



**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

**MEMORANDUM**

**TO:** Office of the Commission Secretary

**FROM:** Office of General Counsel **KCS**

**DATE:** March 6, 2000

**SUBJECT:** MUR 4969,4553,4671-General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

**CIRCULATIONS**

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STATUS SHEETS ☐

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AUDIT MATTERS ☐

LITIGATION ☐

ADVISORY OPINIONS ☐

REGULATIONS ☐

OTHER ☐

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4969  
 Dole for President, Inc., and )  
 Robert J. Dole, as treasurer; )  
 Republican National Committee )  
 and Alec Poitevint, as treasurer; )  
 Senator Robert J. Dole )  
 )

**SENSITIVE**

In the Matter of )  
 ) MURs 4553 and 4671  
 Dole for President, Inc., and )  
 Robert J. Dole, as treasurer; )  
 Dole/Kemp '96, Inc., and )  
 Robert J. Dole, as treasurer; )  
 Republican National Committee )  
 and Alec Poitevint, as treasurer; )  
 Senator Robert J. Dole )  
 )

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## GENERAL COUNSEL'S REPORT

**I. ACTIONS RECOMMENDED**

Close the files and issue a Statement of Reasons.

**II. BACKGROUND**

Matter Under Review ("MUR") 4969<sup>1</sup> was generated from an audit of the Dole for President, Inc. ("Primary Committee") undertaken in accordance with 26 U.S.C. § 9038(a) and was referred by the Audit Division to the Office of General Counsel on June 11, 1999.

MUR 4671 was generated by a complaint filed by Dr. Rebecca Roczen Carley. MUR 4553 was generated by a complaint filed by the Democratic National Committee.

<sup>1</sup> MUR 4969 was previously Audit Referral ("AR") #99-13.

All three MURs raise the issue whether amounts spent by the Republican National Committee ("RNC") to produce and broadcast a television advertisement campaign, which aired between March of 1996 and August of 1996, were an in-kind contribution to Senator Dole's 1996 presidential election campaign.

In MURs 4553 and 4671, the Commission on February 10, 1998, found reason to believe that, because the RNC-funded the advertisement campaign, the RNC made, and the Primary Committee received, an in-kind contribution from the RNC. On the same date, the Commission adopted an alternative finding of reason to believe that Dole/Kemp '96, Inc. ("General Committee") received an in-kind contribution from the RNC. Consistent with these determinations, the Commission also found reason to believe that the RNC, the Primary and General Committees, and Senator Robert J. Dole violated provisions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ §§ 431-455 ("the Act"), the Presidential Primary Matching Payment Account Act, as amended, 26 U.S.C. §§ 9031-9042, and the Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9013. The Commission approved the issuance of subpoenas for documents and testimony as part of the investigation in these matters.<sup>2</sup>

Relying on information generated from the investigation in MURs 4553 and 4671 and on the audit referral materials, on January 12, 2000, the Office of General Counsel submitted a First General Counsel's Report in AR #99-13. With respect to the same RNC-funded media campaign, this Office recommended that the Commission find reason to believe that, because of the RNC-

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<sup>2</sup> The Office of General Counsel was prepared to move MURs 4553 and 4671 to the probable cause stage and recommended that, in light of the overlapping media expenditure issues, MURs 4553 and 4671 be processed together with AR #99-13/MUR 4969.

However, on September 22, 1999, the Commission rejected this Office's recommendations and directed this Office to hold in abeyance the briefing of MURs 4553 and 4671 pending Commission action in AR #99-13.

funded advertisement campaign, the RNC made, and the Primary Committee received, an in-kind contribution from the RNC.<sup>3</sup> Consistent with this recommendation, this Office further recommended that the Commission open a MUR and find reason to believe that:

- The RNC violated 2 U.S.C. § 441a(a)(2)(A)(making excessive contributions); 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(b) (making prohibited contributions); and 2 U.S.C. § 434(b)(4) (improper reporting);
- The Primary Committee violated 2 U.S.C. § 441a(f) (knowingly accepting excessive contributions); 2 U.S.C. § 441b(a) (knowingly accepting prohibited contributions); 2 U.S.C. §§ 441a(b)(1)(A) and 441a(f), and 26 U.S.C. § 9035(a) (exceeding the overall expenditure limitation); and 2 U.S.C. §§ 434(b)(2)(C) and 434(b)(4), and 11 C.F.R. §§ 104.13(a)(1) and 104.13(a)(2) (improper reporting); and
- Senator Dole violated 2 U.S.C. § 441a(f) (knowingly accepting excessive contributions); 2 U.S.C. § 441b(a) (knowingly accepting prohibited contributions); and

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<sup>3</sup> This Office's specific analysis and recommendations vary somewhat between the First General Counsel's Report in MURs 4553 and 4671 and the First General Counsel's Report in AR #99-13. This variance is the result of both the generation of additional information during the investigation in MURs 4553 and 4671, and intervening development of the applicable laws.

Consistent with the Commission's action and analysis in those audits, the alternative finding in MURs 4553 and 4671 that the media campaign was an in-kind contribution for the general election was not included in the First General Counsel's Report in AR #99-13.

Similarly, on June 24, 1999, a majority of the Commission issued a Statement of Reasons explicitly repudiating the electioneering message/clearly identified candidate test. *Statement of Reasons of Vice Chairman Darryl R. Wold and Commissioners Lee Ann Elliott, David M. Mason and, Karl J. Sandstrom On The Audits of "Dole for President Committee, Inc." (Primary), "Clinton/Gore '96 Primary Committee, Inc.," "Dole/Kemp '96, Inc." (General), "Clinton/Gore '96 General Committee, Inc.," and "Clinton/Gore '96 General Election Legal and Compliance Fund" (June 24, 1999) ("Statement of Reasons")*. Thus, while the First General Counsel's Report in MURs 4553 and 4671 included a discussion of the applicability of this test, the First General Counsel's Report in AR #99-13 notes that the test has been rejected by the Commission, and relied, instead, on the language of the Act. 2 U.S.C. §§ 431(8)(A)(i); 431(9)(A)(i) (contribution and expenditure defined to include any loan, advance, deposit, gift or other thing of value "made by any person for the purpose of influencing any election for federal office").

2 U.S.C. §§ 441a(b)(1)(A) and 441a(f), and 26 U.S.C. § 9035(a) (exceeding the overall expenditure limitation).

In addition, this Office recommended that, if the Commission concluded that the expenditures for the advertisements were not contributions, it should then consider the issue whether the RNC was entitled to rely on the more favorable state allocation ratios in connection with certain payments for the advertisements which were made through the accounts of state Republican committees.

On February 2, 2000, the Commission voted on this Office's recommendations in AR #99-13 with respect to the issue whether, because of the RNC-funded advertisement campaign, the RNC made, and the Primary Committee received, an in-kind campaign contribution from the RNC. The Commission, by a 3 to 3 vote, failed to pass a motion to adopt the recommended reason to believe findings related to this issue -- i.e., recommendations 2 through 11 set forth in the First General Counsel's Report. By unanimous vote, the Commission next opened MUR 4969 with respect to AR #99-13. The Commission then considered motions to adopt recommendations 2 through 11 with respect to each individual advertisement which was part of the RNC-funded advertisement campaign. These motions failed in each case by a 3 to 3 vote.

On February 8, 2000, the Commission considered this Office's alternative recommendation to find reason to believe that the RNC improperly relied on more favorable state allocation ratios when funding the advertisement campaign, and therefore violated 11 C.F.R. § 106.5(a) and 2 U.S.C. § 434(b)(4). A motion to adopt that recommendation failed by a 2 to 3 vote.

The Commission has not acted on the remaining recommendations (recommendations 13 through 15) set forth in the First General Counsel's Report in AR #99-13. Those recommendations are that the Commission:

- Approve the Factual and Legal Analyses attached to the First General Counsel's Report (recommendation 13); and
- Approve the appropriate letters (recommendation 14).
- Process AR #99-13/ MUR 4969 with MURs 4553 and 4671(recommendation 15);

### **III. DISCUSSION**

As noted above, the reason to believe findings in MURs 4553 and 4671 are based on the same activities, arising from the production and broadcast of the RNC-funded media campaign, upon which reason to believe recommendations 2 through 12 in the First General Counsel's Report in AR #99-13/MUR 4969 are based. The Commission's actions in AR #99 -13/MUR 4969, by which it did not adopt recommendations 2 through 12, therefore should control further proceedings in MURs 4553 and 4671. Accordingly, this Office recommends that the Commission, in conformance to its decisions in AR #99-13/MUR 4969, take no further action in MURs 4553 and 4671, and close the files.

Despite this Office's recommendation that the Commission take no further action in MURs 4553 and 4671, we believe that the Commissioners who voted against the recommendations of this Office in AR#99-13/MUR 4969 should issue a Statement of Reasons for MURs 4553 and 4671, all complaint-generated matters. *See Democratic Congressional Campaign Committee v. Federal Election Commission*, 831 F.2d 1131, 1132 (D.C. Cir. 1987) ("when . . . the FEC does not act in conformity with its General Counsel's reading of Commission precedent, it is incumbent upon the Commissioners to state their reasons why. Absent an

explanation by the Commissioners for the FEC's stance, we cannot intelligently determine whether the Commission is acting 'contrary to law'" (citation omitted)).<sup>4</sup>

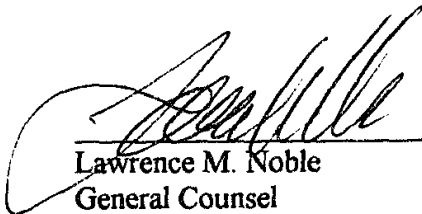
This Office's general practice is to submit a draft Statement of Reasons to the Commission in complaint-generated matters in which the recommended reason to believe findings are rejected by a majority vote, but not to submit such a draft in matters in which the recommended reason to believe findings fail on a tie vote. In AR #99-13/MUR 4969, recommendations 2 through 12 were rejected on 3 to 3 votes. In addition, separate motions to adopt recommendations 2 through 11 with respect to each individual RNC-funded advertisement broadcast in 1996 also failed on 3 to 3 votes. Since the recommendation to dismiss MURs 4553 and 4671 is based on the 3-3 votes in AR #99-13/MUR 4969, we believe that the Commission should prepare the Statement of Reasons.

#### IV. RECOMMENDATIONS

1. In MURs 4553 and 4671, take no further action and close the files;
2. In MUR 4969, close the file;
3. Issue a Statement of Reasons for MURs 4553 and 4671; and
4. Approve the appropriate letters.

Date

3/3/00

  
Lawrence M. Noble  
General Counsel

Staff Assigned: Peter G. Blumberg

<sup>4</sup> The Commissioners voting to approve this Office's recommendations are not required to issue a Statement of Reasons, but may do so. Likewise, Commissioners are neither required to issue, nor prohibited from issuing, a Statement of Reasons for AR #99-13/MUR 4969, because the matter was generated from an audit referral, not a complaint.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

***EXIT CONFERENCE MEMORANDUM  
OF THE AUDIT DIVISION  
ON  
THE DOLE FOR PRESIDENT, INC.***

**I. AUDIT SCOPE AND PROCEDURES**

In addition to a review of the Committees' expenditures to determine the qualified and non-qualified campaign expenses incurred by the campaign, the audit covered the following general categories:

1. The receipt of contributions or loans in excess of the statutory limitations (Findings II.A. and B.);
2. the receipt of contributions from prohibited sources, such as those from corporations or labor organizations;
3. proper disclosure of contributions from individuals, political committees and other entities, to include the itemization of contributions when required, as well as, the completeness and accuracy of the information disclosed;
4. proper disclosure of disbursements including the itemization of disbursements when required, as well as, the completeness and accuracy of the information disclosed;
5. proper disclosure of campaign debts and obligations;
6. the accuracy of total reported receipts, disbursements and cash balances as compared to campaign bank records (Finding II.D.);
7. adequate recordkeeping for campaign transactions;
8. accuracy of the Statement of Net Outstanding Campaign Obligations filed by Dole for President, Inc. (DFP) to disclose its financial condition and to establish continuing matching fund entitlement;
9. the Primary Committee's compliance with spending limitations (Findings II.C. and ); and,

Attachment 4  
Page 1 of 71



10. other audit procedures that were deemed necessary in the situation.

As part of the Commission's standard audit process, an inventory of campaign records is normally conducted prior to the audit fieldwork. This inventory is conducted to determine if the auditee's records are materially complete and in an auditable state. Based on our review of records presented, fieldwork began immediately.

Unless specifically discussed below, no material non-compliance was detected. It should be noted that the Commission may pursue further any of the matters discussed in this memorandum in an enforcement action.

## **II. AUDIT FINDINGS AND RECOMMENDATIONS-NON REPAYMENT MATTERS**

### **A. LOAN TO DOLE KEMP '96**

Section 9003.2(a)(2) of Title 11 of the Code of Federal Regulations states, in relevant part, that to be eligible to receive payments under 11 CFR part 9005, each Presidential and Vice Presidential candidate of a major party shall certify to the Commission that no contributions have or will be accepted by the candidate or his or her authorized committee except for contributions solicited for, and deposited to, the candidate's legal and accounting compliance fund, or to make up any deficiency in payments received from the Fund.

Section 9034.4(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that any expenses incurred after a candidate's date of ineligibility, as determined under 11 CFR 9033.5, are not qualified campaign expenses except for costs associated with the termination of political activity to the extent permitted under 11 CFR 9034.4(a)(3).

Section 104.3 of Title 11 of the Code of Federal Regulations requires political committees authorized by a candidate for Federal office to report, for the reporting period and the calendar year, total receipts, total disbursements, transfers to other committees authorized by the same candidate, and transfers from other committees authorized by the same candidate. Further, each authorized committee shall report the full name and address of each authorized committee of the same candidate to which a transfer is made or from which a transfer is received during the reporting period, together with the date and amount of such transfer.

In the process of reconciling DFP's bank accounts, the Audit staff identified a series of transfers between DFP and the Dole - Kemp '96 General Committee (DK) which were not properly disclosed or itemized. Between October 30 and November 1, 1996, DFP transferred \$2,000,000 to the DK. Without the transfers from DFP, the DK bank account statements would have had a balance at November 1, 1996 of

Attachment 4

Page 2 of 71

approximately (\$2,563,375). This balance excludes certificates of deposit used as collateral for a line of credit and letters of credit issued in lieu of cash deposits for telephone service, credit cards, and other vendors. Although these certificates of deposit represent \$2,948,077 in DK funds, the balances were not available to pay checks issued by DK.

In a memorandum dated December 5, 1996, included in its disclosure report for the post general election period, DFP stated:

"In the process of consolidating its primary committee bank accounts, transfers totaling \$2,000,000 were made from Signet Bank accounts to Franklin National Bank. These funds were transferred in error to an account titled "Dole-Kemp '96 Operating Expenses" instead of the primary account which is titled "Dole for President Operating Expenses." This error was made, discovered, and corrected within this reporting period."

The account described as "Dole-Kemp '96 Operating Expenses" was in fact titled "Dole for President General Committee," and, as noted, the transfers occurred over a three day period. DFP transferred \$500,000 on October 30; \$1,250,000 on October 31; and, \$250,000 on November 1 for a total of \$2,000,000. The transfers, as noted in the memorandum, occurred between accounts at two different banks. Transfer advices from the originating bank identified the name and account number of the destination account for each transfer as follows: October 30 - "Dole for President/AC-1016040712," October 31 - "Dole for President General Operating Expenses/AC-1016040712" and November 1 - "Dole for President Operating expenditures/AC-1016040712." Though the account name varied, the account number did not. It was the number of the DK operating account. The memorandum that requested the October 31 transfer was found. It was a faxed copy that had been received at the transferring bank and it also identified the transfer's destination by the DK operating account number. This document suggests that no error occurred; that the transferring bank made the \$1,250,000 transfer exactly as requested. Further, no documentation was found to suggest that the intended transfer destination for any of the three transfers was other than the DK operating account. It was also noted that DFP's general ledger originally classified each of the transfers as a "loan." On December 23, 1996, the general ledger entry classifications were changed from "loan" to "transfer error." DFP did open a second primary operating account, #3000024220, at Franklin National Bank. According to a notation found on the account signature cards, November 4, 1996 is listed as the opening date and November 6 is the date of the first deposit; both dates are after the last transfer.

<sup>1</sup> Another transfer of \$25,000 was made to DK on November 4, 1996. The documentation with that transaction suggests that it was intended for account #3000024220, the Franklin National Bank account opened by DFP on that day. That transfer was deposited to DK's press reimbursement account and refunded on January 14, 1997. Documentation surrounding this transaction suggests that it was erroneously credited to DK's account.

These transfers were reversed when DK transferred \$2,000,000 to DFP on November 25, 1996. However, in order for DK to accomplish the return of the \$2 million, it was necessary for DFP to repurchase from DK certificates of deposits in the amount of \$1 million. DK had purchased these certificates of deposit from DFP on August 30, 1996. They were used to secure letters of credit that served as DK's telephone deposits and other security deposits. However when the certificates of deposit were repurchased by DFP, one in the amount of \$202,000 (\$200,000 plus accrued interest), had been liquidated. Therefore, DK owes DFP \$202,000. That amount is reported by DFP as a debt owed to it.

This issue was discussed with DFP representatives and their response was to state that amended disclosure reports would "...be filed to show transfers made in error between committees, as well as the reversal of these transfers which were made to correct the error."

The Audit staff concludes that the transactions described above represent loans to and repayment from DK by DFP. During the period that the loan was outstanding, it was a prohibited contribution.<sup>2</sup> Further, DFP made an additional contribution to DK when it repurchased certificates of deposit that either secured DK's deposits, or had been liquidated by DK.

#### **Recommendation #1**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, that DFP:

- File amended Summary and Detailed Summary pages, schedules A-P for lines 18 and 19, and B-P for lines 24 and 27 for the Post General period which fully disclose and itemize the transfers between DFP and DK.
- Provide documentation that demonstrates the transfers were not contributions from DFP to DK for the period that the funds were with DK. Further, documentation should be provided to demonstrate that it was permissible for DFP to purchase certificates of deposit from DK that were serving as security for deposits required of DK. The documentation provided should include, but not be limited to, evidence that the DFP operating account at Franklin National Bank was open at the time the transfers were made; transfer requests which identify the DFP operating account by number; an analysis of DK's security deposit requirements at the time the certificates

<sup>2</sup> In advisory opinion 1992-38, the Commission permitted the Clinton-Gore committee to borrow funds from its GELAC to cover short term cash flow problems caused by amounts due from the Secret Service. That opinion did not permit similar borrowing from a Federally funded primary campaign. The opinion further required the amount borrowed to be repaid from the next amounts received from the Secret Service, and full reporting of the transactions.

of deposit were repurchased by DFP; and, any documentation from Franklin Bank which supports DFP's contention that the transfers had been erroneously credited.

- Provide any other relevant information regarding the transfers between DFP and DK which would support their contention that the transfers were inadvertent and not intentional.

**B. RECEIPT OF AN EXCESSIVE IN-KIND CONTRIBUTION**

Sections 100.7(a)(1), (iii)(A) and (iii)(B) of Title 11 of the Code of Federal Regulations state, in relevant part, that the term contribution includes anything of value such as advances of services made by any person for the purpose of influencing any election for Federal office. The term *any thing of value* includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of services at a charge which is less than the usual and normal charge for such service is a contribution. If services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the services and the amount charged to the political committee. *Usual and normal charge* for any services other than those provided by an unpaid volunteer, means the hourly charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

Section 110.1(b)(1) of Title 11 of the Code of Federal Regulations states that no person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 114.9(e) of Title 11 of the Code of Federal Regulations states, in relevant part, that a candidate who uses an airplane which is owned or leased by a corporation not licensed to provide commercial service for travel in connection with a Federal election must, in advance, reimburse the corporation where regular commercial service is available the first class air fare and where no regular commercial service exists, the usual charter rate.

A Gulfstream IV jet aircraft, personally owned by Mr. William Keck, was used by Senator Dole and his campaign for travel from Sunday to Friday, May 28 through June 2, 1995. Senator Dole and his campaign staff, according to a DFP itinerary, made at least nine<sup>3</sup> flights on the airplane paying first class airfare for each

<sup>3</sup> The nine trips were Washington, DC to Manchester, NH; Concord, NH to Boston, MA; Boston, MA to Chicago, IL; Chicago, IL to San Francisco, CA; San Francisco, CA to Los Angeles, CA; Irvine, CA to Las Vegas, NV; Las Vegas, NV to Phoenix, AZ; Phoenix, AZ to Tucson, AZ; and Tucson, AZ to Washington, DC. A second itinerary suggests that an additional flight with passengers occurred between Santa Monica, CA and Santa Ana, CA (Irvine, CA).

member of its entourage for each flight leg. The total reimbursed to Mr. Keck was \$17,225.<sup>4</sup>

DFP believes that these flights were entitled to treatment under 11 CFR §114.9(e) because the airplane functioned as the corporate jet for Coalinga Corp. despite the fact that it was privately owned. Patrick Templeton, Washington Representative for Coalinga Corp., wrote as follows in response to the Audit staff inquiries of DFP concerning these flights:

"Senator Dole's campaign travel on an aircraft registered in the name of William Keck is properly reimbursable at first class rates. The aircraft functioned as the corporate jet for Coalinga Corp., a sub-chapter S corporation which is a diversified holding company wholly owned by Mr. Keck. The aircraft was registered in Mr. Keck's name rather than in the name of Coalinga Corp., dictated by tax law considerations. If Mr. Keck, as a Coalinga employee, or any other Coalinga employee, needed a jet for corporate business, they used the aircraft in question. Also, Coalinga's Washington representative traveled on the aircraft every time Senator Dole or any other public official traveled on the plane (except in one instance).<sup>5</sup> The tail numbers of the plane ended with "CC" (N404CC)<sup>6</sup> for Coalinga Corp. and has other markings in the cabin that make reference to Coalinga Corp."

The "Financial Control and Compliance Manual," an FEC publication offering guidance for presidential primary candidates receiving Federal funds, cautions that the reimbursement rate for the use of aircraft owned by individuals is the usual and normal charge for services provided. Usual and normal charges in such instances will generally be the equivalent charter rate for the means of transportation used.

In order for the use of an airplane to qualify under the provisions of 11 CFR §114.9(e), it must be either owned or leased by a corporation. Coalinga Corp. through its Washington Representative concedes that the plane was not corporate owned or leased. Thus, the use of this airplane should have been reimbursed on the basis of usual and normal cost for a similar charter.

<sup>4</sup> DFP wrote two checks for this flight. The first check was dated May 25, 1995, but was made out to Coalinga Corp. Because Mr. Keck personally owned the plane, a second check was requested. The date of the check written to Mr. Keck was June 2, 1995.

<sup>5</sup> None of the itineraries lists a Coalinga Corp. employee as passenger for the flights made by Senator Dole and his staff.

<sup>6</sup> The Audit staff notes that Mr. Keck also owns a small acrobatic airplane with tail registration N403CC.

KaiserAir, Inc.<sup>7</sup> quotes an hourly charter rate of \$4,500 for the use of a similar airplane. In addition to the nine identified flights, four positioning flights are included in the calculation of total flight hours. The usual and normal costs of chartering this trip was computed by multiplying the advertised hourly charter rate by the total flight hours as listed on the KaiserAir itinerary. The airplane flew 26.3 reimbursable hours for the campaign and the usual and normal charge should have been \$118,350 (26.3 hrs. x \$4,500 per hr.). DFP paid \$17,225 for the use of the airplane and therefore received an in-kind contribution from Mr. Keck of \$100,125 (\$118,350 less the already paid \$17,225 and a contribution allowance of \$1,000).

### **Recommendation #2**

The Audit staff recommends that, within 60 days service of this memorandum the DFP:

- Show that the actual charter cost was timely paid and therefore, that it did not receive an excessive in-kind contribution, or
- has refunded the excessive portion of this contribution, \$100,125 to the U.S. Treasury.
- provide any additional relevant information that would show that the flights were correctly reimbursed.

### **C. ALLOCATION OF STATE EXPENDITURES**

Section 9035(a) of Title 26 of the Internal Revenue Code states, in part, that no candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441a (b)(1)(A) of Title 2.

Sections 9038.2(b)(2)(i)(A) and (ii)(A) of Title 11 of the Code of Federal Regulations state, in part, that the Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for the purposes other than to defray qualified campaign expenses. Further, an example of a Commission repayment determination under paragraph (b)(2) includes determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR 9035.

Section 9038.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the amount of any repayment under this section shall bear the same

<sup>7</sup> KaiserAir, Inc. of Oakland, California, which apparently operated the airplane for Mr. Keck, is a privately owned aircraft management and service company. In addition to overseeing all phases of airplane management, KaiserAir offers a charter option for clients who wish to offset operating expenses by chartering their aircraft.

ratio to the total amount determined to have been used for non qualified campaign expenses as the amount of matching funds certified to the candidate bears to the candidate's total deposits, as of 90 days after the candidate's date of ineligibility.

Section 9038.2(b)(2)(v) of Title 11 of the Code of Federal Regulations states, in part, that if a candidate or candidate's authorized committee(s) exceeds both the overall expenditure limitation and one or more State expenditure limitations, the repayment determination under 11 CFR 9038.2(b)(2)(ii)(A) shall be based on only the larger of either the amount exceeding the State expenditure limitations(s) or the amount exceeding the overall expenditure limitation.

Sections 441a(b)(1)(A) and 441a(c) of Title 2 of the United States Code state, in part, that no candidate for the office of President of the United States who is eligible under Section 9033 of Title 26 to receive payments from the Secretary of the Treasury may make expenditures in any one state aggregating in excess of the greater of 16 cents multiplied by the voting age population of the state, or \$200,000 as adjusted by the Consumer Price Index.

Section 106.2(a)(1) of Title 2 of the Code of Federal Regulations states, in relevant part, that for Presidential primary candidates receiving federal matching funds pursuant to 11 CFR parts 9031 *et seq*, expenditures described in 11 CFR 106.2(b)(2) shall be allocated to a particular State if incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of President with respect to that State. An expenditure shall not necessarily be allocated to that state in which the expenditure is incurred or paid. In the event that the Commission disputes the candidate's allocation or claim of exemption for a particular expense, the candidate shall demonstrate, with the supporting documentation, that his or her proposed method of allocating or claim of exemption was reasonable.

Section 106.2(b)(1) of Title 2 of the Code of Federal Regulations states, in part, that unless otherwise specified under 11 CFR 106.2(b)(2), an expenditure described in 11 CFR 106.2(b)(2) and incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate in more than one State shall be allocated to each State on a reasonable and uniformly applied basis.

Sections 106.2(b)(2)(i), (ii), (iii), (iv) and (v) of Title 2 of the Code of Federal Regulations state, in relevant part, that media costs, mass mailing costs, overhead costs less a 10% compliance exemption, special telephone program costs and polling costs are allocable to state spending limitations.

Section 110.8(c)(2) of Title 2 of the Code of Federal Regulations states, in part, that the candidate may treat an amount that does not exceed 50% of the candidate's total expenditures allocable to a particular State under 11 CFR 106.2 as exempt fundraising expenses, and may exclude this amount from the candidate's total expenditures attributable to the expenditure limitations for that state. The candidate may

Attachment 4

Page 8 of 71

treat 100% of the cost of mass mailings as exempt fundraising expenses, unless the mass mailings were mailed within 28 days before the state's primary caucus. The total of all amounts excluded for exempt fundraising expenses shall not exceed 20% of the overall expenditure limitation.

For the 1996 election cycle, the state spending limitation for Iowa was \$1,046,984 (16 cents multiplied by the Iowa voting age population of 2,117,000 and adjusted for the cost of living by a factor of 3.091). DFP reported expenditures allocable to Iowa of \$1,040,306.<sup>8</sup> The Audit staff reviewed and verified the accuracy of a sample of allocable disbursements taken from a detailed itemized schedule of the DFP reported Iowa allocable expenditure total. Therefore, the Audit staff accepted the reported amount as accurate with respect to the items included on the schedule and the total amount reported as allocable to Iowa. A subsequent review of vendors from the allocation schedule and other vendors receiving Iowa related disbursements, identified additional allocable expenses of \$142,366.<sup>9</sup>

The additional allocable disbursements were made to 19 vendors, 18 of whom had received other allocable payments and, were listed on DFP's Iowa expense schedule. Almost all the individual disbursements comprising the \$142,366 were identified as allocable to Iowa on either the DFP's accounting system or on the supporting documentation culled from the vendor files.

The purpose or characterization of the additional allocable expenditures are as follows.<sup>10</sup> Assorted Iowa overhead expenditures made to fifteen vendors for such things as office supplies, event expenses, office utilities and printing totaled \$85,638. Allocable Iowa polling expenses totaled \$41,742. Expenditures of \$15,369 were made for phone programs and related development costs.

No apparent pattern was found to the DFP's failure to include these expenses in its reported Iowa expenditures subject to the spending limitation. The Audit staff noted that DFP also randomly omitted allocable expenses from its New Hampshire limitation calculation. Additional allocable expenses for New Hampshire of approximately \$267,000 were identified. In a manner very similar to the Iowa

<sup>8</sup> On an amended report filed July 15, 1997, the DFP adjusted this figure by \$1,147, reducing the allocable Iowa disbursements to \$1,039,159. Because no documentary support has been provided to identify the disbursement or disbursements adjusted, the Audit staff continues to recognize the earlier reported figure.

<sup>9</sup> At the close of field work, the Audit staff provided the information as outlined in this finding to DFP. This finding included preliminary calculation of additional allocable expenditures made by DFP and subject to the Iowa spending limitation. As a result of additional material subsequently provided by DFP, the figure for additional allocable expenses was reduced.

<sup>10</sup> A mass mailing credit of \$383 was identified and netted against the total additional allocable expenses for Iowa.



allocations, the majority of the vendors to whom additional allocable disbursements were made, had been itemized on DFP's New Hampshire schedule for other allocable expenses. And again, as had occurred in Iowa, the additional allocable expenses were generally identified in either the DFP accounting system or on the supporting vendor documentation as expenses allocable to New Hampshire. Only an over allocation of \$270,591 for New Hampshire media expenses, identified by the Audit staff, prevented DFP from exceeding the spending limitation for New Hampshire.

The deficiency in the allocable amount reported by DFP for Iowa was not the direct result of a failure of DFP's accounting system. As already noted, most of the additional allocable expenses were clearly identified as such on either the supporting documentation and in the general ledger. DFP accounting personnel demonstrated a clear understanding of what constituted an allocable expense. Because no work papers accompanied the schedule of expenses allocated to Iowa, the Audit staff was not able to evaluate the procedure used to aggregate the appropriate expenses and therefore cannot explain why the DFP failed to properly include these disbursements.

An over allocation of media expenses for Iowa, though much smaller than the one found to have occurred in New Hampshire, was also identified by the Audit staff. This amount, \$14,257, was subtracted from the additional allocable amount. The actual additional amount subject to the Iowa spending limitation after applying the 10% overhead exclusion and then the 50% fundraising exemption was \$59,772. Using the accepted reported figure as the baseline, the Audit staff concluded DFP made expenditures chargeable to Iowa spending limitation of \$1,100,078 (\$1,040,306 + \$59,772). Thus, DFP spent \$53,094 in excess of the Iowa spending limitation (\$1,100,078 - \$1,046,984).

### **Recommendation #3**

The Audit staff recommends that, within 60 days of the service of this memorandum, that DFP provide documentation which clearly demonstrates that disbursements subject to the Iowa spending limitation did not exceed the limitation. Absent such a demonstration, should the amount by which the DFP spending exceeds the state limitation for Iowa be greater than the amount that its spending exceeds the overall spending limitation, the Audit staff will recommend that the Commission determine that the DFP be required to repay the U.S. Treasury \$16,326 [ $\$53,094 \times 30.75$ ].

### **D. MISSTATEMENT OF FINANCIAL ACTIVITY**

Sections 434(b)(1), (2) and (4) of Title 2 of the United States Code state, in part, that a political committee shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and all disbursements for the reporting period and the calendar year.

The Audit staff's reconciliation of reported financial activity to bank records for the calendar year 1997 revealed the following misstatements:

1. Beginning Cash on Hand

The Committee's beginning cash on hand was overstated by \$257,125, the result of reporting discrepancies in prior periods.<sup>11</sup> The correct reportable cash on hand was \$2,149,139.

2. Receipts

The Committee's reported receipts were understated by \$62,077. The components of the misstatement are as follows:

Reported Receipts		\$404,001
Interest Not Reported	\$13,058	
Transfers from GELAC not reported	\$11,486	
Transfers from DK not reported	\$30,162	
Vendor refund not reported	\$ 2,662	
Payroll offset not reported	\$ 551	
Press Reimbursements not reported	\$ 4,688	
Reconciling Item	\$ (530)	\$ 62,077
Correct Reportable Receipts		<u>\$466,078</u>

3. Disbursements

The Committee's reported disbursements were understated by \$281,226. The components of the misstatement are as follows:

Reported Disbursement		\$2,152,876
Transfer to GELAC Not Reported	\$ 45,088	
Transfers to DK Not Reported	\$186,773	
Arithmetic Discrepancies within Total		
Disbursements Reported	\$ 46,930	
Cleared check reported void	\$ 772	
Reconciling Item	\$ 1,663	\$ 282,388
Correct Reportable Disbursements		<u>\$2,434,102</u>

<sup>11</sup> The overstatement of beginning cash is the net effect of reporting errors in receipts and disbursements in 1996 and 1995. These discrepancies were not material, owing to the magnitude of bank activity for those periods. The Audit staff has identified receipts and disbursements in 1996 which account for approximately \$190,000 of the overstated cash and has provided a schedule of these corrections to DFP.

#### 4. Ending Cash On Hand

The reported ending cash on hand at December 31, 1997 was overstated by \$476,273, resulting from the misstatements detailed above. The correct ending cash on hand was \$181,115.

#### Recommendation #4

The Audit staff recommends that, within 60 calendar days of service of this memorandum, the Committee file a comprehensive amended report for calendar year 1997 correcting the misstatements noted above. In addition, the Audit staff recommends that the Committee amend its most recently filed report to correct the ending cash on hand.

### III. AUDIT FINDINGS AND RECOMMENDATIONS - PAYMENTS TO THE U.S. TREASURY

#### A. EXPENSES PAID BY THE RNC

Section 441a (a)(2)(A) of Title 2 of the United States Code states in part that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election to Federal office which, in the aggregate, exceed \$5,000. Section 441a (a)(7)(B) states that expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate. The section then states that the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure. The purpose, content and timing of any speech-related expenditure distinguish coordinated activity that gives rise to a contribution from other interaction.

