARTHY Director
RICHARD W. RADKE DDS Director
M R WINDHAM Director

STATE BANK of STANLEY
SINCE 1905

913 - 681-2511 • Post Office Box 8, STANLEY, KANSAS 66223

Attachment E

December 14, 1979

Ms. JoAnne Coe
Dole for President Committee
7700 Leesburg Pike
Suite 201
Falls Church, Virginia 22043

Dear JoAnne:

Please find enclosed a note for Elizabeth Dole in the amount of $50,000.00, per your request. I am also enclosing an Assignment form which requires Elizabeth's signature.

The interest rate on this note is 13.5%, since we are required by law to charge at least 1% over the rate we pay on the Certificate of Deposit. This rate is considerably below the existing prime rate, so I think it is a fair situation.

Please return the note and Assignment to me, along with instructions as to where you would like the money sent. If you prefer, I can wire transfer to your bank in Washington, if you will give me the instructions to do so.

Sincerely yours,

Dave

David C. Owen

[illegible]

DCO/ks

Enclosures

KANSAS

STANDING COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
FINANCE
JUDICIARY

United States Senate

WASHINGTON, D.C. 20510

December 17, 1979

Mr. David C. Owen
President
State Bank of Stanley
P. O. Box 8
Stanley, Kansas 66223

Dear Dave:

Enclosed is the Promissory Note with Elizabeth's signature, as well as the signed Assignment for the C/D.

I will appreciate your making arrangements for a wire transfer of the funds to the campaign's bank account: First American Bank of Virginia, King and Royal Street, Alexandria, Va. 22314. Account name, "Dole for President Committee", Account Number: 061 64 765.

As I indicated, these funds are needed at the earliest possible time, and I will therefore appreciate your expediting the bank transfer.

Sincerely yours,

Jo-Anne Coe

Jo-Anne Coe

Enclosure

ASSIGNMENT OF CERTIFICATE OF DEPOSIT

TO: State Bank of Stanley
P.O. Box 8, Stanley, Kansas

FOR VALUE RECEIVED, I/We hereby assign to you my/our Certificate of Deposit No. 1591 as security for FIFTY THOUSAND -------------- DOLLARS ($ 50,000.00).

This assignment shall be continuing one and shall be effective for any renewals of above loan until same is entirely paid, and shall operate as security for payment for any other debts or liabilities of the undersigned to you now in existence or hereafter contracted.

You are hereby authorized to cash the above Certificate of Deposit for note or notes representing unpaid balance of above loans at maturity or thereafter, with interest and costs, if not otherwise paid.

Elizabeth Hanford Dole (Seal)
Elizabeth Hanford Dole

(Seal)

Witnessed by:
Jo-Anne L. Coe

LENDER/SECURED PARTY

PROMISSORY NOTE

Dole, Elizabeth Hanford
Watergate South, Apt. 112
700 New Hampshire Avenue, NW
Washington, D.C. 20037

STATE BANK of STANLEY
SINCE 1905
Box 8, STANLEY, KANSAS 66223

For value received, Consumers promise to pay to the order of the Lender named herein the Total of Payments shown below.

PREPAYMENT. Consumers may prepay this loan in full at any time without penalty, in which case any unearned FINANCE CHARGE will be refunded based upon the "Rule of 78", if in excess of $1.00 provided, however, that the Lender will collect or retain a minimum FINANCE CHARGE of $5.00 when the Amount Financed is $75.00 or less, or $7.50 when the Amount Financed exceeds $75.00. In the event of partial prepayment, any unearned amounts of the FINANCE CHARGE may be retained by the Lender.

