

CLINTON GORE '96

December 16, 1996

Lawrence M. Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
6th Floor
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
DEC 16 3 59 PM '96

Re: MUR 4545, The Clinton/Gore '96 Primary Committee, Inc.
Joan Pollitt, Treasurer

Dear Mr. Noble:

As the designated counsel to the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and Joan Pollitt, as treasurer, we are providing this response to the complaint in the above-captioned matter. As fully demonstrated below, the information submitted in this response will conclusively demonstrate that the Commission should find no reason to believe that the Committee has violated any provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §431 et seq. (the "Act" or "FECA").

Statement of the Case

The basis for this complaint is an incomplete and inaccurate *Washington Times* story describing the Committee's train trip in August 1996 which transported the President from Washington, DC to the Democratic National Convention (the "convention") in Chicago, Illinois. Complainant alleges -- erroneously -- that the Committee did not pay for all of the campaign-related expenses of this train trip. Unabashedly contradicting itself, the complainant accuses the Committee of requiring the "taxpayers" to pay for some of these travel costs, yet the violation alleged is that Amtrak or some other vendor paid these costs in the form of an improper corporate contribution. The truth, as fully explained below, is that the Committee paid for the substantial costs of this mode of transportation, as required by the Act and the Commission's regulations.

The train trip began on August 24, 1996 in West Virginia, continuing on through Kentucky, Ohio, Michigan and Indiana for the following four days which directly preceded the President's arrival at the convention. At various stops along the route, the Committee held campaign rallies and events. The primary vendor for the trip was AMTRAK which supplied the train and with which the Committee negotiated an arm's length transaction, to provide the train cars. Various other vendors were involved in supplying services for the different events which occurred at stops along the route, and Committee representatives dealt with all of them on a arm's length basis, identical to any other campaign trip taken by the President during the course of the campaign.

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PAID FOR BY THE CLINTON/GORE '96 GENERAL COMMITTEE, INC.

Legal Analysis

1. The Committee made expenditures exceeding \$1 million for the campaign-related costs of the train trip.

In accordance with the Act, the Commission's regulations state that the costs of campaign-related travel of a presidential candidate are qualified campaign expenses and shall be paid for by the candidate's principal campaign committee. See 26 C.F.R. §9034.7. In accordance with the Commission's regulations and contrary to the complainant's allegations, the Committee paid for the campaign-related portion of the train trip, which amounted to substantial expenditures totaling in excess of \$1 million and far exceeding the \$113,000 alleged by complainant as the only amount paid by the Committee.¹ A spreadsheet is attached hereto which details all of the costs of the train trip and is summarized below.

For purposes of explanation, the costs of the train trip are divided into two categories: (1) the costs of the train cars used by the President and other political passengers and (2) other expenses associated with the train trip. This latter category includes items such as event costs, advance costs, telephone and fax costs, and satellite costs.

With regard to the cars used by the President and other political passengers, the Committee paid a total of \$161,702. These costs specifically included Amtrak's charges, the use of the cars, on-board services and labor, and meals. In addition, special reconfiguration of the President's car and the costs of on-board decorations of these cars were paid entirely by the Committee, as shown on the attached spreadsheet.

With regard to other associated costs of the train trip, these were paid 100% by the Committee and totaled \$910,461.00. These costs specifically included advance costs, overnight costs, event and motorcade costs for stops along the route, telephone and fax costs, and satellite costs. None of these costs were paid for by the Secret Service, the White House Communications Agency, the press, AMTRAK, or any other vendor.

Accordingly, the total amount paid by the Committee for the train trip was \$1,072,163.00, far exceeding the erroneous amount cited by complainant.

2. There is no evidence to support the allegation that anyone other than the Committee paid for the campaign-related expenses of the train trip.