- Express advocacy or an electioneering message is not required for expenditures coordinated with candidates and their campaigns to be considered contributions.

Section 441a(d) of Title 2 of the United States Code provides that the national committee of a political party may make a limited amount of "coordinated party expenditures" in connection with the general election campaign of its Presidential candidate that are not subject to, and do not count toward, the contribution and expenditure limitations at 2 U.S.C. §§ 441a(a) and (b) including the expenditure limitation for publicly-funded candidates. See also 11 CFR §110.7(a)(6). A coordinated party expenditure in excess of the 2 U.S.C. §441a(d)(2) limitations would be subject to the contribution limitations.

In determining whether specific communications paid for by parties were coordinated expenditures subject to the 2 U.S.C. §441a(d) limitations, the Commission

Attachment

Page 12 of 71

has considered whether the communication refers to a "clearly identified candidate" and contains an "electioneering message" in Advisory Opinions ("AO") 1984-15 and 1985-14. Section 431(18) of Title 2 of the United States Code defines the term "clearly identified" to mean that the name of the person involved appears, a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference. In AO 1984-15, the Commission stated that the definition of "electioneering message" includes statements designed to urge the public to elect a certain candidate or party, or which would tend to diminish public support for one candidate and garner support for another candidate. Citing AO 1984-15, the Commission also stated in AO 1985-14 that "expenditures pursuant to 2 U.S.C. §441a(d) may be made without consultation or coordination with any candidate and may be made before the party's general election candidates are nominated."

Section 100.7(a) of Title 11 of the Code of Federal Regulations states in part that a contribution includes a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing a Federal election. Anything of value includes all contributions in-kind.

Section 100.8(a)(1) of Title 11 of the Code of Federal Regulations defines an expenditure to include any purchase, payment, distribution, loan, advance, deposit, gift of money or anything of value, made by any person for the purpose of influencing any election for federal office. Section 100.8(a)(1)(iv)(A) of Title 11 of the Code of Federal Regulations states "anything of value" includes in-kind contributions. Section 104.13(a)(1) and (2) of Title 11 of the Code of Federal Regulations requires that each in-kind contribution be reported as both a contribution and an expenditure.

Section 441a(f) of Title 2 of the United States Code prohibits candidates or political committees from knowingly accepting any contribution that violates the contribution limitations.

Section 110.8(e) of Title 11 of the Code of Federal Regulations states, in part, that a political party may make reimbursements for expenses of a candidate who is engaging in party building activities, without the payment being considered a contribution to the candidate, and in the case of a presidential candidate, without the payment charging to the spending limitation, if:

- The event is a bona fide party event or appearance; and,
- No aspect of the of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in conjunction with the event were for the purpose of influencing the candidate's nomination or election.

The regulation also states that any such event or appearance occurring after January 1 of the election year in which the individual is a candidate is presumptively

Attachment 4  
Page 13 of 71

for the purpose of influencing the candidate's election. This presumption can be rebutted by making a showing to the Commission that the event or appearance was party related.

Section 9032.9 of Title 11 of the Code of Federal Regulations defines a qualified campaign expense as a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value that is:

- incurred by or on behalf of a candidate or his or her authorized committee from the date the individual becomes a candidate through the last day of the candidate's eligibility;
- made in connection with his or her campaign for nomination; and,
- neither the incurrence nor payment of which constitutes a violation of any law of the United States or of any law of any State in which the expense is incurred or paid.

An expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by:

- an authorized committee or any other agent of the candidate for the purpose of making an expenditure;
- any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure; or
- a committee which has been requested by the candidate, by an authorized committee of the candidate, or by an agent of the candidate to make the expenditure, even though such committee is not authorized in writing.

Section 9035.1(a)(1) of Title 11 of the Code of Federal Regulations, states, in part, that no candidate or his authorized committees shall knowingly incur expenditures in connection with the candidate's campaign for nomination that in the aggregate exceed \$10,000,000 as adjusted under 2 U.S.C. §441a(c).

Section 441a(b) and (c) of Title 2 of the United States Code makes publicly-funded candidates subject to expenditure limitations. Section 9033(b)(1) of Title 26 of the United States Code requires that, to be eligible to receive public financing in the primary election, a candidate must certify to the Commission that, *inter alia*, he or she and his or her authorized committees will not incur qualified campaign expenses in excess of the expenditure limitation. Section 441a(f) of Title 2 of the United States Code prohibits candidates or political committees from knowingly making expenditures in violation of the primary election expenditure limitation at 2 U.S.C. §441a(b).

Attachment 4  
Page 14 of 71

Section 9034.4(e) of Title 11 of the Code of Federal Regulations provides the following rules that apply to candidates who receive public funding in both the primary and general election. Any expenditure for goods or services that are used exclusively for the primary election campaign are attributed to the primary committee's expenditure limits; any expenditure for goods or services that are used exclusively for the general election campaign are attributed to the general election limits. Polling expenses are attributed according to when the results of the poll are received. Overhead expenditures and payroll costs are attributed according to when the usage occurs or the work is performed, except for such costs associated with periods prior to a candidate's nomination when the office is used only by persons working exclusively on general election campaign preparations. The costs of a campaign communication that does not include a solicitation are attributed based on the date on which the communication is broadcast, published or mailed. Media production costs for media communications that are broadcast or published both before and after the date of the candidate's nomination are attributed 50% to the primary election limits and 50% to the general election limits. Distribution costs, including such costs as air time and advertising space in newspapers, shall be paid for 100% by the primary or general election campaign depending on when the communication is broadcast or distributed. Expenditures for campaign-related transportation, food, and lodging are attributed according to when the travel occurs, except travel to and from the convention is attributed to the general election. The relevant date for determining whether an expense is for the primary or general election is the candidate's date of nomination.

Sections 9034.7(a) and (b) of Title 11 of the Code of Federal Regulations discuss expenses for travel by any individual, including the candidate, that are related to a campaign for nomination for the office of President. It states that expenditures for such travel are qualified campaign expenses. The relevant part of the regulation also states that stops that include any campaign activity, other than incidental contacts, shall be considered campaign stops. Campaign activity includes soliciting or receiving contributions, or expressly advocating the election or defeat of the candidate. Other factors, including the setting, timing and statements or expressions of the purpose of an event and the substance of the remarks or speech made, will also be considered in determining whether a stop is campaign related.

#### 1. Background

By March 31, 1996, DFP was approaching its spending limitation with four and one half months of the primary campaign ahead. At March 31, DFP's disclosure reports show that it had incurred expenses applicable to the \$30.91 million limitation of \$29.26 million.<sup>12</sup> Beginning in April of 1996, DFP substantially reduced its

<sup>12</sup> Reported figures are taken from amended disclosure reports dated July 15, 1997. Amounts applicable to the spending limitation do not include accounts payable that would increase the reported figure; accounts receivable that would reduce the reported figure; or, adjustments that result from the audit.

expenditures. In the period January through March of 1996, DFP reported average operating expenditures of \$5.83 million per month. In the period April through August 1996, average monthly operating expenditures were only \$1.08 million. During 1996, DFP's reported cash on hand figure ranged from a high of \$4.91 million at the end of January, to a low of \$651,000 at the end of February, and then climbed back to \$3.45 million at the end of June.<sup>13</sup> Senator Dole secured enough convention delegates in late March 1996, to assure his nomination.

DFP's reduction in disbursements was accomplished, in part, by having the RNC pay primary obligations and report them as coordinated general election expenses pursuant to 2 U.S.C. 441a(d); by reducing payroll and moving a number of employees and consultants to the RNC; by ceasing to pay for advertising while the RNC launched a major "issue advertising" campaign; and, by ceasing to pay polling expenses while the RNC began using DFP's principal polling vendor. In each of these areas, records indicate that the RNC may have supplemented DFP's spending.

The campaign's likely financial and limitation situation was recognized by the RNC as early as January of 1996. In an outline for a January 1996 Executive Council and Budget Committee Meeting,<sup>14</sup> under the heading Communications, it was noted that "We have issued a request for proposal to Republican consultants to solicit ideas for how we can insulate our nominee-to-be during the April-August interregnum. Paid advertising will be the necessary component of our message management during this period, supplementing our bracketing and press efforts." In a March 5, 1996 memorandum from the RNC Chairman to Republican Leaders quoted in the Senate Report (pages 8295 and 8296), the Chairman notes:

"Our nominee is likely (but not certain) to be known by the end of March. Because of provisions of federal election law, our nominee is likely to be broke and to have reached the spending limit allowed by law... Assuming our nominee has reached the limit, he will not be able to air radio and TV spots or conduct much in the way of campaign activity until the convention in August."

Other quotes from this memorandum include the following passages "[T]he party (the RNC and our state party organizations) are allowed to run issue and generic party advertising, and we have a sizable (though it needs to be bigger)

<sup>13</sup> Due to a shortage in the Presidential Primary Matching Payment Account the Treasury was unable to pay the full amount certified by the Commission in the early part of 1996 until April, May and June.

<sup>14</sup> Final Report of the Committee On Governmental Affairs: Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns, 3 S. Rep. No. 105 - 167, 105th Cong., 2d Sess. (March 10, 1998)(Senate Report), at 8314.

Attachment 4

Page 166 of 21

budget for that. We are scheduled to begin in April." Lastly, "the party [could] coordinate [its] generic advertising with anybody... ."

Finally, in an outline for a Team 100 conference call on April 18, 1996 (Senate Report pages 8356 and 8357) in which Senator Dole is shown as scheduled participant, it is noted that "[t]he Dole for President campaign and the RNC have been integrating our efforts for the past two weeks. All facets of the transition have been smooth from fundraising to political operations to communications."

Each of the four expense categories noted (Coordinated Expenditures, Payroll, Media, and Polling) is discussed below. None of the expenses discussed below were reported by the RNC as coordinated expenses pursuant to 2 U.S.C. §441a(d).

## 2. DFP Expenses Paid As Coordinated Expenditures

As noted above, the national party committee of a political party may make expenditures in connection with the general election campaign of its nominee for the office of President.<sup>15</sup> Further, some such expenditures may be made before the candidate is nominated. The key is that the expenditures must be in connection with the candidate's general election campaign. In advisory opinion 1984-15 the Commission addressed the issue of prenomination expenditures under 2 U.S.C. 441a(d). In that opinion the Commission concluded that the RNC could make expenditures for advertising that would be for the purpose of diminishing support for the Democratic nominee and garnering support for the eventual Republican nominee. Since the only place that a choice between the Republican and Democratic nominees was available was the general election, the expenditures were considered to be for that election. The opinion notes that from the party's perspective the general election can start before the primary season ends if the nominees are apparent. However, it states that the proper analytical focus is whether the expenditures for the television advertisements in question were made for the purpose of influencing the outcome of the general election. The opinion concludes that the ads in question effectively advocate the defeat of a clearly identified candidate in the general election and thus have the purpose of influencing the outcome of that election. The opinion addresses only media costs.

During the review of selected DFP vendor accounts, it was noted that portions of some billings were not paid by DFP. Further research showed that neither DK nor GELAC had paid the amounts, but that the RNC had reported paying them as coordinated expenses. Records were requested from both and the RNC with respect to coordinated expenses and a thorough review was performed. The records establish that DFP expenses totaling \$936,245 were paid by the RNC. In most cases these obligations had been billed to DFP and were submitted to the RNC with a cover

<sup>15</sup> In 1996, the coordinated expenditure limitation for the national party committees on behalf of their nominee's for President was \$11,994,000. The RNC reports incurring \$11,729,438.



memorandum from DFP's Assistant Treasurer requesting that expenses be paid with coordinated funds.

Examples of DFP expenses paid by the RNC include approximately \$70,000 to DFP's office equipment and supply. In a number of cases these billings were allocated between DFP, DK, and the GELAC, with the DFP portion further allocated between exempt compliance (not applicable to the spending limitation) and operating expenses. The RNC would frequently be asked to pay only the operating expense portion of DFP's share that would otherwise be applicable to the spending limitation. Another example is the campaign's insurance carrier. The RNC paid approximately \$21,000 that represented 37.5% of the annual premium. The policy ran from April 1, 1996 to April 1, 1997. Thirty seven and one half percent was four and one half months of twelve months. Four and one half months covers through August 15, the end of the primary. DFP purchased commercial air line tickets through US Air. The RNC paid approximately \$130,000 for flights beginning in June 1996 and apparently ending with return flights from the convention. The RNC paid about \$127,000 for DFP telephone service and equipment. The charges for telephone service date back to February of 1996 and continue up to the convention. The equipment payments include two payments on DFP's telephone equipment, July and August, totaling \$38,608. This equipment was eventually sold to DK as a capital asset. (See finding III.B. — Telephone Equipment Leases and Purchases for further discussion of this subject.) The RNC paid approximately \$142,000 for Senator Dole's speech writers and coaches for services rendered from May 1996, through the convention. Finally, the RNC paid in excess of \$116,000 for rent, renovations, and related services for DFP's headquarters. These represent portions of the rent for July and the first half of August 1996, and renovations in July.

The expenses are summarized by type below:

Expense Category	Total
Travel and Event Expenses (including some expenses billed to the press)	\$331,153
Rent	116,307
Overhead	130,428
Speech Writers & Coaches	142,491.
Telephone Expenses	126,708
Polling	46,844
Convention Related Travel and Expenses	27,409
Telemarketing	4,301
Miscellaneous	<u>10,604</u>
Total	<u>\$936,245</u>

It is noted that the expenses for polling include \$44,000 for a survey relating to vice presidential selection. The records available do not indicate when

the survey was conducted or the results provided. Since it appears likely that such a survey would be done in advance of the announcement of the Vice Presidential candidate, it is included.

When the Audit staff reviewed the records maintained by the RNC relating to these expenses, a discussion was held with counsel for the RNC. He explained that it was the RNC's position that once Senator Dole was assured of the nomination, it was free to begin paying expenses under 2 U.S.C. 441a(d).

This matter was discussed with DFP representatives at the close of fieldwork. After that meeting DFP submitted a statement arguing that the expenses were proper coordinated expenses and that the analysis explained above is contrary to the Commission's own position. Quoting from Advisory Opinions 1984-15 (see discussion above) and 1985-14, and the Commission's brief in Colorado Republican Federal Campaign Committee v. FEC, DFP seeks to establish that there is no bright line rule that restricts coordinated expenses to a period after the candidate's nomination and that it is not relevant whether the candidate is assured the nomination when the expenses are paid. However DFP states that when the coordinated expenses were paid beginning in April, Senator Dole was assured the nomination. DFP concludes by stating that the expenditures challenged by the Audit staff "were made with an eye toward the general election and, regardless of purpose, are as a matter of law coordinated general election expenditures."

DFP is correct that expenditures may be made before the candidate is nominated that are properly considered coordinated expenses. It is further correct that the candidate need not be assured his party's nomination. However, DFP fails to note that the election that the expenditure seeks to influence is the determining factor. Contrary to DFP's opinion the purpose of the expenditure is important and the standard is not an "eye toward the general election." These expenses were incurred in connection with Senator Dole's campaign for nomination, not the campaign for election. They fall squarely within the definition of qualified campaign expense at 11 CFR §9032.9 and are attributable to the primary campaign under 11 CFR §9035.1(a)(1). Advisory Opinion 1984-15 discusses only expenses for television ads, but makes it clear that the election to which the expenses relate is the critical factor. These expenses were incurred in connection with the primary election, most by the primary principal campaign committee, are for primary period expenses, and include no media expenses. They would clearly be expenses applicable to the primary spending limitation if paid by DFP. Transferring the unpaid invoices to the RNC does not change the nature of the expenses.

In addition, Counsel to the RNC submitted an affidavit in which he made the following comments:

"In March, 1996, the RNC determined that Senator Dole was the presumptive Republican nominee for President. The RNC made this determination pursuant to the Republican Party's rules based on the

Attachment 4

Page 19 of 71

number of delegates Senator Dole had won as of that date in the Republican primaries, caucuses and conventions. Because Senator Dole was the presumptive nominee, the RNC determined that it was allowed under the Party's rules to assist DFP as permitted by law."

"Accordingly, between April, 1996 and the Republican National Convention in August, 1996, the RNC made a number of coordinated expenditures pursuant to 2 U.S.C. 441a(d)(2) on behalf of DFP. All of these coordinated expenditures were duly reported to the Commission on the RNC's monthly FEC reports. Likewise, after the Republican National Convention, the RNC made numerous coordinated expenditures on behalf of DFP and duly reported these expenditures."

There is no doubt that by the end of March of 1996, Senator Dole was the Republican Party's presumptive nominee. However, as counsel states these expenditures were on behalf of "DFP", Senator Dole's primary campaign. Further, Counsel neglects to take note of the requirement that such expenditures must be in connection with the candidate's general election.

The Audit staff concludes that \$936,245 of the expenses paid by the RNC pursuant to 2 U.S.C. 441a (d) are DFP expenses and therefore represent an in-kind contribution from the RNC. Of this amount, \$38,608 relates to payments on DFP telephone equipment and is discussed in more detail in Finding III.B. — Telephone Leases and Purchases, and \$116,307 is discussed in Finding III.C. — Headquarters Rent and Security Deposits, leaving a balance of \$781,330. Of this amount the overhead portions are eligible for a compliance exemption of 17.9% or \$39,117. The remaining \$742,213 is applicable to the spending limitation.

#### **Recommendation #5**

The Audit staff recommends that within 60 calendar days of service of this report, DFP present evidence demonstrating that expenses paid by the RNC totaling \$781,330 were properly paid pursuant to 2 U.S.C. 441a(d) and do not represent contributions in-kind. The evidence presented should establish that the expenditures were made in connection to Senator Dole's campaign for election rather than his campaign for nomination. Absent such evidence, the Audit staff will recommend that \$781,330 be determined to be a contribution from the RNC and \$742,213 (\$781,330 less a compliance exemption) be attributed to DFP's spending limitation.

#### **3. Payroll**

Between January and mid-August of 1996, the number of employees on DFP's payroll ranged from high of 227 for the February 15, payroll to 57 for the May 15, payroll. The largest drops came between March 15 and April 1, when 50

employees were dropped and between April 1 and April 15, when 63 employees were dropped. On April 15, DFP had only 58 employees. Further research showed that a number of the former employees appeared on the RNC's payroll with no break in employment, and that other former employees and consultants were paid on a consulting basis by the RNC. With few exceptions the consulting payments were reported as in-kind transfers to various state parties. Many of these employees and consultants returned to the campaign payroll with the first DK payroll on August 30, 1996 or were paid as consultants by DK.

A March 29, 1996 memorandum from RNC Chairman, Haley Barbour to DFP Campaign Manager Scott Reed (Senate Report at 8351 to 8354) explains the staffing changes that were occurring:

"In addition to employing Jo-Anne Coe as Deputy Finance Chairman and seven former DFP finance personnel, the RNC is asking a number of former DFP employees and consultants to come to work for us as we ramp up our campaign and surrogate activities in the wake of Senator Dole's capturing the nomination."

The memorandum then explains that the new hires will be assigned to the Campaign Operations Division and the Surrogate Division with one exception assigned to the Research Division. The memorandum then goes on to explain:

"The Surrogate Division under Agnes Warfield is responsible for developing plans for and implementing surrogate travel for the needs of our Finance, Communications and Campaign Operations divisions, including the needs of state parties.

"Among the surrogates will be Senator Dole and Mrs. Dole, Robin Dole, and various others who have served as DFP surrogates. Jo-Anne Coe will be our trigger person on travel requests for the Senator, Mrs. Dole and Robin. Requests will go to Jo-Anne from Agnes, and once Jo-Anne has notified Agnes' office the requested travel is approved by whichever family member, the Surrogate Division will manage these trips. To facilitate matters in that regard, we are bring over six former DFP advance staff ( Hugh Addington, Kim Fuller, Matt Mlynerzyk, Patty Karounos, Randy Snow and Steve Ross)<sup>16</sup> and three events people who have been working on

<sup>16</sup> Fuller and Ross were paid by the RNC for April and May. In June, July and the first part of August, their salaries were allocated between the RNC and DFP.

Mrs. Dole's travel (Tom Doyle, Dave Rettig and Dave West)<sup>17</sup>. Since travel by Senator and Mrs. Dole is so crucial to the RNC's fundraising and organizational goals, we are beefing up our surrogate operations as never before.

"All of these people (the six advance staff and three Mrs. Dole staff but not including Jo-Anne Coe) will report to and work for Agnes Warfield. An organizational structure for the Surrogate Division has been set up."

The memorandum goes on to explain that only the RNC Surrogate Division had authority to schedule events or spend money in connection with an RNC event. It also states that the law does not allow surrogates to control events at which they appear as surrogates for the RNC of the state parties. It goes on to say that all former DFP employees must report in fact as well as on paper to the RNC and that "all decisions about spending RNC funds in association with any event attended by Senator Dole or any 'Dole' surrogate must be controlled by the RNC Surrogate Division."

In a final paragraph concerning Senator Dole's travel the memorandum explains:

"While this will require a change from past practices for Senator and Mrs. Dole, our bringing on Jo-Anne Coe and several former DFP travel staff to work on their travel should make the transition an easy and comfortable one for them."

With respect to former DFP staff and consultants who were to be paid as consultants by the RNC, the memorandum states:

"As to the former senior DFP consultants and field staff, the plan for them is a little more complicated as we need to use most of them in the field, working with our own RFRs and state parties to update Victory '96 plans. All 12 (including Bob Ward, who will work on polling and opinion research in the building) will work for Curt Anderson and the Campaign Operations Division. They will report to Curt and work laterally with our RFRs. In turn Curt will assign each to work with our RFRs in certain states to help those states:

"Update Victory '96 plans in light of our having a presidential nominee; in states with GOP governors, solicit and include the ideas

<sup>17</sup>

A search of DFP, DK, GELAC, and RNC payroll records indicate that neither Tom Doyle nor Dave West were paid a salary between April 1 and September 30, 1996. Tom Doyle was paid expense reimbursements during that time by the RNC and one consulting payment on October 2 and some expense reimbursements by DK. DFP records contain no payments to either individual.

and plans of the governor and his political operation in the state plan; solicit and include the ideas and plans of Republican senators and governors in the state plan; hammer out the updated Victory '96 plan by May 15; assist in raising the revenue necessary and recruiting the leadership and manpower necessary to implement the plan in the state; participate as appropriate in the delegate tracking operation to the extent the Committee on Arrangements needs assistance: and to do such other tasks in their assigned states as necessary.

"The RNC will pay for the services of these former DFP senior consultants and field staff to the various state parties as an in-kind transfer. They will be working with the state parties. Again it is crucial for legal as well as operational reasons, that all authority over the work this group does rests with Curt Anderson of the RNC.

"Your former senior consultants will each be assigned to several states. The former DFP field reps will either be assigned to one or two states, depending on the size of the states involved."

Also, the April 18, 1996 Team 100 Conference Call outline referenced earlier (Senate Report at 8356 and 8357) makes note of the purpose and budget of Victory '96. It states that "[t]he purpose of Victory 96 is to elect Bob Dole as the next President of the United States", and that "Victory 96 and Team 100 will be working hand in hand to raise the \$50 million dollars needed to elect Bob Dole president". Later in the same document it is noted "[a]s John mentioned, the Victory 96 budget is \$50 million dollars for the presidential campaign."

The staff who moved from the DFP to the RNC falls into three groups: Advance Staff, Other Employees, and Consultants. Each is discussed below.

a. Advance Staff

As the March 29, 1996 memorandum cited above explains, a number of advance staff members were transferred from DFP to the RNC. Those persons were to work on Senator and Mrs. Dole's travel. A review of DFP and RNC's payroll records<sup>18</sup> and Senator Dole's travel itineraries indicate that the number of employees transferred to work on DFP travel was 12 plus Jo-Anne Coe who was, according to the March 29 memorandum, responsible for scheduling. The 12 staff members include 7 of the people mentioned in the memorandum. Of the 12 advance staff members, 11 were on the DFP payroll through March of 1996. Dave Rettig received his last DFP salary payment on February 15, 1996. All 12 were paid by the RNC beginning

<sup>18</sup> Some payroll and other expenditure information was obtained via subpoena from the RNC.

in April, 1996. Jo-Anne Coe was paid on an allocated basis by DFP and the GELAC through March of 1996, her salary for the first part of April was allocated between the RNC and the GELAC, and then she was paid by the RNC until after the election. She then rejoined the campaign payroll.

The candidate's travel itineraries establish the extent to which employees who had left the DFP payroll continued to provide advance and travel services. Those records show that of the 12 advance staff members noted, 11 appeared on DFP itineraries on between 11 and 68 days while on the RNC payroll. Another appeared only eight times but left the RNC payroll in June and was not paid again by the RNC or the Dole campaign. Of the 12 staff members in question, two are shown as trip coordinators; three are assigned to the press although most of the party events attended by Senator Dole were closed to the press; three are designated "lead"; three are shown as contact persons for the trips; and, one is designated "staff". In most instances these functional descriptions appear consistently both while the person was on the DFP payroll and while they were being paid by the RNC. With the exception of the individual who left the RNC payroll in June of 1996, each of the advance staff members appeared on DK's first payroll on August 30, 1996.

During the period April 9 through the Candidate's arrival in San Diego for the convention, DFP's air travel records document at least 129 campaign flights. At many of the travel destinations, Senator Dole's schedule included some sort of party related event. These included state party conventions, county party events and party unity rallies. However, the most numerous party events were the 67 Victory '96 held events at 60 destinations. The first Victory '96 event was on April 11, shortly after the majority of the 12 employees were placed on the RNC payroll. In many cases these were brief appearances that were often meetings or receptions with small numbers of people and, with only four exceptions, were closed to the press.<sup>19</sup> Of the 67 events, the Candidate attended more than half for 30 minutes or less, and more than half were attended by 30 or fewer persons. At only four of the travel destinations were the Victory '96 events the only events shown on the itinerary. In all other cases there was some other event including campaign events or other party events such as Unity Rallies and state conventions.

The regulations cited above state that during the election year a candidate's appearance at party events is presumed to be for the purpose of influencing the candidate's election unless the candidate demonstrates otherwise. Further, any travel destination that includes both campaign events and non-campaign events will be considered to be a campaign destination. The cost of the campaign's travel to such events, including the advance work for that travel, is a qualified campaign expense and attributable to the candidate's spending limitation. The travel discussed above relates to trips that, in the majority of cases, included both DFP events and party

<sup>19</sup> As would be expected, the Candidate traveled with a substantial press corps on the campaign aircraft. It is assumed that local press would also cover the Candidate's visits.

sponsored events. In no case has the campaign established that a travel destination that included only party events was not in connection to Senator Dole's campaign. Further, in the case of the Victory '96 events, the most numerous, the stated purpose of the program was to elect Senator Dole President of the United States. Therefore, it is concluded that the salary and expenses of the 12 former staff members that were employed by the RNC to work on DFP travel represent in-kind contributions from the RNC and that the amount is attributable to the DFP spending limitation. Net salary for the 12 staff members is \$100,384, and expense reimbursements are \$35,359, for a total of \$135,743. Additional amounts may be determined based on information obtained from the RNC under an ongoing subpoena, such as gross salaries, other associated payroll costs, and additional travel expenses paid to entities other than the traveler such as airlines, hotels, etc.

b. Other Employees

In addition to the advance staff, there are seven other staff members, including Jo-Anne Coe, who left the DFP payroll at the end of March 1996. In all seven cases the individuals' salaries were being allocated between DFP and the GELAC or paid by the GELAC only at the time they received their last salary payment from the campaign. Three of the seven individuals were paid jointly by the RNC and the GELAC for the first part of April and were paid by the RNC thereafter. The other four were paid by the RNC only for all of April and thereafter. Each of these seven individuals is listed on a document found in campaign travel files titled "Supplemental Staff List (Mailroom)." This listing is dated September 9, 1996 and has columns for name, affiliation, disposition, and comment. Under affiliation one of the seven individuals is described as "ACCOUNTING" and is apparently located at an accounting firm and "...not located in this building". The other six are under a heading of "Finance" and it is noted that their mail goes to the RNC. It was also noted that six of the individuals appear on DFP travel itineraries at least once and as many as six times while on the RNC's payroll. None of these individuals appears on the DK payroll, however all but one receive their last salary payment from the RNC at the end of November. As noted above Jo-Anne Coe returned to the DFP payroll during the winding down period. Given the above, it appears that the campaign considered these seven individuals to be part of their staff and presumably working on behalf of the campaign.

Although the March 29 Barbour memorandum cited above acknowledges that a number of former DFP finance personnel will be employed by the RNC, there is no information in that document about their duties. In the case of Jo-Anne Coe, it appears that in addition to controlling the travel of Senator and Mrs. Dole, she was involved in fundraising for Victory '96. She authored an April 11, 1996 memorandum to Chairman Barbour (Senate Report at 8360) discussing a "plan to raise \$14 million in hard money for Victory '96 by solicitations to the Dole for President donors." As noted earlier the stated purpose of the Victory '96 program was to elect Senator Dole president.

Given that the Dole campaign considered these individuals to be "Supplemental Staff", and Jo-Anne Coe's duties with respect to the Candidate and



Mrs. Dole's travel as well as Victory '96 fundraising, it is concluded that these 7 individual's salaries are contributions in-kind to DFP and are attributable to the spending limitation. Net salaries for these seven individuals total \$110,875. As with the advance staff, additional information to be obtained from the RNC will identify gross salary costs, other related payroll expenses, and may provide additional information on associated expenses.

c. Consultants

Finally there is a group of 12 individuals and vendors who were paid on a consulting basis by the RNC, plus Robert Ward who was paid a salary. Each of the 12 consultants appears to have been paid through March 1996 by DFP, 5 on a salaried basis and 7 as consultants. Beginning in April each was paid a consulting fee and expense reimbursements by the RNC. The six individuals who had been salaried employees of DFP (5 noted above and MR. Ward), also appear on DK's first payroll on August 30, 1996. Of the DFP consultants, four are paid consulting fees and expenses by DK, one received a \$10,500 fee plus expenses for a survey, and two received only expense reimbursements from DK.

Chairman Barbour's March 29, 1996 memorandum (Senate Report at 8351 to 8354) discusses these individuals and how the payments made by the RNC would be reported. As he states, except for Mr. Ward, these consultants are apparently assigned to various states and the payments are, with few exceptions, reported as in-kind transfers to state party committees. Chairman Barbour's memorandum also makes it clear that the work that the consultants will be doing, in large part, relates to changes that need to be made in the parties plans to reflect Senator Dole's becoming the party's apparent nominee. Mr. Ward worked on polling and opinion research at RNC headquarters.

Given the information available and the pattern of other expenses apparently shifted to the RNC, it is concluded that the payments to these 12 consultants and Mr. Ward are contributions in-kind to DFP, and are attributable to DFP's spending limitation. The salary, consulting payments and expenses for the thirteen entities total \$175,344. Again information obtained from the RNC may identify additional expenses.

Presented below is a table that summarizes the information presented with respect compensation and expenses paid to former DFP employees and consultants.

## RNC Payments to Former DFP Employees and Consultants

Payee	Compensation	Expenses	Total
<b>Advance Staff</b>			
Addington, Hugh ✓	\$10,914	\$1,491	
Baker, Brian	\$7,729	\$1,031	
Cisnerios, Adrienne	\$5,546	\$5,215	
Fuller, Kim ✓	\$7,505	\$344	
Garlikov, Andrew	\$5,107	\$2,297	
Karounos, Patricia ✓	\$7,756	\$300	
Mlynarczyk, Matt ✓	\$9,050	\$10,033	
Rettig, David (2) ✓	\$10,313	\$1,311	
Ross, Steve ✓	\$7,589	\$2,029	
Snow, Randy ✓	\$10,118	\$5,162	
Webber, Jennifer	\$9,775	\$742	
Weiss, Jeffery	<del>\$8,982</del>	<del>\$5,404</del>	
<b>Total</b>	<b>\$100,384</b>	<b>\$35,359</b>	<b>\$135,743</b>
<b>Other Employees</b>			
Coe, Jo-Anne	\$24,754	\$0	
Gately, Charles	\$15,497	\$0	
Guesnier, Kelly	\$15,500	\$0	
Miller, Mark	\$18,542	\$0	
Rogers, Jana	\$9,687	\$0	
Roth, Royal	\$13,936	\$0	
Van Hove, Laura	<del>\$12,959</del>	<del>\$0</del>	
<b>Total</b>	<b>\$110,875</b>	<b>\$0</b>	<b>\$110,875</b>
<b>Consultants 1/</b>			
Armaddock, Dean	\$32,481		
Carney, Dave	\$12,761		
Doyle, Dave -Marketing Resource Group	\$11,491		
Hansen, Beth	\$11,092		
Hesse, Michael	\$10,602		
The Maddox Group	\$8,393		
Mahoney & Associates	\$19,717		
Matter, Scott	\$10,840		
McSherry, Mike	\$17,665		
Murphy, James -JLM Consulting	\$10,172		
Tompkins, Warren	\$13,037		
Ward, Robert	\$11,721		
Young, Paul	<del>\$5,372</del>		
<b>Total</b>	<b>\$175,344</b>		<b>\$175,344</b>
<b>Grand Total</b>			<b>\$421,962</b>
1/ Available records do not permit the separation of consulting and expenses.			

Attachment 4Page 27 of 71

Salary and expenses payments made by the RNC were discussed with DFP representatives at the close of the audit field work. Subsequently, DFP submitted an affidavit from RNC Counsel that discussed the expenses in general terms. Counsel states that:

"Between April, 1996, and August, 1996, the RNC hired a number of people who had previously worked for Dole for President, Inc. ("DFP") and employed them in several of the RNC's divisions. These divisions included the Finance and Campaign divisions. When the former DFP staff were hired, they went through mandatory training sessions on RNC personnel policies and election-law compliance. The individuals the RNC employed during this time period, including the ex-DFP staff, worked on RNC projects that unless allocated to DFP were designed to benefit the entire Republican ticket. These projects included fundraising for the Victory '96 program, which raised funds for the RNC's federal and non-federal accounts. All RNC staff employed during this time period, including Former DFP staff, reported to RNC personnel in their respective divisions."

"Between April, 1996 and August, 1996, the RNC incurred certain travel expenses. These expenses were incurred in connection with RNC and state and local Republican Party fundraising and party-building events."

This explanation lacks any specifics with respect to the individuals and vendors noted above, and it does not address how hiring DFP staff to handle the candidate's travel during the election year and to destinations that include both campaign and party events is an RNC expense. Further, it does not address the statements in RNC documents that suggest that the Victory '96 program was designed to elect Senator Dole president.