DELINQUENCY CHARGES. If any installment is not paid in full within 10 days after its scheduled due date, the Lender shall be entitled to a delinquency charge, computed by either one of the following methods: (a) an amount, not exceeding $2.50, which is equal to 5% of the unpaid amount of the installment, or (b) the deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

DEFERRAL CHARGES. If any installment is not paid in full within 10 days after its scheduled due date, the Lender may elect to unilaterally defer all or part of one or more unpaid installments, and collect a charge not exceeding an amount equal to the ANNUAL PERCENTAGE RATE stated herein, applied to the amounts deferred for the period of deferral.

ACCELERATION OF PAYMENT. Lender may accelerate payment or performance of this note if (a) any sum is not paid when due, or (b) the Lender or holder believes that the prospect of payment, performance, or realization of collateral is significantly impaired, or (c) upon the commencement of any proceedings under any bankruptcy or insolvency laws by or against any party liable hereon directly or contingently.

Lender may apply any moneys belonging to Consumers or any other party liable hereon, which are on deposit with Lender in satisfaction of all amounts due any holder of this note.

Consumers and all other signers waive presentment, notice of dishonor and protest, and consent to (a) any and all extensions of time for any term or terms regarding any payment due under this note, partial payments or renewals before or after maturity, (b) any substitution or release of collateral, and (c) the addition or release of any party or guarantor. Acceptance of partial payment or performance shall not operate as a waiver of any requirement of this note.

COLLATERAL

This loan is secured by deposits of Consumers and all other parties liable hereon. Consumers also grant to Lender a security interest in the following property, together with all parts and equipment used in connection therewith, additions, replacements, accessions, proceeds, products, and similar after acquired property, provided, this security interest shall not attach to after-acquired consumer goods, except accessions, unless the Consumers acquire rights in such after acquired consumer goods within ten days after the Lender gives value. This security interest is given to secure payment of all the Consumers' present and future indebtedness of any type to Lender, including without limitation future advances, all expenditures by Lender for taxes, insurance, repairs to and maintenance of collateral, and all expenses of Lender in realizing on its security interest.

Assignment of Certificate of Deposit No. 1591

Collateral will be located in ______________ County at ☐ Consumer's Address

☐ Other Address ______________

Collateral covered by Security Agreement is to be used by Consumers primarily for:

☐ Personal, Family, or Household purposes

☐ Agricultural ☐ Business

Collateral is

☐ Being acquired with loan proceeds

☐ Now owned by Consumers

DATE FINANCE CHARGE BEGINS TO ACCRUE	NUMBER OF PAYMENTS	FREQUENCY OF PAYMENTS	AMOUNT OF PAYMENTS		DUE DATES OF PAYMENTS		
			Regular	Final	First Payment	Other Payments Same Day of Each Month	Final Payment
12/14/79	1	☒ 180 days ☐ Monthly	$	$ 50,000.00+Int.			6/11/80

INSURANCE STATEMENT

DISCLOSURE STATEMENT

CREDIT LIFE & DISABILITY INSURANCE are not required to obtain this loan. Such insurance will only be provided if Consumers request Lender to obtain such insurance by checking the type of coverage desired and signing below.

☐ Credit Life Insurance for the term of loan, or until ....

Cost for One Person $ .... Cost for Two Persons $

☐ Disability Insurance for the term of loan, or until ....

Cost for One Person $ ....

☐ I/We do not want Credit Life or Disability Insurance

PROPERTY & VENDOR'S SINGLE INTEREST INSURANCE may be obtained by Consumers through any person of their choice. If obtained through Lender, the costs will be

☐ Property Insurance for .... months at a cost of $

☐ Vendor's Single Interest Insurance for .... months $

(The Insurer issuing this policy waives its right to subrogation against Consumers)

☒ ..... do not .... $ ....

I/We desire the insurance checked above. Date

X Elizabeth Hanford Dole
Elizabeth Hanford Dole

X ....