In light of this precedent and the fact that the Committee paid significant amounts for this

¹The remarks made by Mike McCurry were based on information available at that time -- August 29, 1996, one day after the trip itself -- prior to when all of the costs were invoiced, paid and totaled in the ordinary course of Committee business.

train trip, it is clear that complainant's allegations have no merit and must fail. These charges are based on speculation, hyperbole and partisanship -- but not the facts -- and when examined are easily proven false. For example, complainant speculates that AMTRAK or other commercial vendors paid for campaign-related expenses of this trip. Absolutely no evidence has been submitted to support that allegation. The information being submitted by the Committee disproves it. Neither AMTRAK nor any other commercial vendor paid for campaign-related expenses.

Complainant also alleges that the "taxpayers" paid for campaign-related portions of this trip. That is simply false, as demonstrated by the information submitted with this response. Secret Service-related costs were paid for by the Service, as the Commission has long permitted. However, all campaign costs, including event costs and office-type expenses were paid by the Committee and included in the \$910,461.00 of associated costs. None of these costs were absorbed by the Service or any other government entity.

Contrary to complainant's allegations, the "costs of transporting political assistants and guests, holding campaign events, or facilitating political communications" were paid by the Committee. Also contrary to complainant's allegations, the event costs were paid for by the Committee. Even accepting complainant's convoluted and strained notion -- which the Committee does not -- that the train was not really a mode of transportation, but, instead, was actually a "stage", the campaign-related costs of this trip, whether it is considered a trip or an event, were paid for by the Committee, as demonstrated by the information submitted. Complainant's use of hyperbole and sarcasm does not overcome the facts as submitted herein.

Moreover, the Commission has long recognized that a public officeholder does not cease being an officeholder at the time he or she is a candidate, and thus, will still have officeholder duties remaining. The Commission is aware that when President Clinton travels, as Presidents have before him, he has ongoing responsibilities which must continue to be fulfilled. This principle applies wherever the President is located whether at the White House, at Camp David, on vacation at another site or travelling on official or other business.

Complainant argues that those duties should either cease and be eliminated from any campaign trip or should be entirely paid for by the Committee. The Commission has never accepted such an unrealistic and unworkable view. Rather, the Commission has, in the past, acknowledged that the Federal government has certain expenses associated with presidential travel, and as long as the campaign has fully paid for the campaign-specific expenses, the requirements of the Act and regulations have been satisfied.

Based on the information submitted, the Commission should conclude that the Committee paid for all campaign-related costs of the train trip. No evidence to the contrary has been submitted which would overcome the detail of expenses and payments attached hereto. Accordingly, the Commission should dismiss this complaint and close the file forthwith.

Conclusion

For the reasons stated above, complainant's allegations that the Committee did not pay for the campaign-related costs of the pre-convention train trip are spurious, untrue, and apparently based on incomplete information. All such expenses were paid by the Committee and submitted as part of this response. Therefore, the Committee respectfully requests that the Commission find no reason to believe that any violation of the Act or Commission regulations has occurred and close the file in this matter.

Respectfully submitted,

Lyn Utrecht
Lyn Utrecht
General Counsel

Eric Kleinfeld
Eric Kleinfeld
Chief Counsel

Attachments

TRAIN COST SUMMARY

<u>Description</u>	<u>C/G</u>
Train/AMTRAK Charges	
Railroad Charges	19,963.00
Non-General Use Cars	25,584.00
General Use Cars	7,503.00
On-Board Services	14,331.00
Labor on Cars	8,386.00
AMTRAK Charges	24,074.00
Meals	13,397.00
Other C/G Train Costs	
On-Train Operations (Decorations)	31,910.00
MKT 403 Charges (POTUS Car)	<u>16,554.00</u>
Subtotal Train Costs	161,702.00
Other Costs	
Advance	167,894.00
RON Costs	13,621.00
Event Costs	329,905.00
Motorcade Costs	6,370.00
Jump Ahead/Train Advance	26,339.00
Phone/Fax Lines	12,488.00
Air Transportation	27,844.00
Satellite Costs	<u>326,000.00</u>
Subtotal Other C/G Costs	910,461.00
Grand Total	<u>1,072,163.00</u>