#### **Recommendation #6**

The Audit staff recommends that, within 60 days of service of this memorandum, DFP present evidence that the individuals and vendors listed above were providing services solely for the benefit of the RNC rather than for DFP. Such evidence should include detailed descriptions of each payees duties and how those duties relate only to the RNC. Absent the presentation of such evidence the Audit staff will recommend that the payments listed totaling \$421,962 be determined to be in-kind contributions. Further, it will be recommended that the amount be attributed to DFP's spending limitation.

Attachment 4  
Page 78 of 71

#### 4. Media

A review of media placements and production costs incurred by the RNC was undertaken. Three vendors were identified as part of the RNC program: Multi-Media Services, Inc. (Multi Media); New Century Media Group, Inc. (New Century); and Target Enterprises Ltd. (Target). Each and its role is discussed below. Also, evidence of coordination between the RNC and DFP and its agents is presented. Finally, an evaluation of the advertisements identified as part of the RNC's media program is included.

DFP paid for no media placements after April 1, 1996. Prior to that date, it had placed advertising through Multi Media of approximately \$4.8 million. In a May 16, 1996<sup>20</sup> News Release (Senate Report at 8319) the RNC announced that it was launching a \$20 million issue advocacy advertising campaign to run through the Republican National Convention in August of 1996. The News release explains that the ads to be run would address "a balanced budget, tax cuts for working families and for economic growth, genuine welfare reform and moving power and money away from Washington and back to the people and their states and communities." The first ad was to address "Bill Clinton's many flip-flops and position changes on balancing the budget." The News Release concludes that:

"Yesterday, Bob Dole picked up the flag of our party to carry it to victory in the November elections against Bill Clinton. Now the Republican National Committee will rally behind his leadership and use this issue-advocacy campaign to show the difference between Dole and Clinton and between Republicans and Democrats on issues facing our country, so we can engage full-time in one of the most consequential elections in our history."

Records obtained by the Commission from Multi Media establish that the ad campaign was focused in 18 states.<sup>21</sup> A March 18, 1996 memorandum from Curt Anderson to RNC Chairman Haley Barbour (Senate Report at 8336 and 8337) explains both the selection of the states and the funding of the program. The memorandum states that:

<sup>20</sup> Other RNC documents cited above indicate that the media program was to start in April. Multi-Media Services, Inc. records show a small number of placements in April.

<sup>21</sup> Those states are California, Colorado, Florida, Georgia, Iowa, Illinois, Kentucky, Louisiana, Michigan, Missouri, Montana, Nevada, New Hampshire, New Mexico, Ohio, Pennsylvania, Tennessee, and Washington. In addition a relatively small amount of TV time was purchased in Washington, DC.

"The following chart clearly demonstrates what we already know, that any media we place in the *target presidential states* should be placed through state parties. The average ballot allocations in the top 17 *target states* is 37% federal - 63% non-federal, this obviously contrasts very well with our 65% federal - 35% non-federal allocation." (emphasis added)

Thirteen of the 18 states eventually included appear on this list.

As noted a chart followed listing each state's federal-non-federal allocation percentage and a calculation of "Federal \$'s saved" of \$2.8 million by placing ads through the state parties rather than directly through the RNC. The memorandum concludes by stating that although working through the state parties was a "book keeping hassle", the RNC's field staff could insure that they made good on any arrangements made with them.

Another Anderson memorandum to Chairman Barbour, dated May 22, 1996, (Senate Report at 4150) also discusses the media campaign and its purpose. It provides some pros and cons on including and excluding specific markets. It then continues:

"The point that needs to be reiterated is that this plan is based on the premise that right now we should be targeting those markets that can not be considered core partisan for either party. This assumes that if, over the course of the summer, we raise the water level for Dole support in the must win marginal markets, the historically core Republican markets will swing our way. Secondly, the targeted swing markets represented are the most difficult must win voters. This being the case, it makes sense to vie for these votes now, in the hope that DFP can close the deal in the fall. More to the point, playing for the swing markets should keep them from moving to core Clinton/Gore."

These memoranda clearly establish that this advertising campaign was designed to influence the Presidential election and explain how the disbursements were to be routed. Information obtained from Multi Media documents the extent of the program in each state. In those records, each of the 18 states and the RNC are recorded as separate clients, for example "RNC-KY" for the air time purchased in Kentucky. According to its records, the total amount paid to Multi Media by the eighteen state party committees and the RNC is at least \$16,490,756. Disclosure reports filed by many of these state party committees suggest that much of the money used to pay Multi Media was transferred from the RNC to the state party. This is consistent with the discussion in the Anderson March 18, 1996 memorandum cited above. The first payment

Attachment 4

Page 30 of 71

made by the RNC in 1996 to Multi Media was on May 9, 1996. Prior to this media campaign it does not appear that the RNC used Multi Media's services.

Another vendor that was apparently part of the RNC media effort was New Century. New Century's President, Don Sipple had also worked for DFP until April of 1996. His last payment from DFP was on April 22, 1996, for an invoice dated April 1, 1996. When he was employed by DFP he was paid under the name Strategic Communication, Inc. The RNC paid New Century \$668,946. of which \$396,449 was reported as coordinated expenditures on behalf of DK pursuant to 2 U.S.C. 441a(d). The first coordinated payment, \$250,000, was made on July 19, 1996. The remaining \$272,497 was paid between May 10 and August 22, 1996 for consulting, media costs, and production costs. The advertisements identified to date as having been produced by the RNC for this advertising effort are associated with New Century Media or Mr. Sipple. DK also used New Century's services in the early part of the general election campaign. In fact, New Century shared the 10th floor of DFP/DK headquarters, the same floor on which Senator Dole's office was located. Also, beginning on June 1, New Century assumed the lease on telephone equipment that had been leased by DFP. DK made one consulting payment to New Century in May of 1996 and then numerous payments beginning on August 20, 1996. New Century's contract with DK was canceled on September 4, 1996 and it ceased operations shortly thereafter.

A third vendor that appears to have worked on the RNC media campaign was Target. The RNC paid Target a total of \$8,807,493. Of this amount \$7,666,508 in payments beginning on August 5, 1996 were reported as coordinated expenditures on behalf of DK. The remaining \$1,140,985 was paid between May 9, 1996, and June 25, 1996. Again the RNC does not appear to have used Target's services before that time. This period corresponds with the beginning of the other payments made in connection with this advertising campaign. Further, a listing was found in Multi Media's records showing the targeted states and advertisement numbers that correspond to one of the ads produced by New Century. The date is July 8, 1996 and it was faxed from Target. This along with other Multi Media records establish that Target was working with Multi Media on placing the RNC's ads produced by New Century. Target and New Century were also associated during the general election. Target was selected by New Century to place advertising for DK. Target continued in this capacity after New Century's contract was canceled in early September of 1996.

It is clear from above that the same vendors and consultants worked on the media programs for DFP, DK, and the RNC. It is apparent that, at least in part, the work was being done simultaneously. For example, DFP records indicate that Mr. Sipple was paid by the DFP through April of 1996. His first payment from the RNC (as New Century) was a check dated May 10, 1996 and his first consulting payment was dated May 30, 1996. DK also paid New Century for consulting in May of 1996. The video tapes of the RNC ads carry dates as early as May 5, 1996. Given that some time is required to plan and create these ads, there is little doubt that his work for DFP and the RNC overlapped and he was clearly being paid simultaneously by the RNC and DK.

Attachment 4

Page 31 of 71

Another example is Multi Media and Target. Multi Media worked for both DFP and the RNC. Multi Media and Target worked together on the RNC media placements, and Target worked for both the RNC and DK. Target was selected for the DK work by Mr. Sipple who worked for all three entities. Given this close association it would be difficult for there not to have been coordination of the projects among the various organizations. The Commission has viewed such situations as an indication of coordination pursuant to 11 CFR §109.1(b)(4).

There is, however, other more direct evidence of coordination between the committees. In an undated memorandum from Mr. Sipple to Chairman Barbour and Scott Reed, with a copy to Tony Fabrizio, (Senate Report at 8321) the RNC ad campaign was discussed. Scott Reed is the Campaign Manager of both DFP and DK and Tony Fabrizio did polling for all three entities through Fabrizio, McLaughlin and Associates, Inc. and, according to Mr. Sipple is the owner of Multi Media. The memo states:

"As you look at the RNC buy as laid down - essentially we have one additional spot to air. Thus, we should be changing spots around July 10th or 11th. As per our discussion Wednesday evening, it is my view that what we run should have significant force that Clinton and the Democrats are compelled to respond.

"Whether one likes the "Benefits for Illegals"<sup>22</sup> spot or not - the Dems responded. Any time they're responding to our issues means they are not putting money behind a proactive issue of theirs. Our last spot should create this environment as well.

"I propose we do a spot on the constellation of ethics problems facing Clinton and his administration. It should be credibly presented using headlines etc. and should include his own quote 'We will have the most ethical administration in history...' There might be a FBI files piece (perhaps Freech [sic]), Whitewater convictions, eight cabinet members under investigation, and Travelgate. The purpose of doing this ad would be to connect the dots for the American people - to demonstrate a person of behavior. Additionally, this is a spot that DFP general shouldn't get to until late (if at all, in advertising). And it may have the benefit of picking up these stories and moving them along as they may ebb in the news coverage.

"Let me know your thoughts."

First, this memorandum is seeking input for the RNC advertising campaign from the Campaign Manager of DFP and DK, a clear effort to

<sup>22</sup>

The ad entitled "More" dealt with this issue. See the description of the ad below

coordinate the program and give the campaign a voice in the RNC ad campaign. Second, it clearly shows that issues were not the point of the campaign but, as shown by several other documents cited above, to influence the outcome of the presidential election. Finally, it discusses what the RNC could do that would help the campaign in the fall. It is an effort to coordinate the media programs of both the campaign and the RNC, by the person who was directing both efforts.

The mention of the Wednesday meeting is also significant. Mr. Sipple has testified that:

"In general terms relating to these ads, several people would have dinner each Wednesday night at the RNC in Haley Barbour's office to discuss Party strategy and the ongoing campaign. The ads were usually part of the discussion. These discussions would include the rationale for specific ads, timing of when they should air, and targeting. Following those meetings I would write, or have other producers write, script treatments. These would then be transmitted to Ed Gillespie, who would be in charge of obtaining the necessary approvals at the RNC, including that of legal counsel's office. The Wednesday night dinner was usually attended by Haley Barbour, Ed Gillespie, Don Fierce, Joe Gaylord, Speaker Gingrich, Tony Fabrizio, Fred Steeper, Scott Reed, and myself."

Again the campaign is represented at the highest level at these meetings establishing coordination between the campaign and the RNC. Also in attendance are individuals that are handling polling and media for both the campaign and the RNC.

Another indication of Scott Reed's involvement in the coordination of the media programs is found in a memorandum from Haley Barbour to Curt Anderson (Senate Report at 8320). The memorandum responds to a proposal to spend \$800,000 on a series of Unity Events.<sup>23</sup> Chairman Barbour expresses budgetary reservations and then explains:

"I will reach out to Scott Reed to ask him to consider whether the Dole campaign would want us to 1) reduce other spending, such as the issue advocacy television advertising, by \$800,000; 2) significantly increase the number and lead time for Victory '96 events in order to offset these costs (although I am not convinced at this time that the Victory '96 events will produce the revenue currently anticipated and budgeted for expenditure [sic]; 3) not spend the sum requested for Unity Events; or 4) consider some other alternative.

<sup>23</sup> The Candidate's travel itineraries show a number of party unity events beginning in late May of 1996.



"I have not had a chance to talk to Scott yet, so hold this response close until he and I can discuss it."

Again it is clearly stated that the media campaign as well as other aspects of the RNC's activities were being coordinated with the Dole campaign.

Another indication of how closely the campaign and the RNC were working can be seen in the Anderson memorandum to Chairman Barbour, dated May 22, 1996, (Senate Report at 4150). In that memorandum Anderson states:

"One of the most important things that we will need to monitor is to insure that any and all traffic changes be agreed upon by the RNC. This sounds basic, but stranger things have happened. Some of the campaign personnel continue to see RNC resources as at their command and disposal.

This language suggests that some of the people involved in the advertising effort considered the campaign and RNC resources as a single pool to be used to further the campaign.

Finally, it is clear that the Candidate was well aware of the RNC's efforts. In an interview from Orlando, Florida with Ted Koppel on June 6, 1996 (Senate Report at 4153 and 4154) he was asked about the campaign being close to the spending limitation. In response he explained:

"Well let me explain how we sort of reached those limits. We had a tough primary, as you know. Seven and eight candidates. And we had to spend a lot of money to win the nomination. President Clinton, on the other hand had virtually no opposition, but he still gets \$10 million in federal subsidies, even though he had no real contest.

"But we can, through the Republican National Committee, through what we call the Victory '96 program, run television ads and other advertising. It's called generic. It's not Bob Dole for president. In fact, there's an ad running now, hopefully in Orlando, a 60-second spot about the Bob Dole story: Who is Bob Dole? What's he all about? Pretty much the same question that Ted Koppel asked me. So we'll do that.

"And then come August, we'll have about \$72 million, as will the president, for our campaign for the remainder of August after the convention, September, October, up through November 5. So we'll both be equally funded in August."

In response to a follow up question about what was meant by "generic," Senator Dole went on to say:

Attachment 4  
Page 34 of 21

"It doesn't say 'Bob Dole for president.' It has my - - It talks about the Bob Dole story. It also talks about issues. It never mentions the word that I'm - - it never says that I'm running for president. though I hope that it's fairly obvious, since I'm the only one in the picture!"

The information presented above establishes that the RNC advertising effort was closely coordinated with Dole campaign. The same vendors were used for the advertising efforts run by the campaign and the RNC, and at times work was ongoing simultaneously. As will be established below, and as is shown by some of the documents cited above, both committees had the same goal, to elect Bob Dole president. Further, it is clear that at least the Campaign Manager was routinely involved in the RNC media campaign. His advice was sought on budgetary matters and on ad content, and he was included in the RNC's regular planning sessions. Further, the evidence clearly shows that the Candidate was fully aware of the effort and in at least one case was familiar with the ads being aired. He was also fully aware that this program was being used to keep his campaign going after it had nearly exhausted its spending limitation.

In addition to the information presented above, a review of the ads that were produced was undertaken. Video tapes of eight ads and a transcript of a ninth were obtained. However, with the exception of three of the ads, information gathered to date, including records of Multi Media, is insufficient to determine which of the ads were broadcast. For the three ads that are known to have been broadcast, records are inadequate to determine if the information is complete as to dates and markets. In a letter to the Commission, Multi Media's attorney states that "[f]urther, I am told that MMSC [Multi Media] is unable to identify which advertisements were run, in which markets, and when." However, the information that is available indicates that all of the ads produced clearly identify a candidate and have an electioneering message. Each of the ads reviewed is discussed below.

### *The Story*

This is the only 60 second ad that has been identified. As noted above in the discussion of Senator Dole's interview with Ted Koppel, it is biographical. The film features both Senator and Mrs. Dole discussing the Senator's upbringing, his military record and war injuries, his recovery from those injuries and his character. It states that his life experiences have provided him a "strong moral compass" and describes principles that Senator Dole supports. The narration states: "The principle of work to replace welfare, the principle of accountability to strengthen our criminal justice system, the principle of discipline to end wasteful Washington spending." Senator Dole then comes on the screen and says: "It all comes down to values, what you believe in, what you sacrifice for, and what you stand for." At the end is a graphic that reads: "Americans take a stand. Work for Welfare. Criminal Justice Reform. End Wasteful Spending, Call your elected officials." This ad concentrates solely on promoting Senator Dole as a person and his stand, in general terms, on welfare, the criminal justice system

Attachment 4

Page 35 of 71

and the budget. In the opinion of the Audit staff, this ad is designed to urge the public to support Senator Dole. Although no mention of his candidacy for president is included, as Senator Dole said of this ad "...I hope that it's fairly obvious, since I'm the only one in the picture!"

There was apparently some concern at the RNC about this ad. In the May 22, 1996 Anderson memorandum to Chairman Barbour cited above, (Senate Report at 4150 to 4152) the following appears:

"We could run into a real snag with the Dole Story spot. Certainly, all the quantitative and qualitative research strongly suggests that this spot needs to be run. Making this spot pass the issue advocacy test may take some doing. We need to involve our attorneys right now, not next Tuesday after the final spot has been cut. Therefore, we have had all scripts faxed to Tom today for his comments.

"It has been Sipple's intention to present a finished product (post focus group testing) to Tom and hope for minor revisions. This may not work with the Dole Story spot."

Unlike the other ads that were identified, this one appears to be derivative of ads used in the primary, once again suggesting coordination between the RNC and the Dole campaign. DFP produced a video that runs approximately 13.5 minutes entitled "*Bob Dole: An American Hero*." Much of *The Story*<sup>24</sup> appears to be taken from this video or from the same footage that was used in producing it. Also, DFP produced a 60 second spot called *An American Hero*, that was likewise derivative of *Bob Dole: An American Hero* footage. Although none of the films are identical, their common origins are obvious.

#### *More Talk*

This ad shows only President Clinton. It features various clips of the President commenting on how long it would take to balance the budget. It states that for four years the viewer has heard a lot of talk from the president about balancing the budget. It concludes with "No wonder Bill Clinton opposes a Constitutional Amendment to balance the budget. Talk is cheap. Double-talk is expensive. Tell Mr. Clinton to support the Balanced Budget Amendment." (Emphasis in original)

Run in the presidential election year, this ad appears to have been designed to diminish support for President Clinton.

<sup>24</sup> A number of other DFP ads have film footage in common with *The Story*.

### *Even More Talk*

This spot is very similar to "*More Talk*" described above. The major change is the introductory and concluding narration. It opens with "End Wasteful Spending." "Clinton just can't do it" and ends with "Clinton opposes a Constitutional Amendment to balance the budget. Talk is cheap. Double-talk is expensive. Tell Mr. Clinton to Stop his wasteful Washington spending." (Emphasis in Original)

Again this ad was apparently intended to diminish support for President Clinton.

### *Surprise*

This is the only ad to feature both Senator Dole and President Clinton. The ad opens with a graphic and narration saying that three years ago Bill Clinton gave us the largest tax increase in history, including a four cent a gallon increase on gasoline. Bill Clinton said he felt bad about it. A film clip of the president follows wherein he says "People in this room are still mad at me about that budget because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much too." The ad closes with pictures of both candidates and the words "We are surprised, so surprise us again. Support Senator Dole's plan to repeal your gas tax. And learn that actions do speak louder than words."

This ad clearly identifies President Clinton in a negative context and Senator Dole in a positive context constituting an electioneering message.

### *The Pledge*

This ad opens with a clip of President Clinton promising not to raise taxes on the middle class. The announcer says "We heard this alot." This is followed by another clip of the President discussing a middle class tax cut. The narration then continues with: "Six months later he gave us the largest tax increase in history. ...Under Clinton the typical American family now pays over \$1,500 more in Federal taxes. A big price to pay for his broken promise. Tell President Clinton you can't afford higher taxes for more wasteful spending." Followed by a graphic that says "Tell President Clinton Don't Veto Republican Tax Cuts Again."

As with the other ads, this message appears to have the purpose of diminishing support for President Clinton in the election year.

### *More*

"More" opens with the statements that there are more than 5 million illegal immigrants in the U.S. and that the viewer spends \$5.5 billion per year to support illegals. The narration then states that: "Under President Clinton spending on illegals has gone up, while wages for the typical American worker have gone down." "When efforts were made to stop giving benefits to illegal immigrants Bill Clinton opposed them." Finally a graphic is added to the narration that says: "Tell President Clinton... Stop giving benefits to Illegals. End Wasteful Washington Spending."

While not mentioning Senator Dole or any Republican candidate, or the Republican Party, it clearly criticizes President Clinton's position. This criticism appears to be intended to diminish support for the President.

### *Who*

The opening narration in this ad states: "Compare the Clinton rhetoric with the Clinton record." Statements that follow include: "Clinton Record on Welfare. Vetoed welfare reform twice. Vetoed work requirements for the able bodied. Vetoed putting time limits on welfare. Clinton still supports giving welfare benefits to illegal immigrants. The Clinton rhetoric has not matched the Clinton record." A film clip of the President follows wherein he says "Fool me once, shame on you. Fool me twice, shame on me." The narration then concludes with "Tell President Clinton you won't be fooled again."

This ad suggests that the viewer was fooled once when President Clinton was elected, but should not be fooled again. A clear attempt to diminish support for a clearly identified candidate.

### *Stripes*

This ad shows President Clinton jogging, hunting, playing golf and riding a bicycle. It opens with the statement: "Bill Clinton... He's really something." The narration and a graphic then state: "Mr. Clinton claims... as commander in Chief he is covered by the Soldiers and Sailors Relief Act of 1940 which grants automatic delays in law suits against military personnel until their active duty is over." The statement is attributed to the Washington Times of May 22, 1996. The narration then continues with: "Active Duty?" "Bill Clinton, he's really something."

This ad is attempts to create a negative impression concerning the President's character. Such a connotation would clearly serve to diminish support for his candidacy.

### *The Plan*

This ad is not currently available on video tape. However, a transcript reads as follows: Senator Dole is heard saying "Americans are working

Attachment 4

Page 28 of 11

harder and longer but taking home less. In fact, the typical American family spends more on taxes than on food, clothing and housing combined. The American people deserve better." The announcer then states: "Bob Dole's economic plan will cut taxes 15 percent for every single taxpayer. The typical family of four will save over \$1,600 a year." Finally, Senator Dole says: "The Dole plan: Americans keep more of what they earn." This ad is a clear attempt to urge the viewer to support Senator Dole's candidacy. Without a copy of the ad, no description of the film footage accompanying the text is possible.

In each of the ads described above, the apparent purpose is to either garner support for Senator Dole or diminish support for President Clinton by criticizing his actions, his positions on issues, or his character. These ads appear to contain an electioneering message and as was explained were developed in coordination with the Dole campaign. Therefore, the media program described represents either an in-kind contribution to DFP or an-kind contribution to DK, either as a direct in-kind contribution from the RNC or, as coordinated expenditures pursuant to 2 U.S.C. §441a(d) that exceed the limitation on those expenditures. The amount of the contribution is \$17,904,238 (\$16,490,756 paid to Multi Media + \$272,497 paid to New Century + \$1,140,985 paid to Target).

At the close of the Audit field work the issue of the RNC media campaign was discussed with DFP representatives. At that time the amount paid through the state party committees was not known. Therefore, the amount discussed was a fraction of the amount presented above. After that meeting DFP supplied an affidavit from RNC Counsel wherein he states:

"Between April, 1996, and August, 1996, the RNC incurred certain media expenses. These expenses included, but were not limited to, issue advocacy broadcasts which highlighted certain issues of importance to the American people. On information and belief, during this same time period the RNC also incurred certain polling expenses in connection with it media activity. To my knowledge, none of the RNC's media and polling expenses during this time period or any other time period were directed or controlled by any person or entity outside of the RNC. All of the RNC's public broadcasts and communications during this time were reviewed by RNC Counsel's Office to ensure that they fully complied with all applicable laws."

This general statement does not change the analysis presented above. It does not address the issue of coordination which is not the same as direction and control. It also does not address the content of the ads and the apparent electioneering message contained in each one reviewed to date.

Attachment 4

Page 35 of 71

## Recommendation #7

The Audit staff recommends that, within 60 calendar days of service of this memorandum, DFP demonstrate that the media program described above does not constitute an in-kind contribution from the RNC to either DFP or DK. The demonstration should include evidence that the RNC media program was not coordinated with either DFP or DK and that the ads aired did not contain an electioneering message. Absent such a demonstration, the Audit staff will recommend that the Commission determine that an in-kind contribution in the amount of \$17,904,238 has been received by DFP or DK. If it is determined that the contribution was received by DFP, the amount will be attributed to DFP's spending limitation.

### 5. Polling Expenses

According to DFP representatives, it did no polling after March of 1996. Also, as noted above, Robert Ward was transferred to the RNC payroll effective beginning in April of 1996. Mr. Ward was employed by DFP to work on polling. Two vendors involved in DFP's polling program were Fabrizio, McLaughlin & Associates, Inc. and Public Opinion Strategies. With the exception of a February 8, 1996, \$4,000 payment to Public Opinion Strategies, and a January 2, 1996, \$15,435 payment to Fabrizio, McLaughlin & Associates, Inc., the RNC had not reported any 1996 payments to these vendors prior to the latter part of March. Between March 20, 1996, and the Candidate's nomination on August 14, 1996, Fabrizio, McLaughlin & Associates, Inc., and Public Opinion Strategies were paid a total of \$547,801<sup>25</sup> (\$519,600 to Fabrizio, McLaughlin & Associates, Inc. and \$28,201 to Public Opinion Strategies). DFP was asked to obtain information from knowledgeable campaign officials, vendor representatives and the RNC concerning any polling data received during the period April 1 to August 14, 1996. Information was requested concerning any such data received by DFP, its officers, employees, or agents from any source whether it was received formally, informally, in writing, electronically, or orally. No information has been received. The Commission has issued subpoenas requiring the production of the requested information.

In the absence of the requested material, some information has been gathered that suggests that the polling was associated with the Media program discussed above. First, it is known that Tony Fabrizio is not only associated with Fabrizio, McLaughlin & Associates, Inc., but is also the owner of Multi Media, the firm placing the RNC advertising. Also, the documents cited above make reference to research and polling as well as focus group testing for the media program. It is likely that Fabrizio, McLaughlin & Associates, Inc. would have handled that work. Finally, in an affidavit from Counsel to the RNC he states that between April and August of 1996, the RNC incurred certain media expenses and "during this same time period the RNC also incurred certain polling expenses in connection with its media activity." Absent the requested information, and the examination of any associated documentation, and based

<sup>25</sup> Each of the vendors also received payments from the RNC in the general election period.

on the information gathered to date, the amounts paid by the RNC appear to be part of the cost of its media program on behalf of the Dole campaign. Therefore these polling expenses are included among the contributions in-kind from the RNC.

### **Recommendation #8**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, DFP present evidence to establish that the polling expenses discussed above are not in-kind contributions from the RNC to either DFP or DK. The evidence submitted should include documentation establishing the subject of each poll, the date each poll was conducted, the purpose of the poll, and the distribution of the results of each poll whether that distribution was done in writing, orally, or electronically. Absent the submission of the requested information and demonstrations, the Audit staff will recommend that the Commission determine that \$547,801 in polling expenses paid by the RNC are in-kind contributions from the RNC to either DFP or DK. If it is determined that the contribution was to DFP, the amount will be added to DFP's expenditures subject to the limitation. Further, it will be recommended that the Commission determine that the excessive amount of the contribution is payable to the US Treasury.

#### **6. Summary of Contributions From the RNC**

Primary Expenses Paid as Coordinated Expenses	\$936,245
Payroll and Consulting Expenses	\$421,962
Media Expenses	\$17,904,238
Polling Expenses	\$547,801
Total Potential RNC Contributions	<u>\$19,810,246</u>
Less Contribution Limitation	<u>\$(5,000)</u>
RNC Contribution Amount Net of Limitation <sup>26</sup>	<u><u>\$19,805,246</u></u>

#### **B PRIMARY EXPENSES PAID BY RELATED COMMITTEES**

Section 441a(a)(1)(A) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 100.7(a)(1) and (a)(1)(ii) of Title 11 of the Code of Federal Regulations states in part that the term contribution includes the following payments, services or other things of value. A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7(b)(11), advance, or deposit of money or anything of value

<sup>26</sup> Should any of these amounts be determined to be contributions to DK, the amount limitation would be applied, but any unused coordinated expenditure limitation would be credited to the contribution amount.



made by any person for the purpose of influencing any election for Federal office is a contribution.

For purposes of 11 CFR 100.7(a)(1), the term anything of value includes all in-kind contributions. Unless specifically exempted under 11CFR 100.7(b)(ii), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: Securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.

Section 9003.4(a) of Title 11 of the Code of Federal Regulations states, in part, that a candidate may incur expenditures before the beginning of the expenditure report period if such expenditures are for property, services or facilities which are to be used in connection with his general election campaign and which are for use during the expenditure report period.

Section 9002.12(a) of Title 11 of the Code of Federal Regulations states, in part, that *expenditure report period* means, with respect to any Presidential election, the period of time which begins on the date on which the major party's presidential nominee is chosen and ends 30 days after the Presidential election.

Sections 9034.4(e)(3), (4), (6) and (7) of Title 26 of the Code of Federal Regulations discuss the attribution of expenditures between the primary and general election spending limitations. In relevant part, it states that:

- Expenses for the usage of offices or work performed on or before the date of the candidate's nomination shall be attributed to the primary election, except for periods when the office is used *only* by persons working *exclusively* on general election campaign preparations.
- Expenditures for campaign materials that are purchased by the primary election campaign committee and later transferred to the general election committee shall be attributed to the general election limits. Materials transferred to but not used by the general election committee shall be attributed to the primary election limits.
- Costs of a solicitation shall be attributed to the primary election or to the GELAC, depending on the purpose of the solicitation. If a candidate solicits funds for both the primary election and for the GELAC in a single communication 50% of the cost of the solicitation shall be attributed to the primary election, and 50% to the GELAC.
- Expenditures for campaign-related transportation, food and lodging of any individual, including the candidate, occurring prior to the date of the candidate's

Attachment 4

Page 42 of 71

nomination shall be attributed according to when the travel takes place. If the travel takes place on or before the date of the candidate's nomination, the cost is a primary election expense. Travel to and from the convention shall be attributed to the primary election. Travel by a person who is working *exclusively* on the general election campaign preparations shall be considered a general election expense even if the travel occurs before the candidate's nomination. (emphasis added)

As previously noted, by March 31, 1996, DFP reported having only \$2 million in spending limitation remaining, but was four and one half months from the end of the primary campaign period. Given this situation, the Audit staff performed a detailed review of expenses incurred by the Dole for President Compliance Committee, Inc., Dole/Kemp '96, Inc. and Kemp for Vice President before the Candidate's August 14, 1996 date of ineligibility. The results of those reviews are presented below.

1. Primary Expenses Paid by the GELAC

The Dole for President Compliance Committee, Inc. (GELAC) registered with the Federal Election Commission on February 15, 1995. Between registration and DOI, the GELAC spent \$1,405,245 and shared staff and offices with DFP. For the first nine months, the GELAC accepted only contributions that were redesignations of contributions initially made to DFP and incurred little in the way of expenses. In January 1996, GELAC began paying salaries to staff formerly paid solely from DFP fund-raising accounts, and began soliciting direct contributions. These solicitations were frequently done jointly with DFP. A review of the GELAC disbursements made prior to DOI, identified expenditures of approximately \$950,000 that were correctly attributed to the GELAC in the primary period. However, expenditures of \$454,412 attributable DFP were also identified

Of the \$454,404 in DFP disbursements, salaries accounted for \$210,262 and overhead \$115,302. Overhead expenses included office supplies, computer hardware and software, telephone costs, and charges for other office equipment. Under 11 CFR 9034.4(e)(3) these salary and overhead expenses are primary campaign expenses unless it can be demonstrated that they relate to periods devoted exclusively to the general election effort. No such showing has been made. The balance of the primary disbursements, \$128,839, were for travel, including some expenses related to attending the Republican National Convention, and the primary share of joint solicitation costs. Approximately \$93,000 of the \$128,839 was spent on two fund-raising projects.

On April 11 and 12, the campaign held a series of fund-raising events in Memphis, Tennessee, and Dallas, San Antonio and Houston, Texas, described as a compliance trip. All associated costs, including advance travel costs, air charter expense, plane catering, ground transportation, press filing center costs and solicitation costs, were paid by GELAC. An invitation for the Memphis event contained a joint solicitation for DFP and for GELAC. This, along with the fact that over seventy percent

Attachment

Page 49 of 71

of the contributions received and attributed to these fund-raisers was deposited to primary accounts, establish that the events were joint solicitations. As a result, travel costs of \$57,267, are *primary expenses* pursuant to 11 CFR 9034.4(e)(7). Additionally, half of all solicitation costs related to the fund-raisers, \$32,603 are DFP expenses pursuant to 11 CFR 9034.4(e)(6).

The second instance of a joint solicitation funded by the GELAC was a "Lawyers for Dole" event held in Chicago on July 19, 1996. A solicitation device for this event requested contributions for both the DFP and the GELAC. This time 45% of the receipts attributed to this event, \$58,675, were deposited in the primary accounts. The GELAC paid \$2,887 of the primary share of the solicitation costs.

At the close of fieldwork, DFP was provided a schedule of GELAC expenditures identified as having been made on behalf of DFP. DFP provided documentation in response, and where appropriate, adjustments were made the total presented here.

### **Recommendation #9**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, DFP provide documentation which demonstrates that disbursements in the amount of \$454,404 made by the GELAC were not DFP expenses pursuant to 11 CFR 9034.4(e). Absent such a demonstration, the Audit staff will recommend that the Commission determine that these expenses are attributable to DFP spending limitation and that the amount is due to the GELAC.

### **2. Primary Expenses Paid by Dole-Kemp '96**

Dole/Kemp '96, Inc.(DK) registered with the Federal Election Commission on May 3, 1996. DK was permitted to incur general election qualified campaign expense prior to the expenditure report provided they were for goods, facilities or services which were to be received and used in the expenditure report period.

Between June 17, 1996 and August 14, 1996, the beginning of the expenditure report period, DK spent approximately \$416,000. Of this amount, \$278,562 was identified as having been for goods, facilities and services used in the primary period. Included is \$71,184 paid for rent and related expenses that is addressed in Finding III. D. Headquarters Rent and Security Deposits. The balance of the pre-expenditure report period DK disbursements include:

- \$58,786 for telephone service, installation, and equipment;
- \$80,288 for office furniture and equipment;

- \$36,173 for utilities;
- \$6,588 for collateral materials;
- \$11,552 for HQ security;
- \$8,550 for supplies;
- \$4,186 for convention related expenses, and;
- \$1,255 for miscellaneous expenses.

Accordingly, for the purposes of this finding, DK made primary disbursements of \$207,378 (\$278,562 - \$71,184) chargeable to the DFP spending limitation.

At the close of fieldwork, DFP was provided a schedule of DK expenditures identified as having been made on behalf of DFP. DFP provided documentation in response, and where appropriate, adjustments were made to the total presented here.

#### **Recommendation #10**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, DFP provide documentation which demonstrates that disbursements made by DK were not primary related. For all other expenses, the demonstration should establish that the goods and services were used in the Expenditure Report Period. For office and overhead expenses, the information submitted should demonstrate that the facilities were being used by persons working exclusively on the general election (11 CFR 9034.4(e)(3)). Absent such a showing, the Audit staff will recommend that the Commission determine that \$207,378 paid by DK are primary expenses, are attributable to the DFP spending limitation, and are due to DK.