X

1. Proceeds $ 50,000.00
2. Other Charges, Itemized
   ______ $______
   ______ $______
   ______ $______
3. Amount Financed (1 & 2) $ 50,000.00
4. FINANCE CHARGE $ 3,328.77
5. Total of Payments $ 53,328.77

ANNUAL PERCENTAGE RATE 13.5 %

CONSUMER SIGNATURES

This loan is subject to Sections 1 thru 13 of the Kansas Uniform Consumer Credit Code. I/We agree to the terms of this Promissory Note & Disclosure Statement, and terms of ☐ Security Agreement, including the terms on the reverse side.

I/We have received a completed copy of this form.

X Elizabeth Hanford Dole
Elizabeth Hanford Dole

X ....

X

NOTICE TO CONSUMERS

1. Do not sign this agreement before you read it.
2. You are entitled to a copy of this agreement.
3. You may prepay the unpaid balance at any time without penalty.

LENDER SIGNATURE

representing the Lender and Secured Party

Burns Olathe Form 2040

NOTICE: SEE OTHER SIDE FOR IMPORTANT INFORMATION

700 New Hampshire Avenue, N.W.
Apartment 112
Washington, D.C. 20037
December 14, 1979

Dole for President Committee
104 North St. Asaph Street
Alexandria, Virginia 22314

Gentlemen:

I have today instructed State Bank of Stanley, Kansas, to transfer to your bank account (No. 061-64-765, First American Bank of Virginia), $50,000, representing a loan from me to the Committee.

The interest rate on this personal loan is 13.5%, with finance charges beginning to accrue effective today's date. Finance charges total $3,328.77, and the note is payable within 180 days from today (or June 11, 1980).

A copy of my correspondence with the State Bank of Stanley regarding this loan is enclosed for your records.

Sincerely yours,

Elizabeth H. Dole

ELIZABETH HANFORD DOLE

FIRST AMERICAN
FIRST AMERICAN BANK OF VIRGINIA
1970 Chain Bridge Road McLean, Virginia 22101

PAGE 3

0 01 04 705
ACCOUNT NUMBER

12/31/79
DATE OF STATEMENT

BALANCE FROM PREVIOUS STATEMENT	NUMBER OF DEBITS	AMOUNT OF CHECKS/DEBITS	NUMBER OF CREDITS	AMOUNT OF DEPOSITS/CREDITS	SERVICE CHARGE	STATEMENT BALANCE

NEW 6 MONTH CD-SAME RATE AS 6 MONTH TREASURY BILL

DATE	CHECKS/DEBITS	CHECKS/DEBITS	DEPOSITS/CREDITS	BALANCE
12 19	50.00	538.67		
	557.93	2,611.73		14,709.04
12 20	wire 2,005.00DMR	150.00	from 50,000.00CM	
	200.00	339.58		
	390.35	390.35		
	401.15	1,571.39		59,261.22
12 21	wire 6,005.00DMR	306.11		
	500.00			52,450.11
12 24	75.00	319.58	2,665.00	
	332.35	443.37		
	500.00	500.00		
	614.45	5,001.30		47,329.03
12 27	wire 1,255.00DMR	wire 2,005.00DMR	4,235.00	
	36.75	179.56	4,425.00	
	457.29	572.13		
	640.83	2,325.58		48,516.59
12 28	wire 5,005.00DMR	100.00	1,000.00	
	148.00	498.11	8,295.00	52,060.46
12 31	28.58	208.48		
	1,000.00			50,823.42

PLEASE EXAMINE AT ONCE AND ADVISE US PROMPTLY OF ANY DIFFERENCE
SEE FORM FOR RECONCILING ON BACK

$ 20,202.71 $ 12,061.24 $ 70,625.00

LS — LISTED CHECKS	DM — DEBIT MEMO	CM — CREDIT MEMO	RT — RETURN
SC — SERVICE CHARGE	EC — ERROR CORRECTION	OD — OVERDRAWN	

Attachment F

DEBTS AND OBLIGATIONS REQUIRING SUPPORTING DOCUMENTATION

Creditor	Date Incurred	Amount	Nature of Debt
Tom Bell	6/25/79	$ 9.00	Travel & Office Expense
Tom Bell	6/20/79	5.08	Travel & Office Expense
Jim McAvoy	Various	276.65	Travel & Meeting Expense
McLaughlin & Company	7/ 3/79	2,824.74	Consulting Service
Brad O'Leary	4/ 4/79	128.00	Travel & Meeting Expense
Brad O'Leary	5/ 5/79	176.49	Travel & Meeting Expense
Brad O'Leary	5/19/79	505.83	Travel & Meeting Expense
Brad O'Leary	5/12/79	1,871.40	Travel & Meeting Expense
Brad O'Leary	4/21/79	268.00	Travel & Meeting Expense
Brad O'Leary	3/ 3/79	107.00	Travel & Meeting Expense
Brad O'Leary	2/24/79	151.65	Travel & Meeting Expense
Brad O'Leary	3/24/79	520.08	Travel & Meeting Expense
Ramada Inn	7/15/79	337.48	Hotel Room
Total		$7,181.40	

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1257

Date Filmed 2/11/82 Camera No. --- 2

Cameraman DPC

3 2 0 1 0 3 0 5 0 6 1

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

82 MAR 5 A 9: 28

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE

PUBLIC FILE OF CLOSED MUR 1257.

8 2 0 4 0 3 1 0 9 5 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 25, 1982

Clifton Peter Rose, Esquire
Williams and Jensen, P.C.
1101 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1257

Dear Mr. Rose:

Enclosed for your records is a copy of the final General Counsel's Report in connection with the above-referenced MUR.

A copy of this report will be made part of the amended public file in this matter. Should you have any questions, please contact Suzanne Callahan, at (202) 523-4057.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Final General Counsel's Report

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

COMMISSION SECRETARY

91 OCT 27 A10: 58

In the Matter of	)	
	)	
	)	MUR 1257
Dole for President Committee	)	
Elizabeth Hanford Dole	)	

GENERAL COUNSEL'S REPORT

I. Background

On September 30, 1980, the Commission found reason to believe that Elizabeth Hanford Dole made a contribution to the Dole for President Committee (Committee) in excess of the contribution limit of 2 U.S.C. § 441a(a)(1)(A) and that the Committee knowingly accepted such a contribution in violation of 2 U.S.C. § 441a(f). On December 20, 1979, Elizabeth Hanford Dole, the wife of Senator Robert Dole, loaned the Dole for President Committee, the principal campaign committee of Senator Dole, $50,000. The $50,000 that Mrs. Dole loaned the Committee was derived from a bank loan to Mrs. Dole in which a certificate of deposit was used as collateral. The certificate of deposit was in the name of Elizabeth Hanford Dole and was partially comprised of proceeds from a blind trust established at a time when Mrs. Dole was a Commissioner at the Federal Trade Commission before Mrs. Dole's marriage to Senator Dole. The remainder of the certificate of deposit, , was comprised of a lump sum payment Mrs. Dole received in 1979 as a beneficiary of the death benefits payable upon her father's

82040310961

death under a qualified pension plan under the

26 U.S.C. § 9035(a) prohibits a candidate from knowingly making expenditures "from his personal funds, or the personal funds of his immediate family," in excess of $50,000. The term "immediate family" includes a candidate's spouse. 26 U.S.C. § 9035(b). The meaning of "personal funds" has the same meaning as specified in 11 C.F.R. § 110.10. 11 C.F.R. § 9035(c). The term "personal funds" is defined as:

> Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment, under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members. (emphasis added).
> 11 C.F.R. § 110 .10(b)