#### **3. In-Kind Contribution - Kemp for Vice President**

Kemp for Vice President (KVP) originally registered with Federal Election Commission on August 7, 1996 as the 1996 Vice Presidential Convention Expense Committee. In an amended statement of organization filed on August 13, 1996, following the announcement of his selection by Senator Dole as his running mate, the name of the committee was changed to reflect the Vice Presidential candidacy of, former Secretary, Jack Kemp.

Authorized committees of Vice Presidential candidates are permitted to make expenditures on behalf of the candidate. Such expenditures are made

in the interest of furthering the candidate's campaign for the nomination. However, three disbursements made by KVP were identified as in-kind contributions to DFP.

Two expenditures were made by KVP to purchase campaign materials which promoted the Dole/Kemp '96 ticket rather than the vice presidential candidacy of Mr. Kemp. A third expenditure was made to a consultant who aided in the distribution of the materials.

For the first purchase, the vendor provided two invoices for the same sale. Each invoice, otherwise identical, described the materials provided, rally signs, arrival tickets and "add'l" arrival tickets, for "Dole" on the first edition and "Kemp" on the second. The materials from this order were apparently used at the festivities surrounding the candidates arrival in San Diego for the convention. A photograph of this event showed a multi-colored Dole Kemp '96 rally sign with the disclaimer that it had been paid for by Kemp for Vice President. For this order, KVP paid \$26,472. KVP made a second disbursement of \$49,565 for collateral materials. The invoice clearly identified the type items purchased: red and white visors, confetti wands, noise makers, nurf footballs and red and blue pennants all inscribed with "Dole Kemp '96" and red and blue foam hands inscribed with "Dole Kemp #1." "Collateral materials for Wednesday night, August 14, 1996," the evening that both Senator Dole and Secretary Kemp were nominated, was also noted on the invoice. The third payment of \$1,200 was made to a consultant, who oversaw the organization and distribution of materials. for the Republican National Convention.

All three of the expenditures involved purchases of materials which promoted the presidential candidacy of Senator Dole. The timing of the incurrence of these obligations, preceding the nomination of either candidate, established that Senator Dole's primary campaign received an in-kind contribution of \$77,237 from KVP.

### **Recommendation #11**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, the DFP provide evidence demonstrating that the disbursements in question are for expenses were incurred to influence the campaign for nomination to the office of Vice President. Absent this, the Audit staff will recommend that the Commission determine that DFP has received an in-kind contribution from KVP of \$77,237, that the contribution exceeds KVP's contribution limitation by \$76,237, and that an equal amount is payable to the United States Treasury.

### **C. TELEPHONE EQUIPMENT LEASES AND PURCHASES**

Section 110.2 (b)(1) of Title 11 of the Code of Federal Regulations states that no multicandidate political committee shall make contributions to any candidate, his or her authorized political committee or agents with respect to any election for Federal office which, in the aggregate exceeds \$5,000.

Attachment 9  
Page 470 of 71

Section 110.7(a) of Title 11 of the Code of Federal Regulations states that the national committee of a political party may make expenditures in connection with the general election campaign of any candidate for President of the United States affiliated with the party. Such expenditures may not exceed 2 cents multiplied by the voting age population of the United States (emphasis added).

Section 116.3(b) of Title 11 of the Code of Federal Regulations states, in part, that a corporation in its capacity as a commercial vendor may extend credit to a candidate provided that the credit is extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.

Section 9035.1(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that no candidate or his authorized committees shall knowingly incur expenditures in connection with the candidate's campaign for nomination that in the aggregate exceed \$10,000,000 as adjusted under 2 U.S.C. §441(a)(c)

Section 9034.4(e)(3) of Title 11 of the Code of Federal Regulations, attribution of expenditures between the primary and general election limits, states that for candidates who receive public funding in both the primary and general elections overhead expenses for national and state offices, shall be attributed according to when the usage occurs or the work is performed. Expenses for usage of offices or work performed on or before the date of the candidate's nomination shall be attributed to the primary election, except for periods when the office is used only by persons working exclusively on general election campaign preparations.

# 1. Background

Throughout the course of the primary campaign, DFP entered into four lease agreements with NTFC Capital Corporation, Inc. (NTFC). These leases were the means by which DFP obtained telephone systems it required for its headquarters and various field offices. One of the leases was a capital lease whose provisions called for a transfer of ownership at its successful completion. The other three leases were conventional in nature, the ownership of the systems remained with NTFC. The Audit staff reviewed each lease and found the following problems with three of these leases, #48941, #48972 and # 53203.

# 2. Lease #48941

DFP, on March 30, 1995, signed a contract with NTFC to lease a telephone system. The system provided by this lease was initially installed at the headquarters office in Washington, D.C. In the contract, DFP agreed to make seventeen payments to NTFC. Title to the telephone system remained with NTFC. In October

Attachment 4  
Page 47 of 71

1995, the lease was amended, the telephone system was divided, and the equipment was moved. Some equipment was sent to Iowa and some to Florida.<sup>27</sup>

On March 15, 1996, DFP moved out of its state headquarters office in Tallahassee, Florida. On March 27, 1996, technicians arrived to remove the phone system, but discovered it missing.

In early April 1996, DFP contacted NTFC to inquire about a possible termination of this particular lease. NTFC responded with two lease termination proposals; the first was an equipment buyout for \$20,100 and the second for \$17,400 and the return of the system. DFP never accepted either offer.

It was not until May 8, 1996 that DFP filed a police report regarding the theft. No records were found to document when the matter was submitted to its insurance carrier. DFP did receive an insurance settlement of \$5,000 dated November 4, 1996. The settlement amount reflects the maximum coverage under DFP's insurance policy for assets in transit. Although the settlement check was made out jointly to DFP and NTFC, DFP deposited the check, and reported it as an offset to expenditures subject to the spending limitation. The amount was never forwarded to NTFC.

Only 13 of the 17 scheduled payments for the missing system were made by DFP; the last payment on June 5, 1996. Notes made by DFP on one of NTFC's invoices were as follows:

*"Only paying LA phone system charge which is \$2,500.43.*

*"System missing. Will be paid later or system might have to be purchased.*

*"Florida rent on phone system will be paid at a later date depending if the phone system is located or stolen."*

While these notes suggest a natural reluctance on the part of DFP to pay for something that it no longer had in its possession, a settlement with NTFC is necessary.

At the request of the Audit staff, DFP contacted NTFC and obtained a statement on this lease. The statement, dated January 12, 1998, shows an outstanding balance of \$27,857. DFP paid \$1,093 for sales, use, and property tax on January 15, 1998, and \$10,855 invoiced as monthly rent and sales/use tax on March 5, 1998. These two payments leave a balance of \$15,848 invoiced as equipment buyout. As noted above, DFP received \$5,000 of this amount from its insurance company but did not

<sup>27</sup> The Iowa system was later returned to Washington, DC and the lease was assumed by New Century Media.

forward it to NTFC. The invoiced amounts do not include the 1.5% per month interest on unpaid balances allowed by the contract. DFP, by failing to either make the required payments or formally terminate the lease, has received an extension of credit from NTFC outside of the normal course of business. This extension of credit constitutes a contribution made by NTFC and received by DFP. The amount of the contribution is at least \$27,857 with \$15,848 outstanding. This amount is subject to the spending limitation, less an allowance for compliance overhead costs.

DFP sold this telephone system to Dole-Kemp '96 (DK) for 60% of \$18,200, the value DFP placed on the system, or \$10,920, and reported the amount as an offset to the spending limitation. In July 1997, the DFP repurchased the telephone system from DK for 60% of \$10,920, the amount that it received the previous year, or \$6,552. This expenditure was reported as an exempt legal and account cost.

In summary, DFP received \$10,920 from DK for the period August 22, 1996 through July 27, 1997 and still owes DK \$4,368 (the 1996 sales price of \$10,920 less the 1997 repurchase price, \$6,552.) DFP understated expenditures subject to the spending limitation by \$10,920 when it sold the missing telephone system to DK and reported the proceeds as an offset to the spending limitation. The DFP received a contribution in the form of an extension of credit from NTFC of at least \$27,857, of which \$15,848 remains outstanding. Of this amount, \$18,780 (\$27,857 less the insurance settlement of \$5,000 less a compliance exemption of 17.9% for overhead expenses) is subject to the spending limitation.

### 3. Lease #48972

On May 30, 1995, DFP signed a capital lease [purchase] agreement with NTFC Capital Corporation, Inc. to finance the acquisition of a telephone system for its national headquarters office. DFP agreed in this contract to make sixteen payments of \$19,304 for equipment valued at \$273,200. At the completion of the contract, DFP would be permitted to purchase the system for one dollar.

A review of DFP disbursement records found evidence that it made 13 of the required 16 payments to NTFC with portions of the last 2, due in May and June of 1996, being made by the Dole For President Compliance Committee, Inc. (GELAC). The GELAC paid \$1,351 and \$772 of the twelfth and thirteenth payments respectively.<sup>28</sup> Additionally, a review of coordinated expenditures (2 U.S.C. §441a (d)) shows that the Republican National Committee [hereafter the RNC] made the fourteenth and fifteenth payments due in July and August of 1996.<sup>29</sup>

<sup>28</sup> See Finding III.B.1. for other DFP expenses paid by GELAC.

<sup>29</sup> See Finding III.A. for other excessive contributions to DFP from the Republican National Committee.

Attachment 4

Page 49 of 71



The Audit staff found no evidence that a sixteenth payment was made or that DFP exercised its purchase option. In response to our inquiry, DFP representatives acknowledged that a payment is currently outstanding and owed to NTFC. An invoice for the sixteenth payment (September 1996) was provided by the DFP. The Audit staff requested that the DFP obtain a reconciliation of this account from NTFC. On an invoice dated January 12, 1998, NTFC shows a balance due of \$19,305. The 1.5% per month interest charge on unpaid balances permitted by the contract is not included.<sup>30</sup> The Audit staff concludes that NTFC, by failing to collect this payment from the DFP, has extended credit outside the normal course of business. As a result, NTFC has made and the DFP has received a prohibited corporate contribution of at least \$19,305.

On August 22, 1996, DFP sold the telephone system to DK. DFP valued the system at \$282,000 and received 60% of that amount, or \$169,200, which was used to offset an equal amount of primary expenditures subject to the spending limitation. DFP has not explained this higher valuation of the telephone system. As noted earlier, the contract valued the telephone system at \$273,200.

The DFP offset a greater amount against the primary expenditure limitation than the facts permit. DFP inflated the phone system value by \$8,800 (\$282,000 - \$273,200). Also the payments on the lease were eligible for a compliance exemption for overhead expenses of 17.9%. The amount received from DK was not charged back in the same ratio. The amount the DFP may offset against its expenditures subject to the spending limitation must be reduced by \$5,280 (\$8,800 x 60%), plus \$29,342 (\$273,200 x 60% x 17.9%).

The result of the transactions noted above are as follows: an in-kind contribution of at least \$19,305 from NTFC;<sup>31</sup> an in-kind contribution from the RNC of \$38,608; and an amount due to the GELAC of \$2,123. Of these amounts, \$49,290 is chargeable to the spending limitation (\$60,036 less a 17.9% compliance exemption).

In a letter dated July 18, 1997, a representative of Line Two Communications (LTC) agreed to broker the sale of the telephone system for a guaranteed minimum price of \$110,500. This was apparently agreed to when the letter was signed by the Assistant Treasurer for both DFP and DK on July 23, 1997. On July 28, 1997, DK deposited a check dated July 24, 1997 for \$130,000 from Telpro, Inc., the purchaser of the telephone system.

Also on July 28, 1997, DFP reported repurchasing the telephone system from DK for \$101,520 (\$169,200 x 60%) and reported the purchase as an exempt compliance expense. The Audit staff concludes that DFP could not repurchase the

<sup>30</sup> For late payments the lease allows a charge of 1.5% for each month the late payment is outstanding

<sup>31</sup> No documentation was found to indicate that DFP received clear title to the telephone system.

telephone system. First, DFP has not demonstrated any legitimate winding down purpose for the repurchase. Second, the documentation available states that DK had previously sold the telephone system to a third party. LTC necessarily negotiated the sale with DK and not DFP because DK had purchased DFP's interest in the system on August 22, 1996. As already noted, the commitment to sell the equipment was signed on July 23, 1997. The Telpro, Inc. check, dated July 24, 1997, indicates that the sale was made on that date. Consequently, after July 24, 1997, DK no longer owned the telephone system and could no longer transfer it to DFP. The \$130,000 realized from the sale of the telephone system was transferred to DFP on July 31, 1997 with the explanation that it had been mistakenly deposited to the DK account. DFP reported this transfer as an offset to the spending limitation although no portion of the amount had been charged to that limitation. Finally, on July 31, 1997, DFP paid Line Two Communications, Inc. \$19,500 which is described as "15% fee for brokering of phone system,..." This payment was also reported as an exempt compliance winding down expense.

At the conclusion of this series of transactions, DFP had made and reported exempt compliance expenses of \$121,020 and, had received and reported offsets to the spending limitation of \$130,000, thereby artificially reducing the amount applied to the spending limitation.<sup>32</sup> DFP purchased an asset from DK that it no longer owned, and received a transfer from DK of the proceeds of its sale of the asset. These transactions need to be reversed by DFP paying DK \$8,980 (\$130,000-\$121,020), and DFP adding \$130,000 to amounts applicable to its spending limitation.

#### 4. Lease # 53203

The January 12, 1998, statement that DFP obtained from NTFC at the request of the Audit staff shows an outstanding balance on this lease as well. On June 1, 1996, lease #53203 was assigned to New Century Media.<sup>33</sup> NTFC's invoice to DFP identifies the November 1996 lease payment and a small portion of the October payment as outstanding and an obligation of DFP. The outstanding balance is \$1,519 excluding the 1.5% late fee permitted by the contract. This, like the other unpaid amounts, is an extension of credit by NTFC outside its normal course of business and therefore a contribution. The amount of the contribution less a compliance exemption for overhead costs (\$1,247 (\$1,519 less 17.9%)) is applicable to DFP's spending limitation.

Presented below is a chart that summarizes the contributions received by DFP and the necessary adjustments to the spending limitation:

<sup>32</sup> As it stands this transaction could result in a taxable gain for DFP on the sale of the telephone system in the amount of \$8,980.

<sup>33</sup> New Century Media was the DK media firm for the early part of the general election period. It occupied space in the same building as DFP and DK.

Description	Contribut. From NTFC	Contribut. From RNC	Due to DK	Due to GELAC	Adjust. To The Limitation
<b>Lease #48941</b>					
Insur. Settlement reported as an offset					\$5,000
Due to NTFC	\$27,857				\$18,780
Proceeds from sale to DK reported as an offset			\$10,920		\$10,920
Repurchase from DK			\$(6,552)		
<b>Subtotal #48941</b>	<b>\$27,857</b>		<b>\$4,368</b>		<b>\$34,700</b>

<b>Lease # 48972</b>					
Due DK for over valuation of the phone system			\$5,280		\$5,280
Amt credited to limitation when sold in excess of amount charged					\$29,342
Paid by GELAC Pre nomination				\$2,123	\$1,743
Due NTFC	\$19,305				\$15,849
Contribution from RNC		\$38,608			\$31,697
Due DK for reversal of repurchase of the phone system			\$8,980		\$130,000
<b>Subtotal #48972</b>	<b>\$19,305</b>	<b>\$38,608</b>	<b>\$14,260</b>	<b>\$2,123</b>	<b>\$213,911</b>

<b>Lease # 53203</b>					
Amount due for payments not made by assignee	\$1,519				\$1,247

<b>Total</b>	<b>\$48,681</b>	<b>\$38,608</b>	<b>\$18,628</b>	<b>\$2,123</b>	<b>\$249,858</b>
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<b>Payments in 1998</b>					
<b>Lease #48941</b>					
Rent Paid March 5	(\$10,855)				
Taxes Paid January 15	(\$1,093)				
<b>Remaining Balances</b>	<b>\$36,733</b>	<b>\$38,608</b>	<b>\$18,628</b>	<b>\$2,123</b>	<b>\$249,858</b>

**Recommendation #12**

The Audit staff recommends that, within 60 calendar days of the service of this memorandum, DFP provide evidence that:

- NTFC has not made and DFP has not received a contribution in the form of an extension of credit outside of NTFC's normal course of business in the amount of \$48,681 of which \$36,733 remains outstanding, and that DFP is not obligated to pay interest on this amount at the rate of 1.5% per month.
- The RNC has not made an in-kind contribution to DFP in the amount of \$38,608 representing two installments on DFP's telephone system.
- It should not pay DK \$18,628 related to the sale, repurchase, and valuation of two of the telephone systems discussed above. Absent such a showing, DFP should transfer an equal amount to DK.
- The GELAC did not improperly pay expenses on behalf of DFP in the amount of \$2,123. Absent such a showing, DFP should transfer an equal amount to the GELAC.
- It has not understated expenditures subject to the spending limitation by \$249,858. Absent such a showing, DFP should amend its disclosure reports to reflect the additional amount.

**C. HEADQUARTERS RENT AND SECURITY DEPOSITS**

Section 441a (a)(2)(A) of Title 2 of the United States Code states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election to federal office which, in the aggregate exceed \$5,000.

Section 9004.4(b)(7) of Title 11 of the Code of Federal Regulations states, in part, that payments to other committees authorized by the same candidate for a different election are not qualified campaign expenses.

Section 9035.1(a)(1) of Title 11 of the Code of Federal Regulations, states, in part, that no candidate or his authorized committees shall knowingly incur expenditures in connection with the candidate's campaign for nomination that in the aggregate exceed \$10,000,000 as adjusted under 2 U.S.C. §441a(c).

Section 9034.4(e)(3) of Title 11 of the Code of Federal Regulations states, in part, that overhead expenditures incurred in connection with national campaign offices, shall be attributed according to when the usage occurs. Expenses for usage of offices on

or before the date of the candidate's nomination shall be attributed to the primary election, except for periods when the office is used only by persons working exclusively on general election campaign preparations.

In February 1995, DFP leased office space from Union Center Plaza Associates Washington, D.C. for its national headquarters. DFP's rent between March 1, 1995 and May 31, 1996 was \$28,382 per month. DFP expanded the office space it occupied in June 1996 and again in July. The rent owed by DFP rose to \$48,677 for June 1996 and to \$96,275 for July and August.<sup>34</sup> In the review of the headquarters rent, three problems were identified. Rent due from the DFP was partially offset by others. Construction work and miscellaneous headquarters expenses incurred prior to the date of ineligibility were not paid by DFP. Security deposits paid by DFP were not correctly paid or assigned.

Between May and August 1996, a portion DFP's rent obligation was paid by other committees. The amounts paid for May, June, July and August 1996 were \$1,987, \$1,947, \$81,485 and August \$35,130 respectively. Dole For President Compliance Committee, Inc. (GELAC) paid \$3,934 for rent in May and June. Dole Kemp '96 (DK) paid rent of \$29,110 in July. The Republican National Committee (RNC) paid rent of \$52,375 in July and \$35,130 in August.<sup>35</sup> These amounts total \$120,548 and are applicable to the spending limitation less an allowance for legal and accounting overhead. The net amount is \$98,970 (\$120,548 less 17.9% exemption).

A review of coordinated expenditures (2 U.S.C. §441a (d)) indicated that the RNC paid \$7,023 in miscellaneous headquarters expenses. It also paid \$21,779 for improvements made to the tenth floor headquarters office which was equal to half of a \$43,559 invoiced amount. The documentation indicated that the 50% share paid by the RNC was in fact DFP's share. All of these expenses were incurred and the services rendered prior to the date of ineligibility. In a review of headquarters related expenditures made by DK, the same invoice for improvements was located. The attached documentation indicated that DK also paid \$21,779, the other half of the invoiced amount. In addition, DK paid miscellaneous occupancy costs such as electrical work and invoices for adding and changing locks during the primary period. These miscellaneous expenses total \$13,758. The total of these amounts is \$64,340 and is chargeable to DFP's spending limitation less the compliance exemption of 17.9%. The net amount is \$52,002.

In summary, DFP has received in-kind contributions for rent from the RNC of \$87,505, in-kind contributions for construction costs from the RNC of \$21,779, and an in-kind contribution from the RNC for miscellaneous occupancy costs of \$7,023. The in-kind contributions from the RNC total \$116,307. DFP owes the GELAC \$3,934

<sup>34</sup> The August rent actually owed by DFP was prorated at approximately 45%  $[(14 + 31) \times 100\%]$ .

<sup>35</sup> For other DFP expenses paid by the RNC, see finding III.B. & C.

for rent, and DK \$29,110 for rent, \$21,779 for construction costs, and \$13,758 for miscellaneous occupancy costs. These amounts total \$68,581.

All security deposits paid in the primary period should have been paid by DFP. The outstanding deposits should then have been transferred to DK. DFP paid \$104,362 of the \$124,657 paid in the primary period for security deposits. DK paid one security deposit of \$20,295 on June 1, 1996 which made up the balance of DFP's deposit liability.<sup>36</sup>

DFP did not transfer any security deposits to DK at the beginning of the general election campaign. On February 21, 1997, DK reimbursed DFP \$29,100 for one security deposit. This reimbursement was never reported by DFP. Also on February 21, 1997, DFP received the refund of one security deposit for \$29,110. Security deposit refunds totaling \$77,060 and \$18,488 have been received by DK and the GELAC respectively. Included in these refunds are deposits that were made by, or should have been made by DFP. DFP is owed \$47,960 by DK (\$77,060 of DFP paid deposits less the DK transfer of \$29,100).<sup>37</sup> DFP is also owed \$18,488 by the GELAC since it paid no security deposits. DFP should amend its reports to reflect the receipt of the \$29,100 reimbursement from DK and may offset \$23,891 against the spending limitation (\$29,100 offset received and not reported less 17.9% compliance exemption allowed on the original payment). Upon receipt of \$47,960 from DK and \$18,488 from the GELAC, DFP may offset \$54,544 against expenditures subject to the spending limitation ((\$47,960 + \$18,488) less 17.9% compliance exemption allowed on the original payment).

Finally, the security deposits earned interest while outstanding. Since DFP paid or should have paid these deposits the interest earned is due DFP. Interest totaling \$6,406 and \$647 has been received by DK and the GELAC respectively.

The chart below summarizes the amounts due to and from the various committees and the effect that the transactions have on DFP's spending limitation.

<sup>36</sup> DK correctly paid an additional security deposit of \$8,815 on September 19, 1996.

<sup>37</sup> The DFP is carrying as a receivable a security deposit it made to Union Center Plaza Associates, for \$56,764.70. This amount was included in the refunds paid to DK.

Description	In-Kind Contribution from RNC	Due to (from) DK	Due to (from) GELAC	Adjustment to the Spending Limitation
<b>RENT</b>				
Paid by the RNC	\$87,505			\$71,842
Paid by DK		\$29,110		\$23,899
Paid by GELAC			\$3,934	\$3,230
<b>RENOVATIONS</b>				
Paid by the RNC	\$21,779			\$17,881
Paid by DK		\$21,779		\$17,881
<b>MISC. COSTS</b>				
Paid by the RNC	\$7,023			\$5,766
Paid by DK		\$13,758		\$11,295
<b>DEPOSITS</b>				
Paid by DK		\$20,295		\$16,662
Reimbursed by DK but the amount is not reported by DFP		(\$29,100)		(\$23,891)
Deposits Refunded to DK less those Reimbursed to DFP		(\$47,960)		(\$39,375)
Deposits Refunded to GELAC Paid By DFP			(\$18,488)	(\$15,179)
<b>INTEREST</b>				
Due from DK		(\$6,406)		
Due from GELAC			(\$647)	
<b>TOTALS</b>	<u>\$116,307</u>	<u>\$1,476</u>	<u>(\$15,201)</u>	<u>\$90,011</u>

These issues were discussed with DFP representatives. Subsequently, they noted that "many of the payments in question fall under the headings 'bright line' and RNC Coordinated. The Committee believes that rent and build-out expenses incurred in preparation for the General Election were properly paid by the General or Compliance Committees." No other information or documentation was submitted.

Attachment

4

Page 56 of 71

### **Recommendation #13**

The Audit staff recommends that, within 60 calendar days of service of this memorandum, DFP submit evidence that demonstrates:

- It did not receive an in-kind contribution from the RNC for rent and related costs in the amount of \$116,307.
- It does not owe DK \$2,376 as a result of amounts that DK paid on behalf of DFP, and refunds of deposits paid by DFP but refunded to DK. Absent such a demonstration, it is further recommended that \$1,476 be transferred from DFP to DK and that the transfer be reported by both committees.
- It is not due \$15,201 from the GELAC as a result of amounts paid on behalf of DFP, and refunds of deposits paid by DFP but refunded to the GELAC. Absent such a demonstration it is further recommended that \$15,201 be transferred from the GELAC to DFP and that the transfer be reported by both committees.
- It has not understated expenditures subject to the spending limitation by \$90,011 as a result of the transactions described above. Absent such a demonstration, DFP should amend its disclosure reports to reflect the addition amount.

#### **E. EXPENDITURE SUBJECT TO THE SPENDING LIMITATION**

Sections 441a(b)(1)(A) and (c) of Title 2 of the United States Code state, in part, that no candidate for the office of President of the United States who is eligible under section 9033 to receive payments from the Secretary of the Treasury may make expenditures in excess of \$10,000,000 in the campaign for nomination for election to such office as adjusted by the Consumer Price Index published each year by the Bureau of Labor Statistics of the Department of Labor.

Section 9035(a) of Title 26 of the Internal Revenue Code states, in part, that no candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section 441a (b)(1)(A) of Title 2.

Section 9032.9(a) of Title 11 of the Code of Federal Regulations states, in part, that a qualified campaign expense is one incurred by or on behalf of the candidate from the date the individual became a candidate through the last day of the candidate's eligibility; made in connection with his campaign for nomination; and neither the incurrence nor the payment of which constitutes a violation of any law of the United States or the State in which the expense is incurred or paid.

Sections 9033.11(a) and (b)(2)(A) of Title 11 of the Code of Federal Regulations state, in part, that each candidate shall have the burden of proving that disbursements made by the candidate or his authorized committee are qualified campaign



expenses as defined in 11 CFR 9032.9. For disbursements in excess of \$200 to a payee, the candidate shall present a canceled check negotiated by the payee and either a bill, an invoice or voucher from the payee stating the purpose of the disbursement.

Sections 9034.4(e)(5) of Title 26 of the Code of Federal Regulations states, in relevant part, that the production costs for media communications that are broadcast both before and after the date of the candidate's nomination shall be attributed 50% to the primary limitation and 50% to the general election limitation.

Sections 9038.2(b)(2)(i)(A) and (ii)(A) of Title 11 of the Code of Federal Regulations state, in part, that the Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for the purposes other than to defray qualified campaign expenses. Further, an example of a Commission repayment determination under paragraph (b)(2) includes determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures in excess of the limitations set forth in 11 CFR 9035.

Section 9038.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the amount of any repayment under this section shall bear the same ratio to the total amount determined to have been used for non qualified campaign expenses as the amount of matching funds certified to the candidate bears to the candidate's total deposits, as of 90 days after the candidate's date of ineligibility.

Section 9038.2(b)(2)(v) of Title 11 of the Code of Federal Regulations states, in part, that if a candidate or candidate's authorized committee(s) exceeds both the overall expenditure limitation and one or more State expenditure limitations, the repayment determination under 11 CFR 9038.2(b)(2)(ii)(A) shall be based on only the larger of either the amount exceeding the State expenditure limitations(s) or the amount exceeding the overall expenditure limitation.

1. Calculation of DFP's Expenditures Subject to the Spending Limitation.

Generally, all qualified campaign expenses incurred by a candidate receiving federal funds under 11 CFR 9035 are subject to the overall spending limitation. There are, however, two categories of expenditures which are, within specific guidelines, not included in the calculation of the total expenditures. They are exempt fund-raising and exempt legal and accounting compliance expenses. All fund-raising expenses, not to exceed twenty percent of the overall spending limitation, are exempt. An amount equal to ten percent of all payroll, payroll taxes and overhead expenses may be considered exempt legal and accounting compliance expense. A alternate allocation method is available to committees which generally allows a larger exemption for legal and accounting compliance expenses. After exempt compliance and fund-raising expenses are deducted, a primary committee receiving matching funds for the 1996 election was permitted to incur expenditures of \$30,910,000.

When audit fieldwork began, DFP, on its Year End 1996 disclosure report, reported expenditures in excess of the spending limitation. At the entrance conference, on January 15, 1997, all work papers pertaining to the calculation of the reported totals were requested. On June 18, 1997 allocation spreadsheets, the first of two sets to be provided, were made available for review. When deficiencies were pointed out to DFP representatives, their response was to provide more detailed allocation spreadsheets on August 18, 1997. The timing of the receipt of the later spreadsheets coincided with DFP's filing amended disclosure reports for all report periods.

It was apparent from the allocation spreadsheets that DFP intended to use the alternate method to calculate exempt compliance expense. But DFP provided no documentation to support their claim of a 13% compliance exemption for headquarters office overhead. It was not until August 28, 1997, that DFP made available an internal memo from July 1995 which suggested that the legal and accounting share of headquarters office overhead were 4% and 9% respectively. This estimate was based on relative square footage of office space, but never accounted for the expansion of headquarters floor space which occurred beginning in May of 1996.

In addition to the application of the 13% compliance share of the overhead for headquarters, DFP direct charged a portion of office supplies and equipment to compliance expense. It is presumed that already included in the compliance percentage of all headquarters overhead are those charges which DFP also direct charged to the same category. It was concluded that this direct charging of overhead constituted a double count of some compliance overhead.

Because of the deficiencies outlined above, it was decided to recalculate exempt compliance expenses for DFP. The legal and accounting compliance share of headquarters office overhead was calculated to be 17.9% based on the headquarters office payroll. The disbursements database provided by DFP was reconciled to bank records and to the latest DFP reports. Specific categories of disbursements were drawn from the database and the exempt compliance disbursements for 1995 and 1996 were calculated to be \$1,866,428 and \$1,754,749. The maximum fundraising exemption of \$6,182,000 was applied. The total disbursements were adjusted for reconciling items such as offsets to expenditures, contribution refunds, loan repayments and transfers to other affiliated committees. At August 14, 1996, the Audit staff determined that DFP had made expenditures of \$32,174,683 subject to the overall spending limitation.

2. Additions to Expenditures Subject to the Limitation from Other Findings

The following amounts were discussed above and involve additions to expenditure subject to the overall spending limitation.

- \$100,125 resulting from the improper reimbursement for the use of a privately owned aircraft;[see finding II.B.]
- \$1,164,175 in -kind from the RNC (excludes media and polling) [see finding III.A.2. and 3.]
- \$454,404 resulting from primary expenditures made on DFP's behalf by GELAC;[see finding III.B.1.]
- \$207,378 resulting from primary expenditures made on DFP's behalf by DK; [see finding III.B.2.]
- \$77,237 resulting from primary expenditures made on DFP's behalf by Kemp for Vice President;[see finding III.B.3.]
- \$249,858 resulting from the payment by DK, GELAC, RNC portions of DFP's obligation on the telephone system and the transfer of same to DK; [see finding III.C.]
- \$90,011 resulting from the payment by DK, GELAC, RNC portions of DFP's rent and related obligations;[see finding III.D.]

3. Additions Resulting from Asset Transfers to DK and GELAC

a. Dole Supporter List:

DFP transferred supporter lists to DK in exchange for \$324,817 on May 31, 1996. This represented DFP's calculation of half of the list development costs. An additional \$53,957.00 was wired on July 2, 1996 to DFP from DK. A recalculation of the list value accounted for this transfer. In the documentation accompanying the second payment, DFP and DK value the lists at 60% of 828,227 names at \$.40 per name and 60% of development costs of \$300,000.. From this, the Audit staff concludes that DFP and DK regard the lists as capital assets and are transferring them as such under the provisions of 11 CFR 9034.5(c)(1). However, DK neither reports a subsequent sale of the supporter list nor includes them as an asset on DK's statement of

Net Outstanding Qualified Campaign Expenses. Historically, campaign lists have not been included among capital assets because there is a reluctance on the part of the FEC to require their sale in order to settle campaign debt.

Using DFP's costs, their valuation of the supporter list is approximately \$.76 per name or \$760 per thousand names. It should also be noted that DFP representatives have maintained that the supporter list is not the DFP donor list. Generally, a donor list is more valuable than a supporter list. One directory of mailing lists offers political supporter lists for \$55.00 per thousand. Clinton-Gore '96 contracted with Names in the News/California, Inc., a list management company, to manage and offer for public use the campaign's active donor list. The price charged was \$80.00 per thousand names, substantially less than \$760 per thousand. Further, DFP, despite numerous requests, has not provided any documentation which establishes the number of names contained on the supporter list or documented its cost calculation.

For these reasons, the Audit staff has not considered the supporter lists to be capital assets. Therefore the proper valuation of the lists is fair market value. Information gathered to date suggests that \$760 per thousand names is many times the fair market value. However, because the number of names has not been established, there is no way to attach even a reduced valuation to the lists. As a result, the entire amount is considered to be due from DK and no offset to expenditures subject to the limitation is allowed.

#### **Recommendation #14**

The Audit staff recommends that within 60 calendar days of service of this memorandum DFP provide documentation which demonstrates the number of names included on the supporter lists, and provide evidence of the lists' fair market value. Absent such a demonstration, the Audit staff will recommend that the Commission determine that DFP received an in-kind contribution from DK and that DFP repay \$378,775 to DK and add \$378,775 to DFP's spending limitation.

#### **b. Film Footage:**

DFP transferred film footage to DK on May 31, 1996 for \$266,086. The valuation of the transfer was later reduced to \$189,081 and an appropriate amount was refunded. The amount paid represented one half of the production costs as calculated by DFP, \$155,942, and one half of associated focus group costs equal to \$33,139.

Documentation provided shows that fourteen primary commercials were transferred to DK. Records also establish that each was broadcast at least once in the general election period. Examples of placements were "Historic Reforms" shown once at 6:18 A.M. on September 18, 1996, in Bismarck, North Dakota and "American Hero" shown once at 7:35 A.M. on September 16, 1996, in Sioux City,

Iowa. For an expenditure of only \$455, DK ran all fourteen commercials and met the requirement that the primary campaign materials be used in the general election period.

The documentation failed to establish a connection between the commercials and some of the production costs. The Audit staff could only associate \$54,193 of the production costs with the commercials used by DK. Similarly, \$28,684 of the focus group costs were associated with the commercials. Thus, DFP transferred \$101,749 (\$155,942 - \$54,193) in production costs and \$4,455 (\$33,139 - \$28,684) in focus costs more than supported. In this transaction, DFP received \$106,204 (\$101,749 + \$4,455) in excess of the asset value transferred to DK.