In almost identical language, 26 U.S.C. § 9004(d) prohibits candidates seeking election for the Office of President from making expenditures "from his personal funds, or the personal funds of his immediate family" in excess of $50,000. In the Regulation, the term "personal funds of his immediate family" means any funds, including funds from immediate family members which at the time the candidate became a candidate, he had legal or rightful title or which under applicable State law, he had the right of beneficial enjoyment and had either a legal right of access or control over. 11 C.F.R. § 9003.2(c). Contributions by family members from funds over which the candidate, at the time he became a candidate, had no control or access to are subject to the $1,000 limitation under 2 U.S.C. § 441a. See Explanation and Justification of Commission Regulation 9003.2. 45 Fed. Reg. 43371, 43373 (June 27, 1980). Thus, assuming the language "personal funds of immediate family" of 26 U.S.C. § 9035 is to be interpreted in the same manner as such phrase is interpreted in 26 U.S.C. § 9004(d), then the question presented is whether Senator Dole had the requisite legal title or, in the alternative, beneficial enjoyment under state law as well as legal access or control over the $50,000 loaned to the Committee. The General Counsel analyzed this issue in its brief dated April 24, 1981, recommending a Commission finding of probable cause to believe. Brief for the Respondents dated June 19, 1981, was submitted by counsel and timely filed. After a review of this brief and further analysis of Kansas law, it is the recommendation of this Office that the Commission take no further action in this matter and close the file.

II. Legal Analysis

The applicable Kansas statute is § 23-201 which states:

> (a) The property, real and personal, which any person in this state may own at the time of his or her marriage...and any real, personal or mixed property which shall come to him or her by descent, devise or bequest, or the gift of any person except his or her spouse, shall remain his or her sole and separate property, notwithstanding the marriage, and not be subject to the disposal of his or her spouse or liable for spouse's debts.
>
> (b) Property, other than property described in subsection (a) or property excluded by a written agreement by the parties, acquired by either spouse

> after marriage and before commencement of an action for divorce, separate maintenance, or annulment, regardless of whether title is held individually or by the spouse in some form of co-ownership such as joint tenancy or tenancy in common, shall be marital property. Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment, the extent of the vested interest to be determined and finalized by the court pursuant to K.S.A. 1978 Supp. 60-1610, and any amendments thereto.

Under Kansas law, property acquired by a person during marriage is subject to the disposal of his or her spouse unless such property is received "by descent, devise or bequest, or by gift." KAN. STAT. ANN. § 23-201(a). Furthermore, property, other than property described in subsection (a) shall be marital property in which each spouse has a common ownership regardless of whether title is held individually or by the spouse in some form of co-ownership such as joint tenancy or tenancy in common. This common ownership vests not later than the time of commencement of an action for divorce. KAN. STAT. ANN. § 23-201(b).[1/] Counsel for respondents argue that the receipt by Elizabeth Dole of the $ in death benefits derived from her father's pension plan is not section (a) property in that the death benefits were acquired during marriage and were not acquired by "descent,

---

1/ It is not entirely clear whether "common ownership" equates with legal title to the whole of the property, or to only one-half for each spouse. While traditional community property law treats spouses as owners of one-half only, it may be that Kansas would treat each spouse as an owner of the whole.

devise or bequest, or by gift." Rather, they argue, the acquisition of the death benefits during marriage is marital property of which Senator Dole has a common ownership under section (b) of the Kansas statute. If respondents' contentions are correct, then Senator Dole would have the requisite legal title or beneficial enjoyment and legal right of access and control under 11 C.F.R. § 110.10(b) so that the death benefits would be considered the "personal funds" of Senator Dole.[2/] As is more fully discussed below, the Office of General Counsel recommends that the Commission take no further action in this matter and close the file.