Based on the documentation made available to date, DFP owes DK a refund of \$106,204 and an equal amount must added to DFP's expenditures subject to the spending limitation.

### **Recommendation # 15**

The Audit staff recommends that within 60 calendar days of service of this memorandum DFP provide documentation which shows the connection between the production and focus group costs and a specific commercial. Absent such a demonstration, the Audit staff will recommend that the Commission determine that DFP received an in-kind contribution from DK, that DFP must repay \$106,204 to DK, and add \$106,204 to its spending limitation.

#### **c. Improperly Valued Assets:**

A review of the asset transfers by DFP to DK and the GELAC identified assets reportedly transferred by DFP, for which no documentation of DFP's acquisition could be found and one instance where the transfer value exceeded the documented value by \$20,000.

On July 31, 1996, DK paid DFP \$8,546 for these assets. In addition DK over paid DFP for a copier by \$20,000. On August 22, 1996, the GELAC paid DFP \$24,055 for undocumented assets.

At the close of fieldwork, DFP was provided with a schedule of the specific assets for which documentation could not be found or were over valued according to the available documentation. DFP responded that it had paid for every asset it had used or transferred, but did not supply any additional documentation

### **Recommendation #16**

The Audit staff recommends that within 60 calendar days of service of this memorandum the DFP provide documentation which demonstrates its acquisition of these assets and their cost. Absent such a demonstration, the Audit staff will recommend

Attachment 4  
Page 62 of 71

that DFP repay \$28,546 to DK, \$24,055 to the GELAC, and that \$52,601 be added to DFP's spending limitation.

4. Miscellaneous Adjustments to Expenditures Subject to the Spending Limitations:

a. DFP received five offsets totaling \$684,616 from either DK or GELAC for the transfer of assets, for which 17.9% of the original cost has been excluded from expenditures subject to the spending limitation as a compliance related expenses. The offsets should be applied to expenditures subject to the limitation in the same ratio as the original expenditures. DFP offset expenditures subject to the limitation for the full amount. Accordingly, 17.9% or \$122,683 should be added to expenditures subject to the limitation.

b. During the expenditure report period, GELAC paid USAIR for a DFP obligation in the amount of \$5,073 and reimbursed DFP \$16,967 for primary expenses. These must also be added back to expenditures subject to the limitation.

c. Offsets received in 1997 totaling \$416,269 may be subtracted from expenditures subject to the spending limitation.

5. Summary of Amounts Chargable to the Spending Limitation

In summary, the effect of the adjustments to the DFP spending limitation are as follows:

<b>Expenses subject to the limitation through DOI, August 14, 1996:</b>	<b>\$32,174,683</b>
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ADD:

In-Kind use of Air Plane	100,125
RNC in-kind	1,164,175
GELAC 1996 primary expenditures:	454,404
DK primary expenditures	207,378
Kemp for Vice-President	77,237
NTFC adjustment to spending limit	249,858
Occupancy adjustment to limit	90,011
Dole/Kemp - Lists (Initial)	324,817
Dole/Kemp - Lists (Balance)	53,957
Dole/Kemp- File Footage	101,749
Dole/Kemp- Focus Groups	4,455
Transfer of correctly valued Assets	52,601
Asset Transfer Adjustment	122,683
GELAC paid DFP USAIR expense	5,073

Attachment 4  
Page 63 of 71

GELAC reimbursed Primary Expense	16,967
LESS:	
1997 Operating Offsets:	(416,269)

Expenditures subject to the primary spending limitation:	\$34,783,905
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Adjusted Primary Spending Limit	<u>\$30,910,000</u>
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Expenditures in Excess of the Spending Limitation:	<u>\$3,873,905</u>
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Repayment:	<u>\$1,191,226</u>
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**If the RNC Media and Polling expenses [finding III.A.4. and 5].are determined to be a contribution in-kind to DFP, the following will result:**

RNC Media and Polling	\$18,452,039
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Expenditures subject to the primary spending limitation:	53,235,944
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Expenditures in Excess of the Spending Limitation:	<u>22,325,944</u>
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Repayment:	<u>\$6,865,228</u>
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#### **Recommendation #17**

The audit staff recommends that within 60 calendar days of service of this memorandum, DFP demonstrate that it has not exceeded the spending limitation at 2 U.S.C. 441a (b)(1)(A). Absent such a demonstration the Audit staff will recommend that the Commission determine that either \$1,191,226 or \$6,865,228 is repayable to the U.S. Treasury. The amount will be determined by whether the RNC media and associated polling is determined to be an in-kind contribution to DFP or to DK.

**F. DETERMINATION OF NET OUTSTANDING CAMPAIGN OBLIGATIONS-SURPLUS**

Section 9034.5(a) of Title 11 of the Code of Federal Regulations requires that within 15 days of the candidate's date of ineligibility, the candidate shall submit a statement of net outstanding campaign obligations which contains, among other things, the total of all outstanding obligations for qualified campaign expenses and an estimate of necessary winding down costs. Subsection (b) of this section states, in part, that the total outstanding campaign obligations shall not include any accounts payable for non-qualified campaign expenses.

Section 9038.2(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that the Commission may determine that the candidate's net outstanding campaign obligations, as defined in 11 CFR 9034.5, reflect a surplus.

Senator Dole's date of ineligibility was August 14, 1996. The DFP filed a Statement of Net Outstanding Campaign Obligations (NOCO) which reflected a \$24,623 surplus at August 14, 1996. The Audit staff reviewed DFP's financial activity through March 5, 1998, analyzed estimates of winding down costs prepared by DFP and developed the figures shown below.



**Dole For President**  
**Statement of Net Outstanding Campaign Obligations**  
**as of August 14, 1996**  
**as determined March 5, 1998**

**ASSETS**

Cash in Bank	(a)	<u>2,712,273</u>	
Contributions Pre-DOI Deposited Subsequent to DOI		73,579	
(NSF Checks Pre-DOI Deposited Subsequent to DOI)		(1,476)	
(Refunds, Partial Refunds Pre-DOI Deposited Subsequent to DOI)		<u>(2,265)</u>	
		69,838	<u>2,782,111</u>
Accounts Receivable:			
Press		371,756	
Secret Service		164,816	
Vendor Refunds		286,180	
Other Refund(s)			
(Dole/Kemp '96 Bell Atlantic Refund )		20,000	
(Dole/Kemp '96 Bell Atlantic Refund & Ameritech)		6,143	
Dole/Kemp '96 Sale Other Assets		55,049	
Dole/Kemp '96 Sale Capital Assets		221,900	
Repurchase of CD's		202,767	
Dole/Kemp '96 Asset Reversal	(b)	166,427	
(7/28/97 Sale for \$166,427.29)			
Travel Exp paid by DFP for Adv Team to Pittsburg (Holiday Inn)		3,688	
Dole/Kemp '96 Av Atlantic overpayment		80,316	
Dole/Kemp '96 Av Atlantic expense paid by DFP		6,350	
Dole/Kemp '96 Allocation post 12/5/96 winddowns	(c)	980,569	
Dole/Kemp '96 Compliance		15,201	
(These numbers are based on the deposits made for rent by the Primary Committee, refunded to the Compliance Committee)			
Dole/Kemp Compliance (GELAC)			
Payroll 11/30/96 , 12/13/96 & 7/10/97		186,978	
Dole/Kemp Compliance (GELAC) Sale Other Assets		42,600	
Dole/Kemp Compliance (GELAC) Sale Capital Assets		44,476	
Multi Media		<u>66,165</u>	
			<u>2,921,383</u>
Total Assets			<u>5,703,494</u>

Attachment 4Page 66 of 71

**OBLIGATIONS**

Accounts Payable for Qualified Campaign Expenses	(d)	(1,131,706)	
Actual Winding Down Cost 8/15/96-3/5/98	(e)	(999,634)	
Estimated Wind Down	(f)	(751,000)	<u>(2,882,340)</u>
<b>Amounts Owed to Dole/Kemp '96</b>			
Dole/Kemp '96 Bright Line Expenditures net of occupancy		(207,378)	
Dole/Kemp '96 NTFC DFP expense:		(18,628)	
Dole/Kemp '96 Focus Groups		(4,455)	
Dole/Kemp '96 File Footage		(101,749)	
Dole/Kemp '96 Lists (Balance)		(53,957)	
Dole/Kemp '96 Lists (Initial)		(324,817)	
Dole/Kemp '96 Assets sold to General lacking documentation	(g)	(28,546)	
Dole/Kemp '96 General [This liability results from the excess of DK primary rent expenditures over DFP paid security deposits refunded to DK.]		(1,476)	
Dole/Kemp '96 Interest Earned on CD's		(10,230)	<u>(751,236)</u>
<b>Amounts Owed to the GELAC</b>			
GELAC 1996 Primary Expenditures		(454,404)	
GELAC DFP improperly reimbursed pre doi expense:		(16,967)	
GELAC - DFP -U.S. Air Expense Owed		(5,073)	
GELAC Phone		(9,091)	
Dole/Kemp '96 Assets sold to GELAC lacking documentation	(g)	(24,055)	<u>(509,590)</u>
<b>Amounts Due to the U.S. Treasury</b>			
State-dated checks		(244,646)	<u>(244,646)</u>
Total Obligations			<u>(4,387,812)</u>
Net Outstanding Campaign Obligations - Surplus			<u>1,315,682</u>

- (a) Outstanding checks issued prior to the date of ineligibility and determined to be stale-dated have been added back to the cash in bank figure.
- (b) Reversal of 7/27/97 equipment repurchase from Dole/Kemp '96.
- (c) This represents one half of the wind down cost paid by the General.
- (d) The expenditures addressed in Finding(s) , Apparent Non-Qualified Campaign Expenses, were paid after the date of ineligibility. Therefore they have been excluded from Accounts Payable for Qualified Campaign Expenses.
- (e) This represents one half of the wind down cost with amounts exclusive to the Primary Committee added .
- (f) This number stands as an estimate until revised estimates are available from DFP.
- (g) 7/31/96 & 8/22/96 asset sale for which complete documentation was not found.

Section 9038.3(c)(1) of Title 11 of the Code of Federal Regulations states, in part, that if on the last day of candidate eligibility the candidate's net outstanding campaign obligations reflect a surplus, the candidate shall within 30 days of the ineligibility date repay to the Secretary an amount which represents the amount of matching funds contained in the candidate's surplus. The amount shall be an amount equal to that portion of the surplus which bears the same ratio to the total surplus that the total amount received by the candidate from the matching payment account bears to the total deposits made to the candidate's accounts.

The Audit staff's calculation of DFP's Net Outstanding Campaign Obligations as of March 5, 1998 showed it to be in a surplus position in the amount of \$1,315,682 (see above). Of this surplus amount, \$404,572 ( $\$1,315,682 \times .3075$ )<sup>38</sup> is repayable to the U.S. Treasury.

### **Recommendation #18**

The Audit staff recommends that within 60 calendar days of service of this memorandum, DFP provide evidence that its Statement of Net Outstanding Obligations does not reflect a surplus or that the surplus is a lessor amount. Absent such evidence, the Audit staff will recommend that the Commission determine that \$404,572 is repayable to the United States Treasury pursuant to 11 CFR §9038.2(b)(4).

## **G. OTHER REPAYMENTS**

### **1. Non-qualified Expenditures**

Section 9032.9(a) of Title 11 of the Code of Federal Regulations states, in part, that a qualified campaign expense is one incurred by or on behalf of the candidate from the date the individual became a candidate through the last day of the candidate's eligibility; made in connection with his campaign for nomination; and neither the incurrence nor the payment of which constitutes a violation of any law of the United States or the State in which the expense is incurred or paid.

Section 9033.11(a) of Title 11 of the Code of Federal Regulations states, in part, that each candidate shall have the burden of proving that disbursements made by the candidate or his authorized committee(s) or persons authorized to make expenditures on behalf of the candidate or committee(s) are qualified campaign expenses.

<sup>38</sup> This figure (.3075) represents the Committee's repayment ratio as calculated pursuant to 11 CFR §9038.3(c)(1).

Section 9034.4(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that all contributions received by an individual from the date he becomes a candidate and all matching payments received by the candidate shall be used only to defray qualified campaign expenses or to repay loans or otherwise restore funds (other than contributions which were received and expended to defray qualified campaign expenses) which were used to defray qualified expenses.

Sections 9038.2(b)(2)(i)(A) and (ii)(B) of Title 11 of the Code of Federal Regulations state, in part, that the Commission may determine that amount(s) of any payments made to a candidate from the matching payment account were used for the purposes other than to defray qualified campaign expenses. Further, an example of a Commission repayment determination under paragraph (b)(2) includes determinations that a candidate, a candidate's authorized committee(s) or agents have made expenditures for expenses resulting from a violation of State or Federal law, such as the payment of fines or penalties.

Section 9038.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that the amount of any repayment under this section shall bear the same ratio to the total amount determined to have been used for non qualified campaign expenses as the amount of matching funds certified to the candidate bears to the candidate's total deposits, as of 90 days after the candidate's date of ineligibility.

**A. INCURRED PRIOR TO THE EXPENDITURE REPORT PERIOD**

In the course of reviewing DFP's disbursements, items were identified which, on their face, do not appear to be qualified campaign expenditures. The expenditures in question were presented to DFP at the close of fieldwork. DFP was able to show that some of these expenses were qualified campaign expenses.

Eleven expenditures for \$20,231 have not been addressed by DFP and these are still regarded as non-qualified. The categories of non-qualified campaign expenses were as follows: a \$4000 refund of an NSF contribution, \$6,465 in tax penalties paid to local jurisdictions, \$1,703 in duplicate payments to two vendors and \$8,063 in expenditures not campaign related. Of the expenditures which were not campaign related, \$5,054 was paid for personal travel by committee staff and billed to the campaign and the remaining \$3,009 was paid for the preparation of a senate financial disclosure statement.

**Recommendation #19**

The Audit staff recommends that, within 60 days of the service of this memorandum, that DFP provide documentation which demonstrates that the above disbursements were qualified campaign expenses. Absent such a demonstration, the

Audit staff will recommend that the Commission determine that the DFP is required to repay the U.S. Treasury \$6,221 [ $\$20,231 \times 30.75\%$ ].

**B. INCURRED IN THE POST EXPENDITURE PERIOD**

\$1,961,138 for liabilities of both the primary and general committees. Half of this amount, \$980,569, is therefore a receivable of DFP from DK. Further, this amount is a non qualified winding down expense for DFP.

**Recommendation #20**

The Audit staff recommends within sixty days of the service of this memorandum that the DFP provide documentation which demonstrates that DK either paid its share of winddown expense or that DFP received reimbursement from DK for DK's share of winddown expense. Absent such a demonstration, the Audit staff will recommend that the Commission determine that the DFP be required to repay the U.S. Treasury \$301,525 [ $\$980,569 \times 30.75\%$ ].

**3. Stale-Dated Checks**

Section 9038.6 of Title 11 of the Code of Federal Regulations states, in part, that if the committee has checks outstanding to creditors or contributors that have not been cashed, the committee shall notify the Commission of its efforts to locate the payees, if such efforts are necessary, and its efforts to encourage the payees to cash the outstanding checks. The committee shall also submit a check for the total amount of such outstanding checks, payable to the United States Treasury.

The Audit staff reviewed the DFP's bank activity through February 1998 for outstanding checks. The results of the review were presented to DFP at the close of fieldwork. DFP was able to demonstrate that a portion of those initially identified were not unpaid obligations. A balance of 522 checks totaling \$244,239 remains outstanding. Of these, 429 of the checks in the amount of \$190,418 are contribution refunds.

**Recommendation #21**

The Audit staff recommends that within 60 calendar days of service of this memorandum DFP provide evidence that the checks are either not outstanding or that they are void and no obligation exists. If the checks are not outstanding the evidence provided should include copies of the front and back of the negotiated checks or negotiated replacement checks. If the checks are void the evidence should include statements from the vendors acknowledging that they have been paid in full, or account reconciliation's showing that all billings have been paid. Absent the submission of such evidence, the Audit staff will recommend that the Commission determine that stale-dated checks, totaling \$244,239, are payable to the United States Treasury.

**Response of The Dole For President Committee, Inc. to the Exit Conference  
Memorandum of the Audit Division of the Federal Election Commission**

Attachment 5  
Page 1 of 23

**I. Introduction**

On May 13, 1997, the Audit Staff ("Audit Staff") of the Federal Election Commission ("FEC" or "Commission") issued its Exit Conference Memorandum ("ECM") for the Dole for President Committee, Inc. ("DFP"). The ECM contains the Audit Staff's findings and recommendations following their review of DFP records from the 1996 primary presidential election. The following contains DFP's responses to those findings and recommendations. Each of the Audit Staff's findings is addressed separately. Specific arguments and relevant documents are attached.

**II. DFP's Response to the Audit Staff's Non-Repayment Matters**

**A. Loan to Dole/Kemp '96**

**Audit Staff Findings and Recommendations**

The Audit Staff found that a series of transfers between DFP and the Dole/Kemp '96, Inc. Committee ("Dole/Kemp") were actually loans to and repayments from DFP to Dole/Kemp. During the period the loan was outstanding, it was a prohibited contribution.

The Audit Staff recommends that DFP amend its reports to fully disclose the transfers between DFP and Dole/Kemp. The Audit Staff also recommends that DFP provide documents to establish that the transfers were not contributions and that it was permissible for DFP to purchase certificates of deposit from Dole/Kemp.

**DFP Response**

During late October and early November of 1996, certain transfers were made between DFP and Dole/Kemp accounts at Signet Bank and Franklin National Bank as the committees began to consolidate accounts and banking activity. Some funds were transferred in error between the committees, instead of internally between accounts of the same committee, resulting in transfers between committees which were not reported with the activity for the fourth quarter of 1996. Reversing transfers were made in November of 1996 to correct these errors, and amendments have been filed to disclose both the initial transfers and the correcting transfers.



Over the course of the campaign, both DFP and Dole-Kemp opened various lines of credit and loans with Signet Bank and Franklin National Bank. These included a line of credit to cover matching funds which were not yet paid in early 1996, letters of credit to secure vendor services, overdraft coverage, borrowing against funds due to the campaign, and other credit agreements made in the normal course of business.

These loans were made in the ordinary course of business for these banks and thus do not qualify as contributions to the campaign. 11 C.F.R. 110.7(b)(11). The campaign generally used certificates of deposit to secure its letters of credit. Most letters of credit were established during the primary campaign, with some new vendors added during the general election and some existing vendors requiring additional deposits during the general election. Letters of credit already in place when the general election began were transferred to the general election from the primary, with the underlying certificates of deposit. After the general election, these letters of credit and the underlying certificates of deposit were transferred back to the primary committee, which has been the lead committee during the winddown phase of the campaign. However, \$202,767 is owed by Dole-Kemp '96 to Dole for President, as has been previously reported.

#### **B. Receipt of an Excessive In-Kind Contribution**

##### **Audit Staff Findings and Recommendations**

The Audit Staff found that DFP received an in-kind contribution from William Keck in the amount of \$100,125, because DFP paid Mr. Keck first class airfare rather than an hourly charter rate for the use of his aircraft. The Audit Staff disagreed with DFP that use of the aircraft was subject to reimbursement under 11C.F.R. 114.9(e).

The Audit Staff recommends that DFP show that the actual charter cost was timely paid and therefore did not receive an in-kind contribution, refund the excessive portion of the contribution to the Treasury, and provide any relevant information that would show that the flights were correctly reimbursed.

##### **DFP Response**

As we explained in our last response, at the time it was used by DFP, William Keck's aircraft was not being used as a charter aircraft, but was a corporate aircraft in all respects except formal title. Mr. Keck was and still is the sole owner of

the Coalinga Corporation. The aircraft was maintained for use when the corporation needed it and its tail is embossed in "CC" for Coalinga Corporation. See attached statement of Patrick Templeton (Exhibit 1). There was no way for DFP to have known that the plane was not a corporate aircraft. Indeed, over the years Members of Congress of both parties have used the aircraft repeatedly at a first class reimbursement rate. Thus, DFP properly paid first class airfare for using that plane under 11 C.F.R. 114.9(e). Moreover, even if Mr. Keck's aircraft was considered an individually owned aircraft, payment of a charter rate for air travel to cities with regularly scheduled service is only appropriate when the aircraft is used for commercial purposes. The Commission's regulations firmly establish that first class airfare is the appropriate rate for a non-commercially used aircraft. See 11 C.F.R. 114.9(e); see also 11 C.F.R. 9004.7(b)(5)(i).

Also, even if the use of the aircraft valued at a charter rate, the FEC Auditors erroneously estimated the charter rate at \$4,500 per hour. According to Mr. Keck, the charter rate for comparable planes for known and repeat passengers at that time was actually \$3,100 per hour. This is known as an "inside rate" which certainly would have been available to the campaign. Also, the Auditors included the so-called "dead-head time" that it took the aircraft to fly from California to Washington, D.C. to pick up Senator Dole. It is not the customary practice of charter air lines to charge for such "dead-head" time. Indeed, unless there was a dire emergency urging a certain aircraft, an entity leasing as aircraft at charter rates would never lease an aircraft 3,000 miles away and incur a dead-head such as that. Thus, although DFP did not receive an in-kind contribution from Mr. Keck, if the Audit Staff determines that a contribution was made, any such contribution should not exceed \$28,895 (15.2 hours flight time @ \$3,100 per hour, less \$17,225 already paid less \$1,000 exemption). Furthermore, even if the higher commercial rate should have been charged, this is a matter for consideration for referral to the Office of General Counsel to determine if a violation of 11 C.F.R. § 114.9(e) occurred and does not involve repayment of public funds. No public funds could have been involved.

### **C. Allocation of State Expenditures**

#### **Audit Staff Findings and Recommendations**

The Audit Staff found that DFP expenditures chargeable to its Iowa limit totaled \$1,100,078 and thus exceeded the expenditure limit in Iowa by \$53,094.

The Audit Staff recommends that DFP provide documentation to demonstrate that disbursement subject to the Iowa spending limit did not exceed the

limitation.

#### **DFP Response**

The FEC Auditors erroneously counted indirect polling expenditures toward DFP's Iowa expenditure limit. These indirect costs were related to activities that were analytical and strategic in nature and had overarching implications for the campaign in all fifty states and not only in Iowa. See attached statement of Bob Ward who was head of polling for the campaign (Exhibit 2). Thus, they are not allocable to the Iowa limit. Indeed, per instructions from DFP, polling vendors broke down their bills according to whether their services were directly related to Iowa or were indirect as described above. See id. For example, invoices from Public Opinion Strategies specified such indirect costs as "overhead." See attached statement from Bob McInturff (Exhibit 3). The vendors provided these overarching indirect services with the intent that they would provide polling services to DFP throughout its entire national campaign.

These indirect costs total \$21,083.00. In addition, as the attachment at Exhibit 4 explains, the Committee does not believe the amounts attributed to Electronic Engineering (\$1,054.18), Strategic Planning (\$21,693.96), and a portion (\$10,609) of the amount attributed to TKO Productions should be allocable. Thus, the amount in excess of the Iowa limit should be \$26,658.86 resulting in a repayment of \$8,197.59.

#### **D. Misstatement of Financial Activity**

##### **Audit Staff Findings and Recommendations**

The Audit Staff found that DFP overstated its cash on hand as of December 21, 1997 by \$181,115.

The Audit Staff recommends that DFP file a comprehensive amended report for calendar year 1997 and amend its most recent report.

#### **DFP Response**

DFP has complied with the Audit Staff's suggestions and is filing amended summary pages for 1997. The appropriate supporting schedules will be filed shortly. Copies of these reports are attached at Exhibit 5.

### **III. DFP's Response to the Audit Staff's Findings of Repayments to the U.S. Treasury**

#### **A. Expenses Paid by the RNC**

##### **Audit Staff Findings and Recommendations**

The Audit Staff found that the RNC made improper expenditures. The following provides a general response to these findings and recommendations and then provides separate responses regarding each type of expenditure listed by the Audit Staff.

##### **DFP Response**

The RNC properly paid for coordinated expenditures incurred on behalf of the general election campaign and its own expenses incurred exclusively on behalf of the RNC. As a preliminary matter, the Audit Staff's findings rely on unfounded negative inferences drawn from DFP's reduction in spending after Senator Dole became the presumptive nominee. Indeed, the Audit Staff infers that DFP's reduction in spending is evidence that it was using RNC funds to circumvent the spending limit. Instead, DFP reduced its spending because, as the Audit Staff acknowledges, it was running out of money and had secured the nomination. Indeed, with the nomination assured and the primary season over, DFP did not need to incur expenses for polling or other large costs.

Also, purpose of the audit process is to obtain repayment for public funds which were either misused or improperly documented. It is not meant to be a punitive process or to recapture private funds. Thus, even if the RNC expenditures were somehow considered to be in-kind contributions, those expenditures cannot be subject to repayment because the RNC does not receive public funds. Rather, all of the RNC funds described below, such as those spent on the ads, came exclusively from disclosed private donations. If the RNC spent more on issue ads than DFP received in public funds, according to the Audit Staff's theory, the Dole campaign would be required to repay the U.S. Treasury more than it received in total in public funds. In a similar way, the Commission in 1984 tried to assess a repayment of an amount which encompassed the use of public and private funds. The courts categorically denied this methodology and stated that:

repayment orders [must] be limited to the amount of  
federal funds that the Commission reasonably

determines were spent by the Committee for unqualified purposes. The Commission's regulations establish an unreasonable presumption that all unqualified expenditures are paid entirely out of federal funds.

Reagan for President Com. v. FEC, 734 F.2d 1569, 1570 (D.C.Cir. 1984) (citing Kennedy for President Com. v. FEC, 734 F.2d 1558 (D.C.Cir. 1984))(emphasis added). This is particularly exacerbating given that DFP is being made to repay expenditures made by the RNC, an entirely separate committee containing nothing but segregated private funds. The Audit Staff cannot even assert a fungibility of money argument because RNC funds are not fungible with DFP funds.

The Audit Staff is also circumventing the enforcement procedures established under 2 U.S.C. § 437g. By attempting to address through the audit process that which is reserved for the enforcement process under Section 437g, the Audit Staff has improperly shifted the burden of proof from the Commission to DFP. DFP is being made to demonstrate, in response to informal inferences, why DFP did not violate the law and also to pay a flat repayment for private funds spent by the RNC. If the Audit Staff believes that an excessive contribution was made, the proper procedure is to refer the matter to the Office of the General Counsel and let the Commission decide whether to pursue the matter in an enforcement action. This process cannot be circumvented through the fiction that there is a recovery of misspent or improperly documented public funds.

#### (1) RNC Coordinated Funds

The Audit Staff found that RNC improperly paid \$781,330 in coordinated expenditures prior to Senator Dole's nomination.

The Audit Staff agrees with DFP's earlier response that a party committee may incur coordinated expenditures on behalf of the party's presidential candidate before the candidate officially becomes the party's nominee. However, the Audit Staff objects to the use of RNC coordinated funds because the Audit Staff is imposing a purpose test on these expenditures. Specifically, the Audit Staff asserts that a party cannot use its funds to pay for costs incurred by its presumptive nominee, unless those costs are for the purpose of influencing the general election. This is contrary to the Commission's position from the party's perspective, the general campaign begins once a candidate is assured of the party's nomination. AO 1984-15.

The Audit Staff concedes that Senator Dole became the Republican Party's presumptive nominee in late March 1996. Thus, according to the Commission's reasoning that when "a candidate appears assured of a party's nomination, the general election campaign, at least from the political party's perspective, may begin," all coordinated expenditures made by the RNC from that point forward were made with an eye towards the general election and are permissible coordinated expenditures. The Audit Staff's position is squarely at odds with the law. A party committee has a limited sum of coordinated funds it may spend, if it chooses to use part of that limit prior to the date of the primary or convention, as the RNC did here, it has long been understood that that is the business of the party committee.

However, even if we were to assume that the Audit Staff's purpose test was the proper standard, the RNC's coordinated expenditures were clearly made for general election purposes. Senator Dole was the presumptive Republican party nominee. He has secured a sufficient number of delegates to assure a first round victory at the National Republican Convention. Therefore, the only remaining election to influence was the general election. Any expenses paid by the RNC with coordinated funds to influence an election had to have a purpose to influence the general election. *Id.* (expenditure seeks to influence the general election when the expenditure influences a choice of candidates that will occur only in that general election). Also, although not required by FEC regulations, the attached documents establish in detail that the RNC's pre-convention expenditures were made for the purpose of influencing the general election campaign.

Thus, \$742,213 should not be attributed to DFP's spending limit.

## (2) RNC Payroll

The Audit Staff recommends that DFP present evidence that the former DFP staff members and vendor/consultants referred to in the ECM were providing services solely for the RNC rather than DFP, including a detailed description of their duties.

As is the standard practice in presidential campaigns, once Senator Dole was assured of the Republican Party's nominee, former DFP staff joined the RNC to assist the RNC in its state and congressional fundraising and party building activities. Indeed, the memorandum referenced by the Audit Staff makes clear that the RNC was controlling and directing the activities of these staff members and that those activities went to promote the RNC's agenda.

Former DFP advance staff used their experience to perform advance work for the RNC. In some instances, this meant working with Senator Dole when Senator Dole participated in RNC fundraising activities. In those cases, DFP was careful to pay Senator Dole's travel and related expenses while the RNC paid for its own staff expenses. See 11 C.F.R. 9034.7(a) and (b). Indeed, under this Commission Regulation, it would have been entirely inappropriate for DFP to pay for RNC personnel to travel to RNC fundraisers.

As DFP has explained in the previous response, the former DFP staff members and consultants at issue in this audit worked exclusively at the direction and for the benefit of the RNC while on the RNC's payroll. Indeed, DFP cannot provide the specific information regarding their job duties requested by the Audit Staff because such information is within the exclusive purview of the RNC. Thus, DFP would only be speculating as to what their duties may have been while employed at the RNC.

### (3) Media

The Audit Staff recommends that DFP document that the advertisement referred to by the Audit Staff were neither coordinated with DFP nor contained an electioneering message.

### DFP Response

The RNC independently designed, produced, and aired the issue advertisement campaign referred to by the Audit Staff. DFP did not direct or control those ads. The RNC created, produced, and distributed those ads without direction from the candidate or the campaign. The RNC had full and final authority over both the production and the geographic distribution of the ads. Neither Senator Dole nor campaign personnel participated in the production or airing of the ads except that the RNC, as a matter of courtesy, showed the ads to the campaign after the ads were finalized and made public. See affidavit of Scott Reed at Exhibit 6. Indeed, there were occasions where Senator Dole and the campaign were dissatisfied after viewing the finalized RNC ads, which were aired.

The Audit Staff gives much weight to a televised interview that Senator Dole gave in Orlando, Florida on June 6, 1996, in which he said that the RNC was airing a sixty second ad about the "Bob Dole story." Nowhere in that interview, however, does he suggest that either he or his campaign staff directed or even participated in the production or distribution of the ads. Rather, the interview

supports the contrary - that the RNC showed the ad to the campaign after it was finalized and made public.

As for Don Sipple, he and his consulting firm, New Century Media Group, Inc. ("New Century"), ceased being a consultant to the Dole campaign on March 31, 1996. Although he was re-hired by the campaign on June 21, 1996 for convention-related services, he was a paid consultant to the RNC during the time in between. Thus, when the ads at issue were created, produced and aired, Mr. Sipple was being directed by and his legal duty was to the RNC.

Some film footage used in "The Story" had been shot for the campaign earlier by Mr. Sipple. However, the RNC made a decision independent of the campaign to use that footage in its ad and entered into an "arms-length" agreement with DFP to purchase that footage. The RNC purchased certain footage created by Mr. Sipple for the campaign at the standard industry "clip rate" of \$.40 per second. The campaign did not control what film footage was chosen by the RNC or what issues would be addressed by the RNC advertisement.

Even if there was coordination, coordination with a presidential campaign does not, by itself, transform a national party committee's advertisements into in-kind contributions or coordinated expenditures. See AO 1985-14. Those advertisements must also depict a clearly identified candidate and contain language expressly advocating the election of that candidate. See Id.; See Buckley v. Valeo, 424 U.S. 1, 42-44 (1976); See Main Right to Life Committee, Inc. v. FEC, 915 F. Supp. 8, 13 (D.Me. 1996); Clifton v. FEC, 927 F.Supp 493,499 (D.Me. 1996). The ads in question are also the subject of an investigation by the Commission.

Thus, there was no in-kind contribution in the amount of \$17,904,238 from the RNC to DFP. Moreover, this amount should not be attributed to DFP's spending limit.

#### (4) Polling Expenses

The Audit Staff recommends that DFP present evidence that polling expenses incurred in relation to the RNC's issue ad campaign described above did not qualify as in-kind contributions to DFP in the amount of \$547,801.

DFP did not conduct any polls after Senator Dole became assured of the Republican Party's nomination because there were no more primary elections for which such polls would have been useful. Indeed, the Audit Staff itself has



recognized that Senator Dole became the presumptive nominee in the end of March 1996. Thus, the Committee has no documents regarding polling for the period referred to by the Audit Staff.

With respect to Tony Fabrizio, his contract with DFP ended in March of 1996. Any activities engaged in by Mr. Fabrizio for the RNC during the period referred to by the Audit Staff were wholly independent of DFP and engaged in solely on behalf of the RNC. Indeed, given that the polling documents sought by the Audit Staff are those concerning the RNC's independent media campaign described above, DFP would not have any relevant documents. Thus, it is possible that Mr. Fabrizio conducted polls in connection with the Media campaign addressed above, but any such activity would have been wholly separate from and outside the knowledge of DFP.

Thus, the RNC did not make an in-kind contribution to DFP of \$547,801 and this amount should not be added to DFP's expenditures subject to the limitations. This amount is also not repayable to the U.S. Treasury.

**B. Primary Expenses Paid by Related Committees**

**Audit Staff Findings and Recommendations**

The Audit Staff recommends that DFP demonstrate that the \$454,404 incurred by the general election legal and accounting compliance committee ("Compliance Committee" or "GELAC") in travel and overhead expenses were not actually DFP expenses.

The Audit Staff found that Dole/Kemp incurred \$416,000 in expenditures between June 17, 1996 and August 14, 1996. \$278,562 of these costs were for goods, facilities and services used in the primary period. (\$71,000 of this rent which is discussed in this section at Part D). The Audit Staff recommends that DFP demonstrate that these disbursements were not primary related and that goods and services were used in the general election period.

The Audit Staff found that \$77,237 in materials used at the convention were an in-kind contribution from the Kemp for VP Committee to DFP because they promoted the candidacy of Senator Dole and occurred prior to the convention.