KAN. STAT. § 23-201(b) was enacted in 1978 as a legislative reaction to United States v. Davis, 370 U.S. 65 (1962), where the United States Supreme Court held that inchoate rights granted to a wife in the separate property of her husband do not reach the dignity of co-ownership and thus the transfer to the wife pursuant to a property settlement agreement of appreciated stock owned solely by the husband was a taxable event. Wachholz v. Wachholz, 4 K.A. 2d 161, 603 P.2d 537 (1980). In Wachholz, the court stated that the enactment of subsection (b) was intended to make the

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2/ In a letter dated April 9, 1981, counsel for respondents stipulated that the proceeds of the certificate of deposit constituted property described in section 23-201(a). Based on the stipulation, the General Counsel's Brief did not thoroughly analyze the Kansas statute at issue in this matter. Subsequently in a letter dated May 18, 1981, counsel withdrew the above described stipulation. The withdrawal of the stipulation therefore requires a further analysis of Kansas law.

transfer of property that is acquired during the marriage by either or both spouses and transferred to the other by a divorce decree to be a nontaxable event, even though title is held individually, since it is merely a transfer between co-owners. Id. at 164. The court thus viewed the purpose of the amended statute as being "solely...for allowing greater flexibility in the division of property as a result of the termination of a marriage by eliminating the possibility of the division creating a taxable event" and stated: "In short, the intent and purpose of the legislature in adopting subsection (b) was clearly limited to affecting taxation." Id at 164.

The Commission could rely on Wachholz to counter respondents' contention and to argue that subsection (b) of KAN. STAT. ANN. § 23-201 does not create common ownership of marital property but was intended solely to affect taxation of property settlements. However, the Kansas legislature on July 1, 1981, amended subsection (b) of K.S.A. 1980 Supp. 23-201 to read as follows:

> (b) All property owned by married persons, whether described in subsection (a) or acquired by either spouse after marriage, and whether held individually or by the spouses in some form of co-ownership, such as joint tenancy or tenancy in common, shall become marital property at the time of commencement by one spouse against the other of an action in which a final decree is entered for divorce, separate maintenance, or annulment. Each spouse has a common ownership in marital property which vests at the time of commencement of such action, the extent of the vested interest to be determined and finalized by the court, pursuant to K.S.A. 1980 Supp. 60-1610 and amendments thereto. (emphasis added).

The effect of this statutory change is to make clear that the notion of marital property and common ownership occurs at the time of commencement of a divorce action and at that time only. Former subsection (b) seemingly accorded notions of common ownership in certain marital property up to and until the filing of a divorce action and regardless of whether such a divorce action was filed. ("Each spouse has a common ownership in marital property which vests not later than the time of commencement by one spouse against the other "for an action for divorce.)

The Commission could take the position that the new amendment merely restates prior law and is consistent with the Wachholz holding, but such a position might be viewed as a contradiction in itself, "varnishing nonsense with the charm of sound." American Automobile Association v. United States, 367 U.S. 687, 695 (1961). Furthermore, at the time this matter took place in December 1979, Senator and Mrs. Dole did not have the benefit of either the Wachholz decision or the most recent statutory change.

Another statutory barrier obstructing the Commission's path is classifying the death benefits received by Mrs. Dole as the beneficiary of her father's pension plan as property acquired by "descent, devise or bequest, or by gift." The difficulty with this approach is to try fitting modern concepts such as ERISA plans into a statutory scheme enacted in the mid-nineteenth century. Under traditional definitions, the Commission would be hard-pressed to classify the death benefits as property acquired "by descent, bequest or devise, or gift" for the reasons stated in respondents' brief. A review of Kansas law does not shed any light on the subject. If the Commission were to proceed in this matter, the best argument to be made is that Mrs. Dole acquired the death benefits by descent. The Commission would have to reject the traditional view that "descent refers only to hereditary succession to real property, or the division of the real property of intestates." Brief for Respondents at 5. A New Jersy case involving a statute similar to § 23-201(a) held that inheritance of "personalty" was the sole property of the spouse. Horner v. Webster, 33 N.J.L. 387, 400. However, this Office has not yet been able to find a case that classified a transaction similar to the one at issue in this matter as property acquired by descent.

Counsel for respondents, in addition to the arguments concerning the interpretation of Kansas law seek dismissal of this matter on four other grounds. Counsel argues that state law should not govern what constitutes a Presidential candidate's personal funds and that the use of state law in this matter is violative of the Equal Protection Clause and First Amendment of the United States Constitution. Additionally, counsel argues that 26 U.S.C. § 9035 and 11 C.F.R. § 110.10(b)(1) are unconstitutionally vague. Further, the statutory requirement that acceptance by the Dole Committee be "knowing" was not met under the circumstances in this matter. It is the opinion of the Office of the General Counsel that these contentions by themselves do not preclude further Commission action.

The first two arguments concerning the use of state law to determine federal issues do pose difficult questions and it may be anomalous that the definition of personal funds is dependent on state law. However, it is not unusual that state law controls the determination of a federal issue especially in the context of property rights, *see* *United States v. Davis*, *supra*, although this is true only in the event federal law, by express language or necessary implication, makes operation of federal law dependent upon state law. *Cady v. Cady*, 224 Kan, 339, 581 P.2d 358 (1978). Since 11 C.F.R. § 110.10(b) requires application of state law to determine "personal funds", such application is valid.

Respondents' contention that 26 U.S.C. § 9035 and 11 C.F.R. § 110.10(b)(1) are unconstitutionally vague is not sustainable. In most cases, courts have struck down only criminal statutes on vagueness grounds. Although the Commission's interpretation of 26 U.S.C. § 9035 is very narrow, such an interpretation is rational, *see* *Buckley v. Valeo* 424 U.S. 1, 52 n.57 (1976) and clearly expressed in the regulations, so that people of "common intelligence" need not guess at its meaning. *Baggett v. Bullitt*, 377 U.S. 360, 367 (1964).

Respondents' final argument is that the "knowing requirement of 2 U.S.C. § 441a(f) be construed to mean the same as "knowingly and willfully." Such a contention is untenable and should be rejected. If Congress wanted to require that a violation of § 441a(f) be made "knowingly and willfully" it would have so stated. *See* 26 U.S.C. §§ 9042 and 9012. The "knowing" requirement only requires that the Commisison find that the transaction was voluntary as opposed to involuntary. See Federal Election Commission v. California Medical Association, 502 F. Supp. 196, 203, 204 (N.D. Cal. 1980), affd, ____ U.S. ____, 101 S. Ct. 2712 (1981).

III. Conclusion

The Commission should take no further action in this matter due to the unique nature of Kansas law at the time of the transaction in issue in this matter.

IV. Recommendation

1. Take no further action.
2. Close the file.
3. Notify counsel for respondent.

Oct. 26, 1981
Date

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachment

Letter to counsel

#050

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

TO: KENNETH GROSS, ASSOCIATE GENERAL COUNSEL

FROM: CHAIRMAN FRANK P. REICHE

DATE: FEBRUARY 9, 1982

SUBJECT: PUBLIC FILE OF MUR 1257

It has recently come to my attention that through an inadvertent error in my office the attached statement setting forth my view of the legal issue involved in MUR 1257 was never forwarded to your office for inclusion in the public record.

I regret the error and ask that the attached statement be entered into the public record of MUR 1257 as soon as possible. I understand that your office will forward this request to the office of the Commission Secretary for action.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

STATEMENT OF COMMISSIONER FRANK P. REICHE

TO BE INCLUDED IN THE PUBLIC FILE

OF MUR 1257

On September 30, 1980 the Federal Election Commission found reason to believe that Elizabeth Hanford Dole had made a contribution to the Dole for President Committee in excess of the contribution limit set forth in 2 U.S.C. Section 441a(a)(1)(A) and also that the Committee had knowingly accepted such contribution in violation of U.S.C. Section 441a(f). Recently the Commission considered the recommendation of its General Counsel that no further action be taken in this matter "due to the unique nature of Kansas law at the time of the transaction." Thus, the Commission declined to find probable cause to believe that a violation or violations of the Federal Election Campaign Act had occurred. While I concur in taking no further action in this matter, my decision is based in part upon different reasons from those advanced by the General Counsel in his report to the Commission.