**DFP Response**

Dole/Kemp and the Compliance Committee made expenditures for overhead and salaries of individuals who were working exclusively for the general election and paid a pro-rata share of the travel costs incurred on their behalf under 11 C.F.R. 9034.4. Thus, expenditures made by the Compliance and the General Committees were properly allocated to those committees, respectively.

**(a) The Compliance Committee**

The attached documents establish that payments made by the Compliance Committee were for expenditures for overhead and salaries incurred exclusively for the benefit of the Compliance Committee. See Exhibit 7. Indeed, the Audit Staff focuses on costs incurred for facilities and expanded work space that would be used by the Compliance Committee exclusively in the general election campaign. This rebuts the presumption that expenditures incurred prior to the date of a candidate's nomination should be allocated to the primary election. 11 C.F.R. § 9304.4(e); Financial Control and Compliance Manual For Presidential Primary Candidates Receiving Public Financing Chapter 1, Section C(2)(c).

With respect to the fundraisers in Texas and Tennessee referenced by the Audit Staff, DFP has pro-rated between the Committees the costs of the fundraisers and travel thereto in accordance with the Commission's regulations at 11 C.F.R. 9034.4. Indeed, when travel costs were related to a dual fundraising purpose, the Primary Committee diligently followed the Commission's procedure for allocating such expenditures between the Primary Committee and the Compliance Committee. See 11 C.F.R. 9034.7.

Thus, only \$35,317 is owed to the Compliance Committee. Also, only \$35,317 should be added to DFP's expenditures subject to the spending limit and \$10,860 is repayable to the U.S. Treasury.

**(b) The Dole/Kemp Committee**

Expenditures made prior to the date of the Republican party convention are allocated to the general election if those expenditures were made exclusively for general election purposes. 11 C.F.R. § 9304.4(e); Financial Control and Compliance Manual For Presidential Primary Candidates Receiving Public Financing Chapter 1, Section C(2)(c). The attached documents make clear that the expenditures singled out by the Audit Staff were for facilities, including furniture, supplies, and equipment and the build-out of the office space necessary to

accommodate the larger campaign staff, obtained for the general election. See Exhibit 8. As Andrea Mack, the campaign's Deputy Director for Administration, explains in the attached statement, the general election committee had to begin preparation for the general prior to the date of Senator Dole's nomination so that Committee staff would have facilities and equipment with which to work once the general election campaign began. See Exhibit 9. Thus, given the exclusive general election purpose for which almost all of these pre-convention expenditures were made, they must be attributed to the general election.

Upon review of the items in question, the Committee has determined that \$1,543.16 should have been paid by Dole for President. The remaining \$262,054.65 is not owed to Dole/Kemp. Also, this amount should not be added to DFP's expenditures subject to the spending limit and \$80,581.80 is not subject to repayment to the U.S. Treasury. A repayment of \$474.52 is due.

**(c) Kemp for Vice-President**

Commission regulations clearly permit a candidate or his authorized committee to include a reference to another federal candidate on campaign materials used in connection with volunteer activity without making a contribution to that federal candidate's campaign See 11 C.F.R. 100.7(16). Thus, Kemp for VP did not make a contribution to DFP when it used Senator Dole's name on signs and provided those signs and other permissible campaign materials to volunteers at the Republican convention.

Thus, \$77,237 is not owed to the Kemp for VP Committee. Also, this amount should not be added to DFP's expenditures subject to the spending limit and \$23,750 is not subject to repayment to the U.S. Treasury.

**C. Telephone Equipment Leases and Purchases**

**Audit Staff Findings and Recommendations**

The Audit Staff found that a series of leases that DFP entered into with NTFC Capital Corporation, Inc. ("NTFC") resulted in prohibited corporate contributions from NTFC to DFP. The Audit Staff also found that the RNC, Dole/Kemp, and the Compliance Committee made in-kind contributions to DFP by paying for a portion of the telephone system expenses.

The Auditors recommend that DFP demonstrate that NTFC has not

made an unlawful contribution in the form of an extension of credit outside normal course of business and that the RNC, Dole/Kemp, and the Compliance Committees properly paid a portion of the telephone expenses.

### **DFP Response**

#### **Florida Phone System**

DFP agrees with the Audit Staff that DFP owes Dole/Kemp \$4,368 for a phone system transferred between committees in error. This phone system, used in Florida, remained on the asset list, in error, after it was reported stolen.

DFP disagrees with the Audit Staff, however, in that the delay in resolution of stolen equipment between the campaign, vendor, and insurance company constitutes an extension of credit. While the vendor finalized a settlement offer in January of 1998, this item, in fact, is still in negotiation. Also, while the insurance company did send a payment of \$5,000, the campaign is still questioning the amount. Should the insurance company pay for the lost equipment as the campaign is requesting, then there would be no additional amount subject to the spending limitation.

#### **DC Phone System**

Regarding the phone system at the national headquarters during the Primary, the purchase price was \$308,864 (16 payments of \$19,304 = \$308,864). On August 22, 1996, the system was valued at \$282,000 and Dole/Kemp purchased it for \$169,200 or 60% of value.

After the election on November 5, 1996, the phone system was sold to DFP to be used for wind-down purposes. The wind-down purpose for the phone system was to provide phone service to staff and auditors necessary for campaign close out and audit activities. The phone system was sold for 60% of \$169,200 or \$101,520. This transaction was recorded on the books on July 28, 1997. This transaction should have been recorded eight months earlier, but the books were updated all at one time in July when this issue was acted upon and finalized.

The phone system was then sold to a third party for \$130,000, of which DFP only realized \$110,500 (\$19,500 was paid in commission to Line Two Communications). The cost was deposited to the General account initially in error and then was transferred to the correct Primary account.

Since \$308,864 was the purchase price of the phone system during the Primary, DFP should have sold the equipment to Dole/Kemp for \$185,318 or the actual 60% (rather than \$169,000). During wind-down, Dole/Kemp should have sold the equipment to the Primary wind-down team for \$111,191 or the actual 60% (rather than \$101,520).

By correcting the \$169,000 to \$185,318, Dole/Kemp owes the Primary an additional \$16,318. By correcting the \$101,520 to \$111,191, DFP wind-down owes Dole/Kemp \$9,671. The net is that Dole/Kemp owes DFP \$6,647 for the DC phone system.

The \$130,000 receipt, however, by DFP was reported on line 20A on the 3<sup>rd</sup> quarter 1997 FEC report. It appears that this receipt should have been reported on line 20C and, thus, the Audit Staff may be correct in adding this amount to the expenditure limit. The Audit Staff ask why the sale to DFP was recorded on the books on July 28 when the check from the 3<sup>rd</sup> party sale was dated July 24. We explained the reason above. However, if the Audit Staff wants, we are willing to reverse the transaction between Dole/Kemp and DFP. Please note that, even if the sale of this equipment from Dole/Kemp to DFP wind-down were to be reversed as the Audit Staff suggests, there would be no significant change to the net result. Dole/Kemp would both return to DFP the \$111,191 it received for the equipment and deposit the \$110,500 received by the Primary (which received it from the third vendor).

The Audit Staff questions two partial payments made by the GELAC. During the month of May, 7% of the campaign staff were employed by the GELAC and accordingly 7% of the phone system was paid by them (7% of \$19,303.96 = \$1,351.28). During the month of June, 4% of the campaign staff were employed by GELAC and accordingly 4% of the phone system was paid by them (4% of \$19,303.28 = \$772.16). DFP finds these allocations to be appropriate.

Regarding the payments made by the RNC, these were valid coordinated expenditures (see discussion of RNC coordinated expenditures in this section at Part A(1)).

Lastly, with regard to an outstanding amount due to NTFC, both the vendor and the campaign were unaware that a payment was outstanding. Since the Audit Staff has concluded that an amount is due, the campaign has contacted the vendor to further investigate and resolve this issue.

### **New Century Media Phone System**

The Audit Staff finds that the campaign is responsible for making payments on a phone system being leased by one of its vendors (New Century Media). DFP believes, and NTFC (the Lessor) concurs, that it is not the campaign's responsibility to fulfill the contractual obligations of a vendor. Consequently, DFP cannot have incurred any debt or extension of credit on its behalf.

### **Summary**

DFP owes Dole/Kemp \$4,368 for the Florida phone system and Dole/Kemp owes DFP \$6,647 for the DC phone system. The total adjustment should therefore be a \$2,279 transfer from Dole/Kemp to DFP. See the attached chart at Exhibit 10.

### **D. Campaign Headquarters Security Deposits and Rent**

#### **Audit Staff Findings and Recommendations**

The Audit Staff found that the RNC's use of coordinated funds for the July and August rental payments for the national campaign headquarters at the 10<sup>th</sup> floor ("10<sup>th</sup> Floor") of 810 1<sup>st</sup> Street and renovations to the 10<sup>th</sup> floor and other office space used by the general election campaign staff constituted excessive contributions to the primary campaign.

The Audit Staff also found that the Compliance Committee and Dole/Kemp owed DFP the security deposits refunded to the Compliance Committee and Dole/Kemp rather than DFP.

The Audit Staff recommends that DFP demonstrate that it did not receive an excessive in-kind contribution from the RNC in the amount of \$116,307, and that neither Dole/Kemp nor the Compliance Committee owe DFP monies for the refunded security deposits.

## **DFP Response**

### **Rent, Renovations, and Occupancy Costs**

The 10<sup>th</sup> floor was used by Dole/Kemp in the general presidential election and was used exclusively by persons working for the general election campaign. Thus expenditures for renovations and improvements for the 10<sup>th</sup> floor (\$64,647) were made for the purpose of supporting the general election campaign. See 11 C.F.R. 9034.4(e)(3)(expenditures for overhead and use of office space apply to the general elections when the overhead and office space are exclusively used for the general election). see also discussion and statement of Andrea Mack at Exhibit 8. The use of coordinated funds (\$116,307) to pay for such renovations is consistent with the Audit Staff's assertion that coordinated funds must be used for activities in support of the general election. Thus, the RNC properly paid for renovations to the 10<sup>th</sup> Floor and its rent.

Additionally, the Audit Staff questions two partial payments made by the GELAC. During the month of May, 7% of the campaign staff were employed by the GELAC and accordingly 7% of the rent was paid by the GELAC (7% of \$28,382 = \$1,987). During the month of June, 4% of the campaign staff were employed by GELAC and accordingly 4% of the rent was paid by the GELAC (4% of \$48,677 = \$1,947). DFP finds these allocations to be appropriate.

### **Deposits and Deposit Refunds**

The Audit Staff reports that the Primary paid \$104,362 in rent deposits and that the General paid \$20,295. The audit staff questions the deposit paid by the General committee. The tenth floor, however, was acquired and being set-up for the General election. The tenth floor occupants were Dole-Kemp '96 and a vendor, New Century Media. \$29,110 was the rent for the additional space and the same amount was required as a security deposit. The \$29,110 deposit was allocated to Dole-Kemp '96 and to New Century Media based on the amount of space that was occupied by each. Dole-Kemp's allocation amounted to \$20,295 and New Century Media's allocation amounted to \$8,815. New Century Media's space was assigned to Dole Kemp '96 in September, 1996, and Dole Kemp '96 then paid an additional security deposit of \$8,815.

On July 17, 1996, \$29,100 was paid by the Primary committee to Metropolitan Life as a security deposit for the eighth floor. This floor was occupied by Dole-Kemp '96 and the General committee should have paid for the deposit. A

correction for this was made on February 21, 1997 with a wire transfer of \$29,100 from Dole-Kemp '96 to Dole for President. Attached, please find the supporting documentation for this transfer. See Exhibit 11.

Total deposits paid by Dole-Kemp '96 were as follows:

\$20,295 10<sup>th</sup> floor  
\$ 8,815 10<sup>th</sup> floor  
\$29,100 8<sup>th</sup> floor  
\$58,210 Total

Less the \$8,815 still payable to the General by the landlord, \$51,592.57 (\$49,395 deposit and \$2,197.57 interest) is the amount that should have been refunded to the General. Since \$83,465.99 (\$77,059.50 deposit and \$6,406.49) was actually refunded to the General, the additional \$31,873.42 (\$27,664.50 deposit and \$4,208.92 interest) is due the Primary committee.

Since the GELAC did not pay toward the deposit, the \$19,134.69 (\$18,487.63 deposit and \$647.00 interest) that was refunded and deposited by the GELAC should also be returned to the Primary committee.

In sum, the \$31,873.42 from the General committee and \$19,134.69 from the GELAC amount to \$51,008.11 and need to be transferred to the Primary committee.

Total deposits paid by Dole for President were as follows:

\$18,487.63 4<sup>th</sup> floor  
\$56,764.50 3<sup>rd</sup> floor  
\$75,252.13 Total

The deposit refund due is \$80,618.42 (\$75,252.13 deposit and \$5,366.29 interest). Since \$29,610.31 (\$29,110.00 deposit and \$500.31 interest) was refunded to the Primary, \$51,008.11 (\$46,142.13 deposit and \$3,865.98 interest) is still due, as reconciled above.

#### Interest

The Audit Staff finds that the GELAC should pay Dole for President \$647.06 for interest earned by DFP paid deposits. The committee agrees and has included this amount in \$19,134.69 to be paid to DFP by the GELAC.



The audit staff also reports that the General committee should pay Dole for President \$6,406.00 for interest earned by DFP paid deposits. The committee finds that \$4,208.92 should be paid to DFP by the General for interest on the security deposit and has included this amount in the \$31,873.42 to be paid to DFP by Dole-Kemp '96.

Of the \$6,406.00 that the audit staff references, \$1,687.26 should not be included because it was interest for a security deposit (\$20,295) paid by Dole-Kemp '96. The remaining difference is \$510.31. This interest amount also relates to a security deposit (\$29,100) paid by Dole-Kemp '96, which was erroneously deposited in a Primary account.

The chart on the attached page summarizes the committee's findings as to the amounts due to and from the various committees and the effect that the transactions have on DFP's spending limitation. See Exhibit 12.

**E. Assets Transferred Between DFP and the Other Committees**

**Audit Staff Findings and Recommendations**

**(a) Supporter List**

The Audit Staff rejected DFP's characterization of the sale of a supporter list to Dole/Kemp as a transfer of assets to Dole/Kemp. Also, the Audit Staff found that the entire \$378,775 paid by Dole/Kemp for the lists was due to Dole/Kemp because the Audit Staff could not establish a fair market value for the list.

The Audit Staff recommends that DFP document the fair market value of the list by providing the number of names on the list.

**DFP Response**

As DFP explained in its previous response, it is standard industry practice to establish a price per supporter name by dividing the total cost of a supporter program by the total number of names generated by such program. See statement attached at Exhibit 13. As the Audit Staff requested, DFP has attached records documenting that the total number of names generated by the Dole Supporter

program was 876,087. Id. Thus, at \$0.40 per name, these documents establish that \$350,435 was the fair market value of the list.

Thus, only \$28,340 should be added to DFP's spending limitation and \$8,714.55 must be repaid to the U.S. Treasury.

**(b) Film Footage**

The Audit Staff found that there was insufficient documentation to establish that the portion of production costs billed by DFP to Dole/Kemp were for the production of the film footage transferred to Dole/Kemp.

The Audit Staff recommends that DFP document the connection, such as use during the general election, between the production cost assessed to Dole/Kemp and a specific commercial.

**DFP Response**

DFP has attached invoices that demonstrate that twelve of the fourteen advertisements whose production costs were assessed to Dole/Kemp were aired during the general election. See Exhibit 14. There has been some confusion generated by the remaining two ads because the production code numbers assigned to those ads changed after the ads were edited by the primary committee, but the original pre-edit code numbers were used when the ads were transferred to the general committee. DFP has attached contemporaneous memoranda that establish that the remaining two ads transferred to Dole/Kemp whose production costs were charged to Dole/Kemp were also aired by during the general election. Id. Thus, \$106,204 should not be added to DFP's spending limit, nor must DFP repay \$32,657.73 to the U.S. Treasury.

**(c) Improperly Valued Assets**

The Audit Staff found that documents for miscellaneous assets transferred from DFP to Dole/Kemp were missing.

The Audit Staff recommends that DFP provide documents demonstrating the acquisition of certain assets or their costs.

### **DFP Response**

DFP has no additional documentation at this time, leaving \$28,546 payable to Dole-Kemp '96, \$24,055 payable to the GELAC, \$52,601 added to the spending limit, and \$16,174.81 due to the U.S. Treasury.

#### **F. Determination of Net Outstanding Campaign Obligations-Surplus**

##### **Audit Staff Findings and Recommendations**

When the Audit Staff calculated DFP's net outstanding campaign obligations, the Audit Staff found DFP to be in a surplus position of \$227,062.

The Audit Staff recommends that DFP provide evidence that it is not in a surplus position or that the surplus is a lesser amount.

##### **DFP Response**

DFP has reviewed its statement of net campaign obligations and has found no surplus. Indeed, total monies available to DFP are addressed in the conclusion.

Thus, \$69,822 is not repayable to the U.S. Treasury.

#### **G. Other Repayments**

##### **Non-Qualified Expenditures Incurred Prior to the Expenditure Report Period**

##### **Audit Staff Findings and Recommendations**

The Audit Staff identified certain items which on their face did not appear to be qualified campaign expenditures. The total value of these expenditures was \$20,231.

The Audit Staff recommends that DFP document that these were qualified campaign expenditures.

### **DFP Response**

DFP does not dispute the Audit Staff's assessment of these items. Thus, \$6,221 is repayable to the U.S. Treasury.

### **Nonqualified Expenditures Incurred in the Post Expenditure Period-Winddown Expenditures**

#### **Audit Staff Findings and Recommendations**

The Audit Staff found that the winddown costs should have been pro-rated between DFP and Dole/Kemp. Thus, the Audit Staff found that Dole/Kemp owes DFP \$980,569 for its share of these costs paid by DFP.

The Audit Staff recommends that DFP demonstrate that the Dole/Kemp paid its share of the winddown expenditures or that DFP was reimbursed by Dole/Kemp.

### **DFP Response**

The Audit Staff erroneously imposed a pro-rata rule on the payment of winddown costs. Indeed, nothing in the Commission's regulation requires that the primary and the general committees split these costs. In the absence of such a directive, DFP is entitled to pay the entire costs of the winddown process.

Also, the Primary Committee is explicitly entitled to pay for its winddown costs after the date of the nomination. 11 C.F.R. 9034.4(a)(3). DFP's audit has been going on since the presidential campaign came to an end. Also, there has been no distinction between DFP's audit and Dole/Kemp's audit. Thus, DFP is explicitly entitled to pay for the winddown costs under 11 C.F.R. 9034.4.(a) (3)

Thus, \$301,525 does not have to be repaid to the Treasury.

### **Stale Checks**

#### **Audit Staff Findings and Recommendations**

The Audit Staff reviewed DFP's bank records and found 522 stale dated checks totaling \$244,239.

The Audit Staff recommends that DFP provide evidence that these checks are not outstanding or that they are void and no obligations exists.

#### **DFP Response**

With respect to the checks with a face value of \$1,000 or less, the failure of the payee to negotiate the check indicates an intent to make a contribution to Dole/Kemp. Because donations of personal services and personal travel expenses are exempt under 11 C.F.R. 100.7(b), stale checks of \$1,000 or less having to do with such personal services or travel need not be repaid to the Treasury. Thus, only \$211,040.64 must be repaid to the Treasury. See Exhibit 15.

#### **IV. Conclusion**

To the extent that the Committee may have exceeded the spending limit, that amount, according to the Committee's calculations, would be no more than approximately \$1.5 million. Thus, a repayment could not exceed \$461,000.

EXECUTIVE COUNCIL  
AND  
BUDGET COMMITTEE  
MEETING

Thursday, January 17, 1996

I. Introduction -

\*\* Call on TBD to give invocation and ask  
to take a silent role

- A. Welcome
- B. Budget Battle
- C. Message/End Game

REDACTED

ANY QUESTIONS?

II. 1996 Republican National Convention -

\*\* Ask Mike Grebe, Chairman, COA.  
\*\* Bill Greener is attending as well

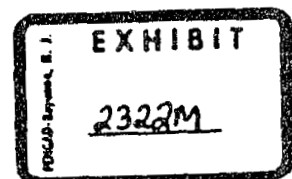
III. Administration

- A.
- B.

Attachment 6

\*\* Ask Laird Stabler, Chairman, Budget Committee to  
remark

ANY QUESTIONS?



IV. Co-Chairman's Report

\*\* Ask Evelyn to give the Co-Chairman's report

ANY QUESTIONS?

V. Campaign Operations

A.

B.

C.

D.

E.

F.

G.

H.

I.

ANY QUESTIONS?

Attachment 6

Page 2 of 12

VI. Finance

A.

B.

1.

2.

3.

a.

b.

c.

d.



ANY QUESTIONS?

C. Major Donors

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

Attachment 6  
Page 4 of 12

ANY QUESTIONS?

D. National Finance Committee/Presidential Trust

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

ANY QUESTIONS?

E. \_\_\_\_\_

F. \_\_\_\_\_

H. \_\_\_\_\_

ANY QUESTIONS?

VII. Communications

A. RNC Press Office

1. \_\_\_\_\_

NO. 04-399-0000

a. —

b.

c.

d.

2.

3.

B. Broadcast

1.

2.

3.

4.

5. \_\_\_\_\_

6.

C. Research

1.

2.

3.

4.

D. Publications

1.

2.

REDACTED

ANY QUESTIONS?

REDACTED

E. - Advertising

1. We have issued a request for proposal to Republican consultants to solicit ideas for how we can insulate our nominee-to-be during the April-August interregnum. Paid advertising will be the necessary component of our message management during this period, supplementing our bracketing and press efforts.
2. The "Are We Clear Yet?" ad aired nationally and rattled the White House to the point that they rushed to put out a counter-ad. We recently received a first place "Pollie Award" from the American Association of Political Consultants for this ad.
3. Chairman Barbour has appeared in full-page ads in USA Today and Roll Call issuing the Million Dollar Medicare Challenge. These ads then spurred television coverage (including a good segment on "Nightline.") and enabled House and Senate Republicans to parry in debate on

Attachment 6

Page 8 of 12

4. The 60-second ad featuring Hillary Clinton's congressional testimony on Medicare aired in the D.C. market. RNC also split the cost (60/40) of airing the spot in 29 different congressional districts.
5. We have an ad giving credit to Republican Congress (especially freshmen) for producing a balanced budget to counteract the White House's attempt to claim credit for themselves. Should an agreement be reached, these ads will be ready to go up immediately with the same 60/40 offer for those freshmen targeted by deceptive labor union ads.

VIII. Strategic Planning and Congressional Affairs

A. Budget/Medicare Battle (from now until the end of the year)

1.

2.

3.

4.

B. Battleground '96

1.

2.

3.

4.

Attachment 6

Page 5 of 2

REDACTED

5. \_\_\_\_\_

6. \_\_\_\_\_

## ANY QUESTIONS?

### IX Republican Governors Association

A. \_\_\_\_\_

B. \_\_\_\_\_

C. \_\_\_\_\_

D. \_\_\_\_\_

E. \_\_\_\_\_

## ANY QUESTIONS?

### X Computer Services

#### A. Network Upgrades

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

#### B. Department Database Installation:

1. \_\_\_\_\_

2. \_\_\_\_\_

a. \_\_\_\_\_

b. \_\_\_\_\_

Attachment 6

Page 10 of 12

REDACTED

C. Data Development;

1.

2.

D. Continued Progress on User Support

1.

2.

3.

E. Voter file programming and support

1.

2.

3.

F. RNC Member Contact Routine

1.

2.

ANY QUESTIONS?

XI. Legal

A.



B.

C.

XII. National Policy Forum

- A. Held many issue Mega-Conferences; Good Polling; Transition Project
- B. Paid back RNC over \$2 Million during 1993-1994; back owing about 750K
- C. Publish Agenda for America in early March - Probe for comment.

ANY QUESTIONS?

XIII. Other

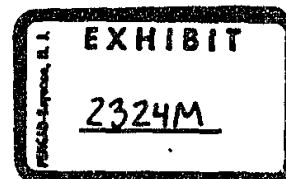
A.

B.

C.

D.

Republican  
National  
Committee



Halley Barbour  
Chairman March 5, 1996

MEMORANDUM FOR REPUBLICAN LEADERS

FROM: HALEY BARBOUR *Halley*  
RE: INDEPENDENT EXPENDITURE CAMPAIGNS

As we approach the time when it may become clear who our nominee will be, it is crucial our supporters do not get suckered into participating in any "independent expenditure" campaigns that purport to be helping the Republican nominee for president. These can be scams that primarily churn revenue for their organizers, and even if they are honest and well intentioned, this is the wrong approach.

Under federal law, the Republican National Committee is allowed to run issue and generic advertising in the April to August pre-convention period. That is how we plan to get the Republican message in front of the voters. An independent expenditure campaign is far more likely to dilute that effort than to produce positive results.

The reason I'm writing you about this is two stories, one in Monday's Wall Street Journal and the other in today's Washington Times.

The Journal story mentions an independent expenditure effort called "White House '96." It says a person named Thomas Tripp has registered a political action committee by that name with the Federal Election Commission. Tripp tells the Journal he "has had held talks with direct-mail czar Richard Viguri."

In the Washington Times story Tripp is quoted as saying his group will raise money "to spend on behalf of (Senator Dole) or whoever else is the nominee during the period between his wrapping up the nomination and the convention."

Attachment 7

Page 1 of 2

This would result in a dilution of our party's effort to put the Republican message forward and would risk an independent group's actually hurting

MEMORANDUM FOR REPUBLICAN LEADERS

March 5, 1996

Page 2

Our nominee is likely (but not certain) to be known by the end of March. Because of provisions of the federal election law, our nominee is likely to be broke and to have reached the spending limit allowed by law (unless it is Steve Forbes who hasn't accepted federal funds and, therefore, is under no limit.) Assuming our nominee has reached the limit, he will not be able to air radio and TV spots or conduct much in the way of campaign activity until the convention in August.

Clinton, on the other hand, will have millions to spend attacking us, for he has raised the limit but has not had to spend it to win the Democrat nomination.

We cannot give Clinton and his liberal allies a free shot at us for four months. But an independent expenditure effort is the wrong solution.

First, the party (the RNC and our state party organizations) are allowed to run issue and generic party advertising, and we have a sizable (though it needs to be bigger) budget for that. We are scheduled to begin in April.

Second, the party can coordinate our generic advertising with anybody, but an independent expenditure group is not allowed to coordinate or consult with the nominee's campaign or the party. It must be truly independent. That means it is not only unaccountable, but could actually turn out to be a loose cannon saying something very different from what the message should be.

Finally, some independent expenditure groups in the past have spent almost all their revenue to raise money, lining some pockets without significantly helping the campaign.

I don't know Thomas Tripp, and he may be honest as the day is long, well-intentioned and honorable. In fact, I assume he is all three of these things.

Nonetheless, the role of the Republican Party is to carry out this function. An independent expenditure committee is not needed or prudent, for the RNC and our state parties will fulfill this role.

Attachment 7

Page 2 of 2

I wanted you to know this, and I urge you to make your friends aware of where your and their money should go, if the goal is to elect a Republican president.

# Interface

Interface Video Systems, Inc.  
1233 20th Street, N.W.  
Washington, D.C. 20036  
202-861-0500  
FAX 202-296-4492

Catherine - FYI - Anne

25 June 1996

Sipple Strategic Communications  
Attn: Don Sipple  
2600 Virginia Ave., NW  
Suite 512  
Washington, DC 20037

Dear Don:

Thank you again for involving us in the work you are doing for the Dole Campaign. We value your business and the trust you put in our staff and facilities. We look forward to a challenging and rewarding "season".

As you know, Interface and DC Post will be providing post production services this season to you and the staff of New Century Media, as well as consultants and producers for the Democratic presidential candidate. Given the importance of this race coupled with the close proximity of the opposing camps, we are approaching this season with extra measures of care to protect the confidentiality of both sides. We have given much thought and discussion to exploring measures we and our staffs should take in order to provide a secure work environment for both sides. The outcome of those discussions have resulted in the implementation of the following procedures at Interface and DC Post.

Your post production "home" will be D.C. Post. The Democrats' home base will be Interface. Every effort will be made by our scheduling and operations departments to accommodate your needs within your home base (i.e. D.C. Post). Some of our services, however, are unique to one facility. They are:

Film to Tape Transfer	at	DC Post
IMC Camera	at	Interface
High-end Special Effects	at	Interface
Closed Captioning	at	Interface

Attachment 8

Page 1 of 3  
000012

In the event that services needed are only available at Interface, the following measures will be taken by our staff:

+ Our scheduling department will make every attempt to avoid concurrent Democrat/Republican sessions within the same facility. As you can imagine, there is no way for this to be 100% guaranteed. Our staff will not provide any information regarding scheduling of the opposing party. Because you may, as you have on occasion, in past years, encounter other consultants and their staffs while working at DC Post and Interface, we recommend that your staff take appropriate precautionary measures when working at Interface.

+ When Squier staff are at DC Post and when New Century staff are at Interface, an escort will be provided to monitor the whereabouts of people and materials. (Bathroom trips, though, will be solo.)

As a further measure to protect the confidentiality of your materials and activities, we ask that you restrict your activities to certain areas within the facility as follows:

+ Your company has been provided with a private office with a lock on the door at DC Post. Please use only this space to conduct your business activities when you are not in a scheduled session. The kitchen and other central areas are not secure and should not be used for business purposes. Interface and DC Post cannot be held liable for any documents that are left behind in public areas.

+ Only Interface and DC Post staff are allowed in Duplication, the Expediting areas, the central machine room and the tape libraries. No one from your staff will be allowed in these areas at any time, without exception.

In addition to these measures, the entire staff of Interface and DC Post has been instructed to keep an eye out for any situation that could possibly jeopardize the confidentiality of a client's work. Some specific points were singled out.

\* Any script or other political material that comes into a staff member's possession are to be shredded immediately if they are not being used in a session.

\* Faxes are to be removed from the fax machines immediately upon arrival and delivered to the intended recipient by hand. Please alert the receptionist of any expected faxes so they might be on the lookout for them. Faxes that are being sent should be returned to the person who requested the fax as soon as confirmation of transmission is received.

\* No discussion of political work is to take place out of the office.

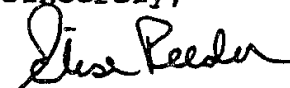
The management and staff of Interface and DC Post are aware of the highly sensitive nature of the material that will be produced within our facilities. We are honored to have been selected as your house of choice for this very serious and important project. We hope the specific steps outlined above help to show you that we are committed to providing you with the best service possible and highest level of confidentiality that is within our power.

Please also find included a copy of the speech Tom Angell made on Friday, June 7, 1996. A special all company meeting was called at 8:15am to be sure everyone would be available to hear Tom's message. I hope this reinforces to you how seriously we value your business and unique needs.

Professionally and personally, we enjoy working with you and your staff. Thank you for giving us the opportunity to work with you on this historic event.

If you have any questions or concerns please do not hesitate to call me on my direct line at (202) 457-5823 or Tom on his direct line at (202) 457-5820.

Sincerely,



Elise Reeder  
Executive Vice President  
The Interface Group

cc: Tom Angell, Joyce Peiffer, Heather Welsh  
Enclosure: Angell speech copy

Team 100 Conference Call  
Thursday, April 18  
1:15 p.m. - 1:45 p.m.  
(Eastern Standard Time)  
Proposed Timeline

\*0=  
\*1 = Questions

1:15 p.m.

Nancy Brinker welcomes members and introduces Senator Dole,  
Chairman Barbour, John Moran and Max Fisher

1:25 p.m.

Talking points for Nancy Brinker:

"I would like to welcome everyone to the Team 100 conference call. We have a lot to discuss today, so I would first like to make some introductions.

"On today's call we have with us RNC Chairman Haley Barbour, ~~Victory 96 Finance Chairman~~ Chairman, Victory 96 Honorary Chairman Max Fisher and of course Senator Bob Dole. Unfortunately, RNC Finance Chairman Howard Leach will not be able to join us

*and Victory 96 Finance Chairman John Moran*

"Before we begin our discussion today, I want to ask Chairman and Max Fisher to make some brief remarks regarding the transition of the Dole Campaign with the RNC and the Victory 96 effort

1:16 p.m.

John Moran makes remarks regarding the transition of the Dole Campaign with the RNC and the Victory 96 effort

*please HB or JJ  
To Auslos*

Talking points for John Moran:

"Thank you Nancy and it is a pleasure to be part of this important conference call

"The Dole for President campaign and the RNC have been integrating our efforts for the past two weeks. All facets of the transition have been smooth from fundraising and political operations to communications

"The purpose for Victory 96 is to elect Bob Dole as the next president of the United States

"Victory 96 and Team 100 will be working hand-in-hand to raise the \$50 million dollars needed to elect Bob Dole president

R 040204

\*All Team 100 members who renew their membership those who join Team 100 as a new member through our Victory 96 effort will receive Team 100 benefits during this exciting election year

\*I can't stress the point enough that Team 100 and Victory 96 are working together in a united effort. It has been a pleasure the last two weeks to work with Nancy, Howard and Haley in setting the strategy for the Victory 96 fundraising effort

\*At this time, I would like to ask someone we all know, the honorary Chairman for both Team 100 and Victory 96 to make a few comments regarding how important it is for the Victory 96 and Team 100 to be united. Max if you would please comment

Talking points for Max Fisher:

(Max makes comments regarding a united effort between Victory 96 and Team 100. After Max's comments, John Moran introduces Senator Dole)

Talking points for John Moran:

\*Thank you Max for your insight. It is now my pleasure to introduce the person we want to hear from this afternoon, my good friend and the next president of the United States, Bob Dole

1:18 p.m.

1:30 p.m.

Senator Dole makes remarks regarding the campaign

Talking points for Senator Dole:

(Scott Reed will supply talking points)

1:22 p.m.

Senator Dole invites members to the Spring National Meeting and tells members their membership must be current to attend the meeting

Talking points for Senator Dole:

\*Before we go to questions, I would like to make sure to invite you all to the Team 100 Spring National Meeting on May 9 & 10 in Washington, D.C. Your membership must be current with Team 100 to attend this important strategy meeting

\*At this point, I would like to take any questions

1:25 p.m.

Senator Dole asks for questions

R 040285

Attachment

9

Page

2

of

4



1:34 p.m.

Senator Dole finishes question period. Reiterates the need for members to renew their membership and attend the Spring National Meeting

Talking points for Senator Dole:

\*Thank you all for letting me join in your conference call. I look forward to seeing you at the Spring National Meeting on May 9 & 10 in Washington, D.C.

1:35 p.m.

Nancy Brinker thanks Senator Dole for participating. She recognizes Chairman Barbour for remarks.