The gravamen of this case is whether or not the collateral for a loan of $50,000.00 by Mrs. Dole to the Committee represented assets to which Senator Dole, at the time he became a candidate, had legal and rightful title, or with respect to which Senator Dole had the right of beneficial enjoyment under applicable State law (Kansas), thus avoiding application of the $1,000 contribution limit to Mrs. Dole. Both the General Counsel and the Committee's Counsel have analyzed the legal questions in detail. Part of the funds utilized by Mrs. Dole for this loan came from a blind trust established when she was a Commissioner of the Federal Trade Commission before her marriage to Senator Dole--clearly funds subject solely to Mrs. Dole's control. The remaining funds represented a lump sum payment which Mrs. Dole received in 1979 after her marriage to Senator Dole as the beneficiary of pension death benefits paid following her father's death.

I agree with the General Counsel in rejecting the argument of the Committee's Counsel that State law should not govern the determination of property rights under the Federal Election Campaign Act. It is not unusual under Federal law for property rights to be determined by reference to State law. This is particularly true with respect to tax matters involving the Internal Revenue Service. Likewise, I agree with the General Counsel that the degree of knowledge required of the Committee before it will be held guilty of knowingly violating the Act does not rise to the criminal standard of willful and knowing. To the contrary, it is sufficient if such knowledge leads to the conclusion that the Committee's receipt of the loan proceeds was voluntary on its part.

I differ with the General Counsel in connection with his assessment of the potential property rights of Senator Dole in the loan collateral of his wife under Kansas law. The General Counsel appears to lean in the direction of holding that Senator Dole was perhaps a joint owner of such property, and that it was marital property even though the Kansas Statute specifically excludes from marital property, property acquired by "descent, devise or bequest." It is true that Mrs. Dole did not acquire any of such property by devise--a word of art utilized to indicate the conveyance of real property. Neither, in the technical sense, can it be said that Mrs. Dole acquired such property by descent--a term normally applied to the hereditary acquisition of real property. It is possible to argue that the term "bequest" does not apply to the transfer of this property to Mrs. Dole, but I submit that such a technical interpretation does violence to the obvious intent of the Kansas Statute which was to exclude from the definition of marital property, and thus free from the control of the non-owner spouse, property acquired by inheritance. If the issue at stake were not the establishment of property rights to loan proceeds under the Federal Election Campaign Act, but were instead the establishment of some other property rights, then I believe that Mrs. Dole, as the rightful owner of such monies, could firmly and successfully assert her right to sole control over them. Nor does the amendment adopted by the Kansas

Legislature establish Senator Dole's rights to such property. Indeed, I would agree with the General Counsel that the purpose of such amendment was to protect from Federal taxation the transfer of such assets as part of a domestic relations property settlement.

It would, therefore, appear that Senator Dole was not the joint owner of the property loaned by Mrs. Dole to his Presidential Committee and hence did not have the requisite control over or access to such monies in his own right at the time he became a Presidential candidate, thereby avoiding the contribution limit of $1,000 which would otherwise apply. On the other hand, this is an area of the law which has proved very confusing to candidates and political committees alike. There is no evidence of any intention on the part of Mrs. Dole or her husband's Presidential Campaign Committee to avoid strict compliance with the Act. To the contrary, the conduct of all parties to this transaction indicates at most an inadvertent violation of the Act. I believe the hazards of litigation under these circumstances are great. While I question the characterization of Senator Dole's property rights in this case, I would nevertheless concur that the applicable law is sufficiently ambiguous and the probability of succeeding in court sufficiently hazardous to suggest that no further action be taken in this matter.

Frank P. Reiche

Frank P. Reiche, Commissioner

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FEDERAL ELECTION COMMISSION

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END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1257.