Talking points for Nancy Brinker:

\*Thank you Senator Dole for joining us. At this time I would like to introduce our good friend and Chairman of the RNC, Haley Barbour

Talking points for Chairman Barbour:

\*Chairman Barbour discusses the political and communication effort of Victory 96

\*Chairman Barbour stresses the need to renew membership and the importance of recruiting new members for Team 100 and the Victory 96 effort

1:40 p.m.

Chairman Barbour concludes remarks and recognizes Nancy Brinker. Nancy Brinker makes remarks about members participating in phone session during Spring National Meeting

Talking points for Nancy Brinker:

\*At the upcoming Spring National Meeting in Washington, we will be discussing campaign strategy for this election year

\*For us to fully support the campaign strategy for Bob Dole, but also for our U.S. Senate, U.S. House and governor candidates, we must have the needed funds to do so

\*As John mentioned, the Victory 96 budget is \$50 million dollars for the presidential campaign. The budget for the RNC this year is \$136 million of which Team 100 along with Victory 96 must raise \$34 million

\*Because of this great task, on the morning of Friday, May 10 during our Spring National Meeting in Washington, D.C., we will be holding a two hour phone session. The fundraising goal set by

R 049286

Attachment 9

Page 3 of 4

Haley, Howard, John and myself for this "phone-a-thon" is 3.2 million dollars

\*At this phone session we will be calling on current and past Team 100 members to renew their membership for this important election year. Each of us will be given a list of members to call. An RNC staff person will be assigned to work with you during the phone session

\*It is important we get our members to renew, but it is also important we recruit new members. I ask all of you to bring at least 5 names of prospective Team 100 members to this phone session we can call upon for support in our efforts

\*A member of the Team 100 staff will call your office today and send you information regarding your participation

1:43 p.m.

Nancy Brinker concludes remarks and asks for questions for Chairman Barbour, John Moran and herself

1:50 p.m.

Nancy Brinker thanks members for participating and tells them she is looking forward to seeing them at the Spring National Meeting

Talking points for Nancy Brinker:

\*Before we end, I would like to thank everyone for taking the time to participate in today's conference call. We will organize future conference calls to give election updates as the year progresses.

Once again, thank you and we look forward to seeing you May 9 & 10 in Washington, D.C. for the Spring National Meeting

7:00 pm

R 049286

R 049287

Attachment

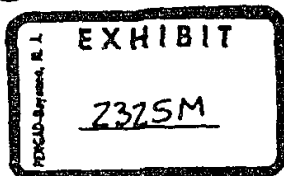
9

Page

4

of

4



# RNC NEWS RELEASE

Haley Barbour  
Chairman

Evelyn W. McPhail  
Co-Chairman

FOR IMMEDIATE RELEASE  
May 16, 1996

CONTACT: Mary Mead Crawford  
Virginia Hume  
(202) 863 - 8550

## RNC ANNOUNCES \$20 MILLION TV ADVERTISING CAMPAIGN *Statement by RNC Chairman Haley Barbour*

"Yesterday, with Senator Dole's announcement that he will resign from the Senate to be a full-time candidate for president, the 1996 presidential campaign began in earnest. Consistent with that, the Republican National Committee is announcing today that we will launch a \$20 million issue-advocacy advertising campaign between now and our convention in August to get the issues of this campaign before the American people and to get the truth out about these issues.

"If this campaign turns on issues, Republicans will win because the American people overwhelmingly support our ideas of a balanced budget, tax cuts for working families and for economic growth, genuine welfare reform and moving power and money away from Washington and back to the people and their states and communities.

"The first spot we will launch will focus on the balanced budget amendment and Bill Clinton's many flip-flops and position changes on balancing the budget. It will be drawn from the award-winning television ad produced last year entitled 'Let's Be Clear.' The ad will coincide with Congressional consideration of the balanced budget. Last year, the Republican Congress, led by Bob Dole, passed the first balanced budget in 26 years, but Clinton vetoed it.

"The Republican National Committee has not launched a major advertising campaign until this point because, unlike the Democrats who have the unions spending millions in compulsory union dues on their behalf, we do not have unlimited resources. The Republican National Committee must raise all its funds from voluntary contributions.

"Yesterday, Bob Dole picked up the flag of our Party to carry it to victory in the November elections against Bill Clinton. Now the Republican National Committee will rally behind his leadership and use this issue-advocacy campaign to show the differences between Dole and Clinton and between Republicans and Democrats on the issues facing our country, so we can engage full-time in one of the most consequential elections in our history."

###

Attachment 10

Page

of 1

R 044102

## MEMORANDUM FOR CHAIRMAN BARBOUR

FROM: JO-ANNE COE *q*

APRIL 11, 1996

COPY TO: SANFORD MCALLISTER

SUBJ: VICTORY '96 MAIL PROPOSAL

As I mentioned, we have developed a very aggressive plan to raise \$14 million in hard money for Victory '96 by solicitations to the Dole for President donors.

As with any mail program, this is a costly undertaking (\$8.8 million estimated), but should net the RNC \$5 million.

Attached is a proposed schedule for your consideration. You will note our proposal includes commercial prospecting, as well as appeals to the RNC master file on behalf of Victory '96 and some telemarketing. Most, if not all, of these appeals will be over the Bob Dole signature which worked so well for us in the campaign.

We have discussed this with Albert and he is in full agreement that we should proceed immediately in carrying out this proposal. (Draft copy for the first package has already been submitted to you and Sanford for approval.) This effort will, of course, be coordinated closely with Albert and Janice Knepp's operation, and we will monitor the first 4 or 5 packages to insure the Victory '96 mail program does not have a negative impact on what the RNC is already undertaking.

Once this program demonstrates its worth -- which I am confident it will do -- I intend to explore the possibility of adding Gramm and Alexander donors to the prospecting packages.

I will appreciate your favorable consideration of this proposal.

*ack*  
R 003828Attachment 11Page 1 of 1

April 12, 1996

Memorandum

To: Jo-Anne, Mark  
From: Chip  
RE: Sign-off for 1st Victory '96 appeal

---

I am a little uncertain as to what degree I have the approval to move ahead on this first V96 mailing. On the spreadsheet/plan, this first appeal (the Platform Survey which you approved copy on yesterday) would mail to three groups: DFP masterfile, RNC actives and commercial prospects. I need to make certain that I am OK to move ahead on producing these packages *to mail as soon as possible*. The copy appears to be on the way to being approved, so I want to re-run the numbers by you. They are as follows:

	Quantity	Gross	Cost	Net
DFP masterfile	250,000	\$225,000	\$102,500	\$122,500
RNC actives +	650,000	\$455,000	\$253,500	\$201,500
Prospecting	500,000	\$161,500	\$190,000	\$(28,500)
Total 1st mail wave	1,400,000	\$841,500	\$546,000	\$352,500

Again, these numbers are conservative based on actual past results. We should exceed them by a small margin.

We will need approximately \$380,000 up front for postage, list rental, and production, although I may be able to negotiate on the list rental and possibly the production.

I have attached the commercial list recommendations for your information and review. The lists in **bold italics** are the lists that netted money for DFP in three or more tests, the lists in **bold** netted money twice, and the regular typeface lists are new tests of lists which have worked well for the RNC, NRSC and others.

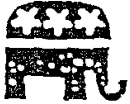
Please give me approval to move full speed ahead on this, or advise me on what needs to be done to get this moving.

Thanks.

R 003829

Attachment 12

Page 1 of 1 SN0012-04365



Republican  
National  
Committee

Haley Barbour  
Chairman

June 5, 1996



MEMORANDUM FOR CURT ANDERSON  
RUTHIE KISTLER

FROM: HALEY BARBOUR

SUBJECT: UNITY EVENTS/GOP RALLIES

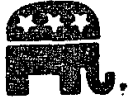
Your memo of today requesting \$800,000 in budget authority to spend on the costs of Unity Events is received but not approved.

We have heretofore approved approximately \$500,000 of advance costs for arrangements for Senator Dole to make appearance at Victory '96 fundraising events. I crammed that into the budget with the expectation that the costs would be more than outweighed by the revenue generated. These Unity Events, as I understand your memo, would not generate revenue, and the \$800,000 cost would come off the bottom line. We do not have the money.

I will reach out to Scott Reed to ask him to consider whether the Dole campaign would want us to 1) reduce other spending, such as the issue advocacy television advertising, by \$800,000; 2) significantly increase the number and lead time for Victory '96 events in order to offset these costs (although I am not convinced at this time that the Victory '96 events will produce the revenue currently anticipated and budgeted for expenditure; 3) not spend the sum requested for Unity Events; or 4) consider some other alternative.

I have not had a chance to talk to Scott yet so hold this response close until he and I can discuss it.

Attachment 13      Attch  
Page 1 of 1      Page



Republican  
National  
Committee

July 11, 1996

MEMORANDUM TO CHAIRMAN BARBOUR

CC: CO-CHAIRMAN MCPHAIL  
SANFORD MCALLISTER  
ED GILLESPIE  
TONY HAMMOND  
RUTH KISTLER  
ADAM STOLL  
DWIGHT STERLING

FROM: CURT ANDERSON *CA*

RE: FLORIDA MEDIA BUY

We agreed on the initial markets for the Florida media buy. This buy satisfies the campaign. the Florida party, me, Ed. and Senator Mack. It is as follows:

<u>Market</u>	<u>CPP</u>
Ft. Myers	\$40.00
Jacksonville	\$70.00
Orlando	\$90.00
Tallahassee	\$25.00
Tampa	\$130.00
West Palm Beach	\$55.00

Total \$410.00 Cost Per Point

$\$750,000 \div \$410 \text{ Cost Per Point} = 1,829 \text{ Points Per Market}$

As you can see this will give us over 900 points per market for both the budget and tax ads. This buy reaches 71.2% of the state. The Miami market is 20%.

The Mobile/Pensacola market is very inefficient. One of the stations (WEAR) reaches FL. and the others are strictly Alabama. WEAR reaches 4% of FL. The cost per point would be \$60.00. If we bought this it would reduce our total points per market to 1596.

R 044600

*File*

## M E M O R A N D U M

DATE: July 10, 1996

TO: Haley Barbour  
Sanford McCallister  
Ed Gillespie  
Curt Anderson  
Suzy DeFrancis

FROM: Adam Stoll

RE: RNC Media Schedule

Don Sipple and Tony Fabrizio have suggested a change in the current plan for the RNC media buy. The plan as it currently exists would have us off the air for the entire two week period of the Olympics and then back on the air during Platform Week before the convention. The suggestion is to go off the air for the first weekend of the Olympics, 7/20-7/22, and go back up on 7/23 through the end of July. Also, in many states we have a savings due to changing costs over the period of the buy that we would use to expand the buy into August for those individual states. Below is a chart detailing the plan as it currently stands and the proposal as sketched out by Don and Tony.

STATE	CURRENT BUY				ADDITIONAL POINTS	PROPOSED BUY					
	7/8-7/14	7/15-7/19	7/20-8/4	8/5-8/11		7/8-7/14	7/15-7/19	7/20-7/22	7/23-7/28	7/29-8/2	8/5-8/11
CA	300	290	0	400	580	300	290	0	305	325	350
CO	300	290	0	400	450	300	290	0	250	280	320
IL	300	290	0	400	140	300	290	0	240	300	
MI	300	290	0	400	100	300	290	0	250	250	
MO	300	290	0	400	270	300	290	0	325	345	
NV	300	290	0	400	110	300	290	0	250	260	
OH	300	290	0	400	170	300	290	0	280	290	
PA	300	290	0	400	360	300	290	0	230	250	280
TN	300	290	0	400	140	300	290	0	250	290	
WA	300	290	0	400	320	300	290	0	220	240	260
Other States	300	290	0	400	0	300	290	0	200	200	0

The plan would call for running "Pledge" in all states through the end of the buy except in California where "More" will run in rotation.

Please contact me, Don or Tony and let us know how to proceed.

Attachment 15  
Page 1 of 1





Republican  
National  
Committee

Haley Barbour  
Chairman

*File -  
DWE Genevieve  
Mashin*

July 5, 1996

MEMORANDUM FOR DWIGHT STERLING

FROM: HALEY BARBOUR

*Haley*

As my office instructed you earlier today, you are to proceed faxing and calling station managers immediately to delay the buy that was supposed to start on Monday. Those instructions are unchanged and you have no authority to deviate from them.

To reiterate, we will continue to run the "More" spot in California only. You are not to run any other spots in any other markets until you receive further notification from the Republican National Committee.

The phone message you left for Curt Anderson earlier today referencing "conversations" to the contrary is inaccurate. Those conversations have no authority and your instructions are as stated above.

cc: Scott Reed  
Don Sipple  
Ed Gillespie  
Curt Anderson

Attachment 16  
Page 1 of 1



Republican  
National  
Committee

Halley Barbour  
Chairman

168

June 3, 1996

MEMORANDUM FOR DON SIPPLE  
NEW CENTURY MEDIA

FROM:

HALEY BARBOUR

*Halley*

RE:

AD BUYS

Prior to the purchase, placement and airing of any RNC television ads you must receive express authorization from our Communications Director, Ed Gillespie. This includes initial script approval and final approval of actual video to be aired. Ed will contact you about the specific process for your obtaining the authorization, which he will not grant until legal, campaign operations, administration and any other appropriate RNC divisions have received the spots and the buy and signed off on them.

If Ed determines it is acceptable to give you express authority to go forward verbally, I still want there to be a written (by fax is acceptable) authorization for the files on both ends in order to assure accountability.

bcc: Jay Banning  
Tom Josefisk  
Ed Gillespie  
Sanford McAllister  
Curt Anderson

Attachment 17  
Page 1 of 1

R 004633



Republican  
National  
Committee

MEMORANDUM TO THE CHAIRMAN

CC: SANFORD McALLISTER  
CURT ANDERSON  
TONY FABRIZIO  
BOB WARD

FROM: WES ANDERSON  
CHARLIE NAVE  
JOEL MINCEY

DATE: 16 JULY 1996

RE: MID-MEDIA STATEWIDE TRACKS

---

*Analysis*

The mid June tracks demonstrate significant movement in the ballot tests of five large target states. While this is good news, the top-line ballot numbers do not tell the whole story. The Mid-track ballot tests show an improvement that mirrors Dole gains evinced in national media polls. In those national polls, Dole has improved from a 20 point deficit to a 15 point deficit, resulting mostly from a drop in Clinton's favorable rating.

Actual changes within our target states ranged from a nineteen point improvement in Illinois to a 20 point loss in Dole ballot position vis-a-vis Clinton in Delaware. Dole made significant gains in eight states, including improvements of 10 or more points in six states. The ballot test remained largely unchanged in eleven states and Dole's position worsened only in Delaware.

Attachment 18  
Page 1 of 7

State	EV	May			June			Change in ...			
		Dole	Clinton	Margin	Dole	Clinton	Margin	Dole Ballot	Clinton Ballot	Margin	
IL	22	30	61	-31	39	51	-12	9	-10	19	
PA	23	30	61	-31	36	49	-13	6	-12	18	
CA	54	33	57	-24	39	51	-12	6	-6	12	
MI	18	35	57	-22	38	48	-10	3	-9	12	
MO	11	32	56	-24	36	49	-13	4	-7	11	
CO	8	44	51	-7	43	40	3	-1	-11	10	
LA	9	37	55	-18	36	46	-10	-1	-9	8	
TN	11	46	51	-5	45	43	2	-1	-8	7	
NJ	15	34	62	-28	31	54	-23	-3	-8	5	
GA	13	43	51	-8	41	46	-5	-2	-5	3	
FL	23	40	47	-7	41	46	-5	1	-1	2	
CT	8	36	54	-18	32	49	-17	-4	-5	1	
KY	8	44	49	-5	42	46	-4	-2	-3	1	
OH	21	38	54	-16	32	50	-18	-6	-4	-2	
NM	5	39	51	-12	36	50	-14	-3	-1	-2	
NV	4	41	47	-6	38	46	-8	-3	-1	-2	
MT	3	45	47	-2	38	43	-5	-7	-4	-3	
IA	7	42	51	-9	37	50	-13	-5	-1	-4	
NH	4	43	51	-8	36	49	-13	-7	-2	-5	
DE	3	41	48	-7	29	56	-27	-12	8	-20	

For the most part, it appears that Dole's ballot score changed very little. It was a drop in Clinton's support that explains the overall four point gain. A subgroup analysis of changes in Dole support on the ballot test within the top six improved states shows that there was no set of groups that consistently moved over to Dole's camp. Rather, the change in the ballot test margin seems to be most related to high Clinton strength on the May ballot test. States in which Clinton demonstrated the highest support in the May surveys witnessed the largest Clinton loses in the June surveys. **In other words, Clinton has lost ground and Dole support has largely remained static.**

The most important and encouraging finding is that Dole's largest gains are in the largest states, but again, these ballot tests represent Clinton loses more than Dole gains. Either way, the ballot test movement improves our outlook on the electoral college.

Unfortunately, though, the data shows that the media driving these ballot changes are the earned media events rather than our paid media. Specifically, the Filegate and Whitewater stories diminished Clinton's standing in the ballot test significantly. Among people who thought those stories were true, Dole did much better on the ballot test. In fact, in some states Dole won the ballot test among voter who believe that the Filegate story is true. The earned media about the abortion plank was also a definite positive for Dole, but it was not as effective at moving the ballot test as the other two stories.

By contrast, the paid media failed to improve Dole's position on the ballot test significantly. The Budget ad improved Dole's standing among the people who had seen it in nine states, but had little or no effect in ten states and a negative effect in one state. The Bio ad was even less effective. It helped Dole only in seven states, had little effect in eight

states, and hurt Dole in five states. An analysis of the open-ends illuminates the problem with the commercials. It appears that the "pityquest" problem, which we described in the pre-media dial test results, was a major flaw that thwarted the ad's intended purpose.

### Candidate Image Analysis

Further evidence of the dominance of the earned media is found in an analysis of Clinton's image. Overall, Dole's favorable rating increased by a net 1.1%, while at the same time, Clinton's unfavorable rating increased by a net 14.7%. The table below shows that movement on the ballot is more correlated to an increase in Clinton's unfavorables than to an increase in Dole's favorable rating. For example, the largest positive ballot movement was seen in Illinois (a net movement of 19 points) - as well as the largest increase in Clinton's unfavorable rating (up 9 points).

This trend continues for Pennsylvania (18 points on the ballot - 7 point increase in Clinton unfavorables) and California (12 points on the ballot - 4 point increase in Clinton unfavorables). The only anomaly occurs in Georgia where Clinton's unfavorables increased by 7 points, but the ballot only moved 3 points in our direction.

State	Mvmt in	Mvmt in	Ballot Margin		Ballot Mvmt
	Dole Fav	Clinton Unfav	May	June	
IL	2	9	-31	-12	19
PA	11	7	-31	-13	18
CA	5	4	-24	-12	12
MI	-1	3	-22	-10	12
MO	7	-3	-24	-13	11
CO	9	-7	-7	3	10
LA	6	0	-18	-10	8
TN	-2	-1	-5	2	7
NJ	4	-2	-28	-23	5
GA	-6	7	-8	-5	3
FL	5	-2	-7	-5	2
KY	-4	-2	-5	-4	1
CT	4	-1	-18	-17	1
OH	-3	2	-16	-18	-2
NM	-9	-2	-12	-14	-2
NV	-8	2	-6	-8	-2
MT	7	-8	-2	-5	-3
IA	-6	-2	-9	-13	-4
NH	-5	3	-8	-13	-5
DE	-7	-3	-7	-27	-20

Attachment 18

## Dole Favorable Rating & Ad Awareness

Dole's favorable rating increased most dramatically in four states: Pennsylvania (up 11), Colorado (up 9), Missouri (up 7), and Montana (up 7). In each of these states, the commercial or earned media event driving Dole's favorable rating appear to be different. However, in each of the four states (and the rest of the states for that matter) the earned media issues (Whitewater and Filegate) are much better known than either of the two commercials that we are running. Filegate and Whitewater awareness is in the high 50's to high 60's, while awareness for the Bio ad and the Budget ad are in the low 40's to the low to mid 50's.

As the table below shows in Pennsylvania, where Dole's favorable rating increased the most, Whitewater had the highest awareness (69%), followed by FBI Files (55%) and the Budget Ad (52%). In Colorado, where Dole's favorable image increased by 9 points, Whitewater and Filegate dominate respondent awareness. Finally, in Missouri and Montana, where Dole's favorability rating increased by 7 points, Whitewater (and to a lesser degree) Filegate were by far mentioned most often by respondents.

State	Mymet in Dole Fav	Mymet in Clinton Unfav	True FBI Files	True Whitewater	True Abor. plank	Seen Bio Ad	Seen Budget Ad
PA	11	7	55	69	50	42	52
CO	9	-7	60	65	53	39	43
MO	7	-3	50	68	51	51	52
MT	7	-8	53	59	48	39	43
LA	6	0	51	55	44	36	39
CA	5	4	56	70	57	56	56
FL	5	-2	66	73	58	32	32
CT	4	-1	56	64	55	21	24
NJ	4	-2	55	66	50	36	35
IL	2	9	57	64	49	49	57
MI	-1	3	57	64	50	44	45
TN	-2	-1	59	63	51	53	51
OH	-3	2	51	66	45	45	45
KY	-4	-2	53	64	44	50	55
NH	-5	3	58	69	54	55	43
GA	-6	7	52	63	50	48	54
IA	-6	-2	60	74	56	58	52
DE	-7	-3	56	67	48	36	44
NV	-8	2	58	68	52	40	47
NM	-9	-2	55	68	52	48	57

Attachment 18

## Clinton Unfavorable Rating & Ad Awareness

	Memot In	Memot In	True	True	True	Seen	Seen
State	Dole Fav	Clinton Unfav	FBI Files	Whitewater	Abor. plank	Bio Ad	Budget Ad
IL	2	9	57	64	49	49	57
PA	11	7	55	69	50	42	52
GA	-6	7	52	63	50	48	54
CA	5	4	56	70	57	56	56
MI	-1	3	57	64	50	44	45
NH	-5	3	58	69	54	55	43
OH	-3	2	51	66	45	45	45
NV	-8	2	58	68	52	40	47
LA	6	0	51	55	44	36	39
CT	4	-1	56	64	55	21	24
TN	-2	-1	59	63	51	53	51
FL	5	-2	66	73	58	32	32
NJ	4	-2	55	66	50	36	35
KY	-4	-2	53	64	44	50	55
IA	-6	-2	60	74	56	58	52
NM	-9	-2	55	68	52	48	57
MO	7	-3	50	68	51	51	52
DE	-7	-3	56	67	48	36	44
CO	9	-7	60	65	53	39	43
MT	7	-8	53	59	48	39	43

Finally, to insure that ballot by earned and paid media awareness is not simply a function of partisanship, party affiliation by awareness was checked. Among those who responded "true" to the Filegate question, on average Republicans hold a 7 point advantage. Among those who recall seeing the budget ad, on average Democrats hold a 2 point advantage. It must be noted that while the averages were fairly slim, there is wide fluctuation between states. The bottom line is that there is no significant evidence that partisanship is driving media awareness overall or acceptance of the truth of the Filegate scandal.

Overall, the Mid-track ballot tests show an improvement that mirrors Dole gains evinced in national media polls. In those national polls, Dole has improved from a 20 point deficit to a 15 point deficit. Similarly, our mid-track polling shows that, on average, Dole gained four points on Clinton in our target states.

Actual changes within our target states ranged from a nineteen point improvement in Illinois to a 20 point loss in Dole ballot position vis-a-vis Clinton in Delaware. Dole made significant gains in eight states, including improvements of 10 or more points in six states. The ballot test remained largely unchanged in eleven states and Dole's position worsened only in Delaware.

Changes in Ballot Test											
Ranked by change in ballot margin											
State	EV	May			June			Change in ....			
		Dole	Clinton	Margin	Dole	Clinton	Margin	Dole Ballot	Clinton Ballot	Margin	
IL	22	30	61	-31	39	51	-12	9	-10	19	
PA	23	30	61	-31	36	49	-13	6	-12	18	
CA	54	33	57	-24	39	51	-12	6	-6	12	
MI	18	35	57	-22	38	48	-10	3	-9	12	
MO	11	32	56	-24	36	49	-13	4	-7	11	
CO	8	44	51	-7	43	40	3	-1	-11	10	
LA	9	37	55	-18	36	46	-10	-1	-9	8	
TN	11	46	51	-5	45	43	2	-1	-8	7	
NJ	15	34	62	-28	31	54	-23	-3	-8	5	
GA	13	43	51	-8	41	46	-5	-2	-5	3	
FL	23	40	47	-7	41	46	-5	1	-1	2	
CT	8	36	54	-18	32	49	-17	-4	-5	1	
KY	8	44	49	-5	42	46	-4	-2	-3	1	
OH	21	38	54	-16	32	50	-18	-6	-4	-2	
NM	5	39	51	-12	36	50	-14	-3	-1	-2	
NV	4	41	47	-6	38	46	-8	-3	-1	-2	
MT	3	45	47	-2	38	43	-5	-7	-4	-3	
IA	7	42	51	-9	37	50	-13	-5	-1	-4	
NH	4	43	51	-8	36	49	-13	-7	-2	-5	
DE	3	41	48	-7	29	56	-27	-12	8	-20	

For the most part, it appears that Dole's ballot score changed very little and it was a drop in Clinton's support that explains the overall four point gain. A subgroup analysis of changes in Dole support on the ballot test within the top six improved states shows that there was no set of groups that consistently moved over to Dole's camp. Rather, the change in the ballot test margin seems to be most related to high Clinton strength on the May ballot test. In other words, Clinton has lost ground and Dole support has largely remained static.

The most important and encouraging finding is that Dole's largest gains are in the largest states, which improves our outlook on the electoral college dramatically.

Unfortunately, though, the data shows that the media driving these ballot changes are the earned media events rather than the paid media we have created. The Filegate and Whitewater stories both improved Dole's standing in the ballot test dramatically. Among people who thought those stories were true, Dole did much better on the ballot test and sometimes won. The earned media about the abortion plank was also a definite positive for Dole, but it was not as effective at moving the ballot test as the other two stories.



By contrast, the paid media failed to improve Dole's position on the ballot test significantly. The Budget ad improved Dole's standing among the people who had seen it in nine states, but had little or no effect in ten states and a negative effect in one state. The Bio ad was even less effective. It helped Dole only in seven states, had little effect in eight states, and hurt Dole in five states. It appears that the "pityquest" problem we anticipated was a major flaw that thwarted the ad's intended purpose.

**MEMORANDUM FOR THE CHAIRMAN**

**FROM:** CURT *CS*  
**CC:** SANFORD, EDDIE  
**RE:** BALLOT ALLOCATION OF TARGET STATES  
**DATE:** 3/18/96

The following chart clearly demonstrates what we already know, that any media we place in the target presidential states should be placed through state parties. The average ballot allocation in the top 17 target states is 37% federal - 63% non-federal, this obviously contrasts very well with our 65% federal - 35% non-federal allocation.

State	1996 Federal %	1996 Non-federal %
California	33	67
Colorado	37	63
Connecticut	33	67
Florida	33	67
Illinois	43	57
Kentucky	50	50
Louisiana	60	40
Michigan	37	63
Missouri	22	78
New Jersey	60	40
New Mexico	37	63
N. Carolina	30	70
Ohio	33	67
Pennsylvania	25	75
Tennessee	43	57
Washington	25	75
Wisconsin	33	67
Average	37	63

The average is a little deceiving because each state and market has different costs per gross rating point, but nonetheless, the central concept remains valid. In fact, if you take out the three states with the worst allocation formulas - NJ, KY, LA - the remaining 14 states have a 33% federal, 66% non-federal allocation formula.

R 055196

Attachment 15  
Page 1 of 2

For illustration purposes:

	<u>federal</u>	<u>non-federal</u>
\$10 million RNC buy	\$6,500,000	\$3,500,000
\$10 million state party buy	\$3,700,000	\$6,300,000
<b>Federal S's saved</b>	<b>\$2,800,000</b>	

Some have voiced concern that buying through the state parties could result in a loss of control on our part. There is absolutely no reason to be concerned about this. As was demonstrated in our efforts recently in the CA and OR special elections, our field staff is fully able to insure that state parties make good on any arrangement we make with them. This is simply a book keeping hassle, but not in anyway a reason not to proceed.

**MEMORANDUM TO THE CHAIRMAN**

**CC:**           **SANFORD McALLISTER**  
                 **CURT ANDERSON**  
                 **TONY FABRIZIO**

**FROM:**       **BOB WARD**  
                 **WES ANDERSON**  
                 **CHARLIE NAVE**  
                 **JOEL MINCEY**

**DATE:**       **11 JULY 1996**

**RE:**           **MID-MEDIA STATEWIDE TRACKS**

---

***Analysis***

The mid June tracks demonstrate significant movement in the ballot tests of five large target states. While this is good news, the top-line ballot numbers do not tell the whole story. The Mid-track ballot tests show an improvement that mirrors Dole gains evinced in national media polls. In those national polls, Dole has improved from a 20 point deficit to a 15 point deficit. Similarly, our mid-track polling shows that, on average, Dole gained four points on Clinton in our target states.

Actual changes within our target states ranged from a nineteen point improvement in Illinois to a 20 point loss in Dole ballot position vis-a-vis Clinton in Delaware. Dole made significant gains in eight states, including improvements of 10 or more points in six states. The ballot test remained largely unchanged in eleven states and Dole's position worsened only in Delaware.

Attachment 20  
Page 1 of 5

## Changes in Ballot Test

### Ranked by change in ballot margin

State	EV	May			June			Change in ....		
		Dole	Clinton	Margin	Dole	Clinton	Margin	Dole Ballot	Clinton Ballot	Margin
IL	22	30	61	-31	39	51	-12	9	-10	19
PA	23	30	61	-31	36	49	-13	6	-12	18
CA	54	33	57	-24	39	51	-12	6	-6	12
MI	18	35	57	-22	38	48	-10	3	-9	12
MO	11	32	56	-24	36	49	-13	4	-7	11
CO	8	44	51	-7	43	40	3	-1	-11	10
LA	9	37	55	-18	36	46	-10	-1	-9	8
TN	11	46	51	-5	45	43	2	-1	-8	7
NJ	15	34	62	-28	31	54	-23	-3	-8	5
GA	13	43	51	-8	41	46	-5	-2	-5	3
FL	23	40	47	-7	41	46	-5	1	-1	2
CT	8	36	54	-18	32	49	-17	-4	-5	1
KY	8	44	49	-5	42	46	-4	-2	-3	1
OH	21	38	54	-16	32	50	-18	-6	-4	-2
NM	5	39	51	-12	36	50	-14	-3	-1	-2
NV	4	41	47	-6	38	46	-8	-3	-1	-2
MT	3	45	47	-2	38	43	-5	-7	-4	-3
IA	7	42	51	-9	37	50	-13	-5	-1	-4
NH	4	43	51	-8	36	49	-13	-7	-2	-5
DE	3	41	48	-7	29	56	-27	-12	8	-20

For the most part, it appears that Dole's ballot score changed very little. It was a drop in Clinton's support that explains the overall four point gain. A subgroup analysis of changes in Dole support on the ballot test within the top six improved states shows that there was no set of groups that consistently moved over to Dole's camp. Rather, the change in the ballot test margin seems to be most related to high Clinton strength on the May ballot test. States in which Clinton demonstrated the highest support in the May surveys witnessed the largest Clinton loses in the June surveys. **In other words, Clinton has lost ground and Dole support has largely remained static.**

The most important and encouraging finding is that Dole's largest gains are in the largest states, but again, these ballot tests represent Clinton loses more than Dole gains. Either way, the ballot test movement improves our outlook on the electoral college dramatically.

Unfortunately, though, the data shows that the media driving these ballot changes are the earned media events rather than our paid media. Specifically, the Filegate and Whitewater stories diminished Clinton's standing in the ballot test significantly. Among people who thought those stories were true, Dole did much better on the ballot test. In fact, in some states Dole won the ballot test among voter who believe that the Filegate story is true. The earned media about the abortion plank was also a definite positive for Dole, but it was not as effective at moving the ballot test as the other two stories.

Attachment 20

By contrast, the paid media failed to improve Dole's position on the ballot test significantly. The Budget ad improved Dole's standing among the people who had seen it in nine states, but had little or no effect in ten states and a negative effect in one state. The Bio ad was even less effective. It helped Dole only in seven states, had little effect in eight states, and hurt Dole in five states. An analysis of the open-ends reveals the ad's problem. It appears that the "pityquest" problem, which we described in the ad dial test results memo, was a major flaw that thwarted the ad's intended purpose.

### Candidate Image Analysis

Further evidence of the dominance of the earned media is found in an analysis of Clinton's image. Overall, Dole's favorable rating increased by a net 1.1%, while at the same time, Clinton's unfavorable rating increased by a net 14.7%. The table below shows that movement on the ballot is more correlated to an increase in Clinton's unfavorables than to an increase in Dole's favorable rating. For example, the largest positive ballot movement was seen in Illinois (a net movement of 19 points) - as well as the largest increase in Clinton's unfavorable rating (up 9 points).

This trend continues for Pennsylvania (18 points on the ballot - 7 point increase in Clinton unfavorables) and California (12 points on the ballot - 4 point increase in Clinton unfavorables). The only anomaly occurs in Georgia where Clinton's unfavorables increased by 7 points, but the ballot only moved 3 points in our direction.

State	Mvmnt in	Mvmnt in	Ballot Margin		Ballot Mvmnt
	Dole Fav	Clinton Unfav	May	June	
IL	2	9	-31	-12	19
PA	11	7	-31	-13	18
CA	5	4	-24	-12	12
MI	-1	3	-22	-10	12
MO	7	-3	-24	-13	11
CO	9	-7	-7	3	10
LA	6	0	-18	-10	8
TN	-2	-1	-5	2	7
NJ	4	-2	-28	-23	5
GA	-6	7	-8	-5	3
FL	5	-2	-7	-5	2
KY	-4	-2	-5	-4	1
CT	4	-1	-18	-17	1
OH	-3	2	-16	-18	-2
NM	-9	-2	-12	-14	-2
NV	-8	2	-6	-8	-2
MT	7	-8	-2	-5	-3

	Mvmnt in	Mvmnt in	Ballot Margin		Ballot
State	Dole Fav	Clinton Unfav	May	June	Mvmnt
IA	-6	-2	-9	-13	-4
NH	-5	3	-8	-13	-5
DE	-7	-3	-7	-27	-20

#### Dole Favorable Rating & Ad Awareness

Dole's favorable rating increased most dramatically in four states: Pennsylvania (up 11), Colorado (up 9), Missouri (up 7), and Montana (up 7). In each of these states, the commercial or earned media event driving Dole's favorable rating appear to be different. However, in each of the four states (and the rest of the states for that matter) the earned media issues (Whitewater and Filegate) are much better known than any of the two commercials that we are running. Filegate and Whitewater awareness is in the high 50's to high 60's, while awareness for the bio ad and the budget ad are in the low 40's to the low to mid 50's.

As the table below shows in Pennsylvania, where Dole's favorable rating increased the most, Whitewater had the highest awareness (69%), followed by FBI Files (55%) and the Budget Ad (52%). In Colorado, where Dole's favorable image increased by 9 points, Whitewater and Filegate dominate respondent awareness. Finally, in Missouri and Montana, where Dole's favorability rating increased by 7 points, Whitewater (and to a lesser degree) Filegate were by far mentioned most often by respondents.

	Mvmnt in	Mvmnt in	True	True	True	Seen	Seen
State	Dole Fav	Clinton Unfav	FBI Files	Whitewater	Abor. plank	Bio Ad	Budget Ad
PA	11	7	55	69	50	42	52
CO	9	-7	60	65	53	39	43
MO	7	-3	50	68	51	51	52
MT	7	-8	53	59	48	39	43
LA	6	0	51	55	44	36	39
CA	5	4	56	70	57	56	56
FL	5	-2	66	73	58	32	32
CT	4	-1	56	64	55	21	24
NJ	4	-2	55	66	50	36	35
IL	2	9	57	64	49	49	57
MI	-1	3	57	64	50	44	45
TN	-2	-1	59	63	51	53	51
OH	-3	2	51	66	45	45	45
KY	-4	-2	53	64	44	50	55
NH	-5	3	58	69	54	55	43
GA	-6	7	52	63	50	48	54

	Mvmnt in	Mvmnt in	True	True	True	Seen	Seen
State	Dole Fav	Clinton Unfav	FBI Files	Whitewater	Abor. plank	Bio Ad	Budget Ad
IA	-6	-2	60	74	56	58	52
DE	-7	-3	56	67	48	36	44
NV	-8	2	58	68	52	40	47
NM	-9	-2	55	68	52	48	57

### Clinton Unfavorable Rating & Ad Awareness

	Mvmnt in	Mvmnt in	True	True	True	Seen	Seen
State	Dole Fav	Clinton Unfav	FBI Files	Whitewater	Abor. plank	Bio Ad	Budget Ad
IL	2	9	57	64	49	49	57
PA	11	7	55	69	50	42	52
GA	-6	7	52	63	50	48	54
CA	5	4	56	70	57	56	56
MI	-1	3	57	64	50	44	45
NH	-5	3	58	69	54	55	43
OH	-3	2	51	66	45	45	45
NV	-8	2	58	68	52	40	47
LA	6	0	51	55	44	36	39
CT	4	-1	56	64	55	21	24
TN	-2	-1	59	63	51	53	51
FL	5	-2	66	73	58	32	32
NJ	4	-2	55	66	50	36	35
KY	-4	-2	53	64	44	50	55
IA	-6	-2	60	74	56	58	52
NM	-9	-2	55	68	52	48	57
MO	7	-3	50	68	51	51	52
DE	-7	-3	56	67	48	36	44
CO	9	-7	60	65	53	39	43
MT	7	-8	53	59	48	39	43
			56	66	51	44	46

Finally, to insure that ballot by earned and paid media awareness is not simply a function of partisanship, party affiliation by awareness was checked. Among those who responded "true" to the Filegate question, on average Republicans hold a 7 point advantage. Among those who recall seeing the budget ad, on average Democrats hold a 2 point advantage. It must be noted that while the averages were fairly slim, there is wide fluctuation between states. The bottom line is that there is no significant evidence that partisanship is driving media awareness over all or acceptance of the truth of the Filegate scandal.



MEMORANDUM

TO: TONY FABRIZIO

FROM: BOB WARD

DATE: MAY 24, 1996

SUBJECT: RECENT FOCUS GROUPS

Having talked to Joel and Deborah Kent about the focus groups in New Mexico, they raise an interesting point. On the one hand, one of the most successful ads tested was the Clinton vs. Clinton budget spot. The reason is the use of humor. "Yes, this is a negative ad. But it's done in a way that is totally believable." On the other hand, the other ads that tested well were the comparative ads. However, the biggest reason the comparative ads were a hit was not what they say about Clinton. It's what they say about Dole.

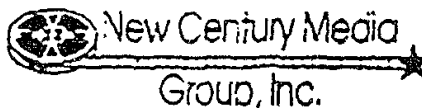
It seems our goal over the next eight weeks is two fold: 1) define Bob Dole, both personally and what he stand for, and 2) reinforce the doubts people have about Bill Clinton. We don't have to accomplish those tasks with the same ads or even the same issues. It could even be argued that they should be separate. Why link Dole to our negative attack on Clinton when we are trying to positively define Dole?

My suggestion is this: put a straight negative up like "Stripes" or "Balanced Budget" that uses Clinton to whack himself, and simultaneously air a straight Dole issue-oriented positive, or the Dole story.

One caveat to using Clinton on video - the broken promises ad was held entirely suspect as people thought he was cut off from finishing his thoughts; that his speech may have been taken out of context. Our selection of Clinton incriminating himself should be clean, and unquestionable. The budget spot is able to get around this because the context is clear.

Also, citations and newspaper headlines are very powerful reinforcement.

Attachment 21  
Page 1 of 1



Curt  
Ed  
FYE  
Samb

M E M O R A N D U M

TO: Hailey Barbour  
Scott Reed  
CC: Tony Patrizio  
FR: Don Sipple *DS*  
RE: RNC Advertising

As you look at the RNC buy as laid down - essentially we have one additional spot to air. Thus, we should be changing spots around July 10th or 11th. As per our discussion Wednesday evening, it is my view that what we run should have significant force that Clinton and the Democrats are compelled to respond.

Whether one likes the "Benefits for Illegals" spot or not - the Dems responded. Anytime they're responding to our issues means they are not putting money behind a proactive issue of theirs. Our last spot should create this environment as well.

I propose we do a spot on the constellation of ethics problems facing Clinton and his administration. It should be credibly presented using headlines etc. and should include his own quote "We will have the most ethical administration in history..." There might be a FBI files piece (perhaps French), Whitewater convictions, eight cabinet members under investigation, and Travelgate. The purpose of doing this ad would be to connect the dots for the American people - to demonstrate a pattern of behavior. Additionally, this is a spot that DFP general shouldn't get to until late (if at all, in advertising). And it may have the benefit of picking up these stories and moving them along as they may ebb in news coverage.

Let me know your thoughts.

Attachment 22  
Page 1 of 1

LEVEL 2 - 8 OF 15 STORIES

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Federal News Service

JUNE 6, 1996, THURSDAY

Exhibit  
28-37



SECTION: MAJOR LEADER SPECIAL TRANSCRIPT  
LENGTH: 3524 words  
HEADLINE: REMARKS OF GOP PRESIDENTIAL CANDIDATE SENATOR BOB DOLE (R-KS)  
SPEAKING TO ABC TELEVISION AFFILIATES VIA SATELLITE  
AT THEIR MEETING IN ORLANDO, FLORIDA

SEN. DOLE: (In progress) -- I think there's a passion burning somewhere inside me, but some people display it in different ways. I've had a lot of real life experiences, too, that I think I can bring that helps mold my character, helps sort of demonstrate who Bob Dole is, where he would take America. I, you know, have grown up in a hardscrabble life, had a lot of experience in World War II. Spent a lot of time in hospitals, learned a lot about people, a lot about people with disabilities, a lot about the underdogs in our society. And I've never failed to look back and try to help those people up the ladder. And I think that, in effect, defines who Bob Dole is, and we'll try to define it more as we get into the campaign. None of us are perfect in this world of politics, but my view is the American people want to see us as we are. The reason I decided to leave the Senate and give up all the trappings of power and all the comfort and all the security, because I think many people believe, and maybe with some justification, that those of us in politics never take a chance; we try to keep everything we have and acquire more. And my view was that I had to roll the dice and say, okay, I'm going to give up the power, give up the majority leader's office, give up my Senate seat, and listen to the American people and try to win this election because I will be the candidate perceived by the American people as one with the qualities of leadership that we need as we not only go into the next century, but beyond.

TED KOPPEL: Senator Dole, you should know that, at least here, things are in their proper perspective. I'm five-foot-nine. You're 20-feet tall on that screen! (Laughter.)

And with that in mind, let's go to our first questioner. Go ahead, sir. And would you please identify yourself and where you're from?

Q Sure. I'm John Rouse (sp). I run Affiliate Relations for ABC here. And first of all, congratulations on a very distinguished career in the U.S. Senate.

SEN. DOLE: Thank you.

Q And the question here, there's a lot of ABC affiliates here who rely on ad spending during a political campaign. And there's a lot of news about your campaign reaching its limits.

SEN. DOLE: (Chuckles.)

Attachment 23

Page 1 of 1

Republican  
National  
Committee

## Facsimile Transmission

To: Don Sipple  
From: Ed Gillespie  
Fax Number: 202 414-8007 Number of Pages: 2  
Date: May 13 96

If you have any questions, please call 202-863-8614

Pls. approve 1st two scripts, 2  
more to come later.

Thanks

Attachment 24  
Page 1 of 3



RNC TV :30  
"Facts"

Video  
Clip of Dem. ads

CNN cite and quote

Chicago Tribune cite and quote

Board

Board

Audio

Big Labor, Bill Clinton and the Democrats are  
running ads like these attacking Republicans.

CNN calls the ads "grossly misleading."

The Chicago Tribune said "Flat Out Lies"

The Facts:

Republicans passed welfare reform which requires  
the able-bodied to work for their benefits.

President Clinton vetoed it.

And President Clinton and the Democrats pushed  
through the largest tax increase in history which only  
fueled more wasteful Washington spending.

Every Republican voted against it.

So when you see their misleading ads, remember,  
it's not what the Democrats say, it's what they  
do.

Attachment 24  
Page 2 of 3

V/O

You've heard a lot of rhetoric  
about the Republican budget.  
Now hear some facts.

-----

Medicare spending goes up 7%  
every year under the Republican  
budget.

-----

Spending for education, job training  
and student loans goes up \$25 billion.

-----

Environmental protection would  
continue at current levels, with more  
flexibility for state and local  
enforcement.

-----

To get more facts, call 1-800-  
GOP-FACT

BOARD

[one at a time] "slashes Medicare"  
"cuts education"  
"guts the environment"

Medicare spending increases  
7% every year (*AARP letter to the  
President, Dec. 19, 1995*)

Education spending increases  
by \$25 billion (*House Budget  
Committee, Feb. 29, 1996*)

EPA spending would fund "a normal  
pace of enforcement" (*New York Times,  
April 26, 1996*) with more flexibility.

;

Forget the rhetoric. Learn the facts.  
Call 1-800-GOP-FACT.

Attachment 24  
Page 3 of 3

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
)  
)

MUR 4553

MUR 4671

**RESPONSE OF DON SIPPLE: STRATEGIC COMMUNICATIONS AND  
NEW CENTURY MEDIA, INC. TO SUBPOENA TO PRODUCE DOCUMENTS  
AND ORDER TO PRODUCE WRITTEN ANSWERS**

The following general objections apply to each request for written answers (the "Interrogatories") accompanying the FEC Subpoena:

1. I object to the Interrogatories to the extent that they call for the disclosure of information and/or production of documents that are protected from discovery by the attorney-client privilege or work-product immunity or are otherwise privileged. To the extent that any privileged document is or may be produced in response to the Interrogatories, the production of any such document is inadvertent and is not to be deemed a waiver of any privilege with respect to the produced document or any other document.
2. I object to the Interrogatories to the extent they purport to impose obligations to supplement the disclosure of information and/or the production of documents beyond those imposed by the United States Code and the Federal Rules of Civil Procedure.
3. I undertake to disclose information and produce documents in response to the Interrogatories only in the form, and to the extent, required by 2 U.S.C. § 437d and any other applicable provisions of the United States Code or the Federal Rules of Civil Procedure. I object to each instruction, definition, question and request contained in the Interrogatories to the extent that each instruction, definition, question and request attempts to impose obligations concerning

the form or context of document production beyond those required by such provisions or exceeds the scope of investigation permitted by, or conflicts with, 2 U.S.C. § 437d and any other applicable provisions of the United States Code or the Federal Rules of Civil Procedure.

4. I object to the Interrogatories to the extent that they call for the disclosure of information or the production of documents containing proprietary information.

5. I reserve the right to modify the objections made herein or to assert additional objections to production as appropriate.

6. I reserve the right to modify, amend or supplement the answers to the Interrogatories contained herein as further information becomes available or as otherwise appropriate.

Subject to the General Objections, and without waiving same, I hereby respond to the individual Interrogatories as follows:

### INTERROGATORIES

1. The following questions relate to the advertisement whose text is set forth in Attachment 1:

a. Identify all documents related to the advertisement.

True and correct copies of all documents related to "The Story" are labeled DS 000100 through DS 000105 for identification.

b. Explain in detail the RNC's role in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in any way involved in the development, creation, production and airing of the advertisement.

In the case of "The Story," there were various discussions with personnel at the RNC, including Haley Barbour, Ed Gillespie and Tom Josefiak over a period of days and weeks. These



discussions progressed from discussing the concept of the ads to the actual drafting of the scripts, and then script approvals. Tony Fabrizio, who was doing the polling for the RNC, was also involved with development of this ad. As for production, the film editor was Ed Deitch; assistants were Anne Beyersdorfer and Jane Hurst and various persons at DC Post, the production facility where it was put together assisted. Individuals at New Century Media -- Adam Stoll, Ned Nurick and others -- would have had some minor involvement. The placement agency, Multi-Media, owned by Tony Fabrizio, bought time for the airing of the commercial.

**c. Explain in detail the role of any other political committee, including state party committees, in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in any way involved in the development, creation, production and airing of the advertisement.**

I do not recall any other political committee being involved in the development, creation or production of the advertisement. I do remember putting various disclaimers on the commercial for use by State parties throughout the country.

**d. Identify each and every person who has knowledge and information regarding the planning, organization, development and/or creation of the advertisement.**

Those individuals named in the response to Interrogatory 1(b), above, were those primarily involved in the planning, organization, development and/or creation of the ad. After the ad was produced, I recall showing it to Elizabeth Dole.

**e. Identify all documents that refer to, relate to or contain any information regarding the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements.**

While they are not in my possession, the RNC would most likely have documentation of the purchase of film footage from the Dole Primary campaign for use in this advertisement.

Adam Stoll, formerly of New Century Media, was the person at new Century Media responsible for those details.

**f. State the time and date of each meeting, telephone conversation, and electronic message in which there was discussion of any kind concerning the sale and/or use of the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements. For each meeting:**

**i. Identify the location of the meeting, and for telephone or other electronic discussions, the location of each participant.**

I do not have any specific records or recollections beyond that information set forth in response to Interrogatory 1(e), above.

**ii. Identify each and every person who attended, heard or participated in any meeting, telephone conversation or electronic discussion. For each identified person, indicate which meeting that person attended, heard or participated in, and the date each meeting occurred.**

I do not have any specific records or recollections beyond that information set forth in response to Interrogatory 1(e), above.

**iii. Describe the substance, decisions, discussion and details of each and every meeting, telephone conversation or electronic discussion.**

I do not have any specific records or recollections beyond that information set forth in response to Interrogatory 1(e), above.

**2. The following questions relate to the advertisements discussed in Attachment 2. "Surprise," "Stripes," "Who," "The Plan," and "The Pledge."**

**a. Identify all documents related to the advertisement.**

True and correct copies of all such documents related to the advertisements listed are labeled DS 000106 through DS 000152 for identification.

**b. Explain in detail the RNC's role in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in**

Attachment 25  
Page 11 of 9

**any way involved in the development, creation, production and airing of the advertisement.**

In general terms relating to these ads, several people would have dinner each Wednesday night at the RNC in Haley Barbour's office to discuss Party strategy and the ongoing campaign. The ads were usually a part of the discussion. These discussions would include the rationale for specific ads, timing of when they should air, and targeting. Following those meetings I would write, or have other producers write, script treatments. These would then be transmitted to Ed Gillespie, who would be in charge of obtaining the necessary approvals at the RNC, including that of the legal counsel's office. The Wednesday night dinner was usually attended by Haley Barbour, Ed Gillespie, Don Fierce, Joe Gaylord, Speaker Gingrich, Tony Fabrizio, Fred Steeper, Scott Reed, and myself.

**c. Explain in detail the role of any other political committee, including state party committees, in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in any way involved in the development, creation, production and airing of the advertisement.**

I do not recall any other political committee being involved in the development, creation or production of these ads. I do remember putting various disclaimers on the ads for use by state parties throughout the country.

**d. Identify each and every person who has knowledge and information regarding the planning, organization, development and/or creation of the advertisement.**

While I oversaw the overall RNC effort in late Spring and Summer of 1996, other producers actually did some of the spots. My recollection of lead producer for each spot is as follows.

"Surprise" - Mike Murphy

"Stripes" - Don Sipple

"Who" - Stuart Stevens/Don Sipple

"The Pledge" - Mike Murphy/Don Sipple

"The Plan" - Mike Murphy.

All advertising scripts were approved by RNC's Office of Legal Counsel, usually by Tom Josefiak. Those mentioned in the response to Interrogatory 2(b), above, had the same level of knowledge about some aspect of the ads. New Century Media personnel and the employees of the named producers also have some knowledge of the ads. The production and post-production facilities used would also have some knowledge of the ads, as well Multi-Media, which placed the ads. I recall conversations with John Buckley and Gary Koops of the Dole Campaign's Communications Division after the ad was produced because they wanted copies of the ad to distribute to the media.

**e. Identify all documents that refer to, relate to or contain any information regarding the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements.**

To the best of my recollection, these ads do not contain proprietary footage from the Dole campaign in them. New Century Media shot fresh footage for the RNC for these ads.

**f. State the time and date of each meeting, telephone conversation, and electronic message in which there was discussion of any kind concerning the sale and/or use of the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements. For each meeting:**

**i. Identify the location of the meeting, and for telephone or other electronic discussions, the location of each participant.**

See response to Interrogatory 2(e), above.

ii. Identify each and every person who attended, heard or participated in any meeting, telephone conversation or electronic discussion. For each identified person, indicate which meeting that person attended, heard or participated in, and the date each meeting occurred.

See response to Interrogatory 2(e), above.

iii. Describe the substance, decisions, discussion and details of each and every meeting, telephone conversation or electronic discussion.

See response to Interrogatory 2(e), above.

3. The following questions relate to any advertisement that you produced, directed, coordinated, or in whose preparation you advised or consulted with the RNC or any state party committee during the period January 1996 through November 1996.

a. Identify all documents related to the advertisement.

In addition to the documents labeled DS 000100 through DS 000152, please see true and correct copies of documents labeled DS 000154 through DS 000165 for identification.

b. Explain in detail the RNC's role in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in any way involved in the development, creation, production and airing of the advertisement.

The process is the same as reflected in the responses to Interrogatories 1(b) and 2(b), above.

c. Explain in detail the role of any other political committee, including state party committees, in developing, creating, producing, and broadcasting the advertisement, including the identity of all persons who were in any way involved in the development, creation, production and airing of the advertisement.

The process is the same as reflected in the responses to Interrogatories 1(c) and 2(c), above..

d. Identify each and every person who has knowledge and information regarding the planning, organization, development and/or creation of the advertisement.

Attachment 15  
Page 7 of 5

See response to Interrogatory 1(b), above.

e. **Identify all documents that refer to, relate to or contain any information regarding the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements.**

See responses to Interrogatories 1(e) and 2(e), above.

f. **State the time and date of each meeting, telephone conversation, and electronic message in which there was discussion of any kind concerning the sale and/or use of the film footage used by the RNC or its agents in the advertisement that had been shot for the Dole campaign or had been used in previous Dole campaign advertisements. For each meeting:**

i. **Identify the location of the meeting, and for telephone or other electronic discussions, the location of each participant.**

See responses to Interrogatories 1(f) and 2(f), above.

ii. **Identify each and every person who attended, heard or participated in any meeting, telephone conversation or electronic discussion. For each identified person, indicate which meeting that person attended, heard or participated in, and the date each meeting occurred.**

See responses to Interrogatories 1(f) and 2(f), above.

iii. **Describe the substance, decisions, discussion and details of each and every meeting, telephone conversation or electronic discussion.**

See responses to Interrogatories 1(f) and 2(f), above.

I swear that the proceeding statements are true to the best of my knowledge, information and belief.

Don Sipple

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of April, 1998.

Notary Public

My Commission Expires:

**MEMORANDUM FOR**

Ed Gillespie  
Gary Koops  
Suzy DeFrancis  
Don Todd

**FROM:**

Tony Fabrizio  
Enu Mainigi

**RE:**

Thursday Lunch Meetings

---

As some of us discussed last week, although we all do a lot of talking back and forth every day, greater communication between the RNC and the Dole campaign on upcoming Dole and Clinton plans would be beneficial to all. Thursday at lunch seems to be a good time to schedule such a meeting since we should have a pretty good idea of our weekend plans by then.

Some of the general points that should be discussed at each meeting should include:

- a) What Senator Dole will be focusing upon in the upcoming week
- b) What we know of Clinton's schedule for the upcoming week and how best to attack
- c) What we will need in terms of product/research for both candidates

So we don't lose sight of our goal at these meetings, it is probably best if an agenda setting out specific points of discussion is sent out to everyone Thursday morning. Any items that need to be placed on the agenda should be faxed by close of business Wednesday to Enu at 408-9511.

The meeting tomorrow will be at noon in the 3rd Floor Finance Conference room at the campaign and, of course, lunch will be provided.

cc: Scott Reed  
Haley Barbour  
Jill Hanson  
Ed Rogers

Document 26  
Page 1 of 1

00002487



MEMORANDUM FOR     HALEY BARBOUR

FROM:                     TONY FABRIZIO  
                              ENU MAINIGI

RE:                         FIRST THURSDAY LUNCH MEETING

---

Haley, we just wanted to drop you a note to give you a quick update on some of the results of our first Thursday lunch meeting. These products were specifically discussed as necessary to our efforts:

Dole Vulnerability Analysis on Moderate Issues Our internal Dole vulnerability analysis was done with the primaries in mind and our number one concern was to protect our right flank. Now, we are constantly being attacked on the left. Clinton has formed a habit of pulling out a vote from 1973 and touting it as our "position" on X issue. We need to do further research on our voting record and floor statements with regard to specific issues so we can be ready for these attacks. *Enu and Don will coordinate on this project. As soon as its ready, we will furnish the RNC with the Dole Issue Book (Dole-positive on all the issues).*

Gore Vote Analysis More often than not, Gore is probably going to be deployed as the Clinton attack dog. Although we need to keep the focus on Clinton, it is going to be absolutely essential that we analyze Gore's own voting record and statements while in the Senate and House. *Enu and Don will get together and determine the logical scope of this project and then Don's shop will get a product together.*

State by State Issue Analysis Although this is a national campaign, we think it is still absolutely essential that we conduct an individualized review of the hot issues in each state. Not only must we be aware of the national issues that play well in a particular state, we need to know how specific local concerns nuance these national issues. *Curt is going to get his people to determine these state-specific issues and furnish both Enu and Don with a copy. Don's shop will then put together a product for us for each state.*

Economic Data We need a quick list of up-to-date key economic statistics that Clinton is at all vulnerable. Ultimately, this will be used in part to "tweak" the Dole economic plan so as to best highlight the differences between Dole's plan and Clinton's failures. *Don will coordinate with Enu on getting these numbers over to us.*

Education Statistics We also need the latest education stats that indicate declining reading scores, SAT scores while at the same time money spent on education is increasing and the education bureaucracy is growing. *Again, Don and Enu will coordinate on this.*

Wasteful Spending We have already announced our desire to eliminate four federal agencies. Now, however, we want to focus in on the smaller commissions, agencies, etc that have duplicative or wasteful functions. We also want to get some horror stories related to wasteful government spending.

Overall, the meeting was extremely productive. We had a chance to give the RNC folks an idea (as best we know it) of what Dole's schedule will be in the upcoming week and what resources we may need as well as a chance to discuss briefly how to pinpoint Clinton in the next week. These regular meetings are going to be really beneficial to both sides in the upcoming weeks.

Finally, we want to thank you also for injecting Ed Rogers into this whole mix. He's worked very hard to get things running smoothly and we really appreciate his efforts.

cc: Scott Reed  
Jill Hanson  
Ed Rogers  
Curt Anderson  
Don Todd  
Gary Koops

Memo

To: Scott Reed  
Jill Hanson  
Tony Fabrizio

From: Adam Stoll

---

The attached script is a first draft.

It is currently being reviewed by the RNC.

If you have any comments, please get them to Don by tomorrow morning, Friday, May 24.

- Adam

Attachment 28  
Page 1 of 2

**Agency:** New Century Media Group  
**Client:** Republican National Committee  
**Producer:** Don Sipple  
**Title:** "The Story"  
**Code:** RNCTV-DS-06 Ver 2

**Video:**

**Audio:**

BD: We have a moral obligation to give our children an America with the opportunity and values we grew up in.

VO: Bob Dole grew up in Russell, Kansas.

From his parents he learned the value of hard work, honesty and responsibility. So when his country called... he answered.

He was seriously wounded in combat.

Paralyzed, he underwent nine operations.

BD: I went around looking for a miracle that would make me whole again.

VO: The doctors said he'd never walk again. But after 39 months, he proved them wrong.

ED: He persevered, he never gave up. He fought his way back from total paralysis.

VO: Through hardship and difficulty, the values that shaped this man have given him a strong moral compass to lead the Republican Party.

The principle of work to replace welfare.

The principle of accountability to strengthen our criminal justice system.

The principle of discipline to end wasteful Washington spending.

BD: It all comes down to values. What you believe in. What you sacrifice for. And what you stand for.

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# MEMORANDUM

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DATE: June 18, 1996

TO: Scott Reed  
Jill Hanson  
Tony Fabrizio  
John Buckley  
Gary Koops  
Jill Jackson

FROM: Don Sipple  
Adam Stoll

RE: New RNC :30 second spot

The attached script is the first draft on the spot we would like to produce tomorrow to air at the end of this week, replacing "Even More Talk" on the current RNC national targeted buy.

We will distribute a final copy of the script as soon as it is approved by the RNC for airing.

Please contact either of us at (202) 789-1800 to discuss the script.

Attachment 75  
Page 1 of 2

"MORE"  
RNC - TV :30

VIDEO

GFX

B&W 12 FPS FOOTAGE OF  
ILEGALS CROSSING BORDERS

WORKERS W/ GFX

B.C. STILL

GFX

AUDIO

ANNOUNCER

MORE ON WASTEFUL WASHINGTON SPENDING . . .

DID YOU KNOW THERE ARE OVER 5 MILLION ILLEGAL  
IMMIGRANTS IN THE U.S?

AND THAT YOU SPEND 5 1/2 BILLION DOLLARS A YEAR  
TO SUPPORT THEM WITH WELFARE, FOOD STAMPS, AND  
OTHER SERVICES.

UNDER PRESIDENT CLINTON WAGES FOR THE AVERAGE  
AMERICAN WORKER HAS GONE DOWN 2.5 %, WHILE  
SPENDING ON ILEGALIS IS UP 12.5 %.

WHEN EFFORTS WERE MADE TO STOP GIVING BENEFITS  
TO ILLEGAL IMMIGRANTS . . . BILL CLINTON OPPOSED  
THEM.

TELL PRESIDENT CLINTON TO STOP GIVING BENEFITS TO  
ILEGALS, AND END WASTEFUL WASHINGTON SPENDING.

**M E M O R A N D U M**

DATE: July 5, 1996

TO: Scott Reed  
Jill Hanson  
Tony Fabrizio  
--- Don Rumsfeld ✓ DFP  
--- John Buckley ✓ DFP

FROM: Adam Stoll

RE: New RNC spot

---

Attached is a first draft of the script for the new RNC spot. We will produce the ad Monday afternoon for air in the middle of next week.

**Agency:** New Century Media Group

**Client:** Republican National Committee

**Producer:** Don Sipple

**Title:** "Pledge"

**Code:**

**Video:**  
Clinton on camera.

**Audio:**  
**Announcer:** We heard it a lot when he ran...

**Clinton:** "I will not raise taxes on the middle class... (fade) I will not raise taxes on the middle class."

**Headline.**  
Graph--with subject in background. Income taxes up \$115 billion. \$25 billion taxes on social security benefits. \$29 billion more payroll taxes. Family shot--under Clinton taxes up \$2,000 year.

**Announcer:** But six months later he gave us the largest tax increase in history. Higher income taxes... increased taxes on social security benefits. And more payroll taxes. In fact, under Clinton, the typical American family now pays \$2,000 more in federal taxes. It's a lot to pay for his broken promise.

Clinton on camera.

**Clinton:** "Fool me once, shame on you. Fool me twice, shame on me."

Graphic close.

**Announcer:** Tell President Clinton you won't be fooled again.





## MEMORANDUM

---

TO: Scott Reed  
Jill Hanson  
Don Sipple  
Tony Fabrizio  
John Buckley  
Gary Koops ✓ JFP  
Jill Jackson ✓ JFP

July 8, 1996

FR: Adam Stoll

RE: New RNC Spot

---

The attached is the newly revised final draft of "Pledge."  
It will replace "More" in the RNC media buy.

Also, attached is another new spot, "Smoke," which we produced today.

The RNC will have it tomorrow and will decide on releasing it to the press.

If you have any questions please feel free to call me.

Attachment 31  
Page 1 of 2

# FINAL

**Agency:** New Century Media Group

**Client:** Republican National Committee

**Producer:** Don Sipple

**Title:** "Pledge"

**Code:**

**Video:**  
Clinton on camera.

**Audio:**  
**Announcer:** We heard it a lot when he ran...

**Clinton:** "I will not raise taxes on the middle class... (fade) We got to give middle class tax relief no matter what we do."

**Headline.**  
Graph--with subject in background. Income taxes up \$115 billion. \$25 billion taxes on social security benefits. \$29 billion more payroll taxes. Family shot--under Clinton taxes up \$1,583 year.

**Announcer:** Six months later he gave us the largest tax increase in history. Higher income taxes... increased taxes on social security benefits. More payroll taxes. Under Clinton, the typical American family now pays over \$1500 more in federal taxes. A big price to pay for his broken promise.

Tell President Clinton ... Don't veto Republican tax cuts again.

**Announcer:** Tell President Clinton you can't afford higher taxes for more wasteful spending.

BEFORE THE FEDERAL ELECTION COMMISSION

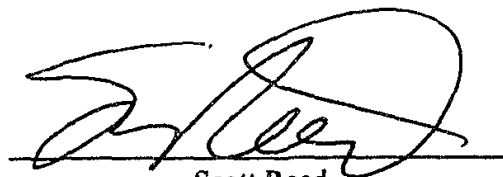
In re Dole For President, Inc.,	)	MUR 4553 and
Dole/Kemp '96, Inc., and	)	MUR 4671
Robert Lighthizer, as	)	
their Treasurer, and	)	
Senator Robert Dole	)	

AFFIDAVIT OF SCOTT REED

I, Scott Reed, being duly sworn, depose and say to the best of my knowledge, that:

1. I was the campaign manager for Dole For President, Inc. ("DFP") and Dole/Kemp '96, Inc. ("Dole/Kemp").
2. Neither Senator Dole nor any campaign staff of DFP or Dole/Kemp, including myself, was involved in the production, development, or airing of any of the advertisements at issue in this proceeding.
3. As a matter of courtesy, the Republican National Committee ("RNC") showed its advertisements to the campaign only after they were finalized and made public.
4. The campaign was dissatisfied with some of the finalized RNC ads that it saw.

SS: District of Columbia

  
Scott Reed

Sworn to and subscribed  
before me this 14 day  
of April 1998.

  
Notary Public

PEGGY ANN VASQUEZ  
NOTARY PUBLIC  
DISTRICT OF COLUMBIA  
My Commission Expires April, 30, 2002

Attachment 32  
Page 1 of 1

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.  
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000  
FAX: (202) 393-5760

ODIRECT DIAL  
(202) 371-7007  
DIRECT FAX  
(202) 371-7956

FIRM/AFFILIATE OFFICES

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HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO

April 14, 1998

VIA HAND DELIVERY

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re: MURs 4553 and 4671 - Dole for President, Inc.,  
Dole/Kemp '96, Inc., and Robert Lighthizer, as their  
Treasurer, and Senator Robert Dole

Dear Mr. Noble:

This responds to the Federal Election Commission ("FEC" or "Commission") letters, dated February 19, 1998, notifying Dole for President, Inc. ("DFP"), Dole/Kemp '96, Inc. ("Dole/Kemp"), and Robert Lighthizer, as their treasurer, and Senator Robert Dole of the Commission's reason to believe finding against them. Also, enclosed is the response by DFP and Dole/Kemp to the Subpoena to Produce Documents and Order to Produce Written Answers issued by the Commission in connection with these MURs. The Commission alleges that certain advertisements paid for by the Republican National Committee ("RNC") were coordinated with DFP or Dole/Kemp resulting in excessive coordinated expenditures and in-kind contributions to those presidential campaign committees. It cannot, however, point to any language that even resembles express advocacy or an electioneering message. Moreover, even if coordination between a party and its nominee were relevant, there was no coordination in this case that rises to the level of transforming the RNC's advertisements into an in-kind contribution or a coordinated expenditure.

Attachment 33  
Page 1 of 5

Lawrence M. Noble, Esq.  
April 14, 1998  
Page 2

**I. There Was No Express Advocacy or an Electioneering Message**

Coordination with a presidential campaign does not, by itself, transform a national party committee's advertisements into in-kind contributions or coordinated expenditures. See AO 1985-14. Those advertisements must also depict a clearly identified candidate and contain language expressly advocating the election of that candidate or conveying an electioneering message. See Id.

The only actual language that the Commission's Factual and Legal Analysis ("Analysis") points to in support of an electioneering message is the portion of the ad, "Who" where the narrator states "Tell President Clinton you won't be fooled again" and the ad, "Stripes" where he states "Bill Clinton, he's really something." Analysis at 15. Unfortunately, neither the Commission nor Respondents have the full text of "Stripes" or "Who." However, based on the excerpts provided in the Analysis, those ads do not even identify Senator Dole or refer to an election. If anything, they appear to merely describe the voting record of President Clinton. The Commission has stated that criticism of a candidate's record is not enough to constitute an electioneering message. See AO 1985-14. Regardless, the Commission cannot sustain a case on these ads or any other ad without their full text.

As for "The Story," the Analysis does not point to any language at all. Rather, it relies on innuendo and circumstances surrounding the ads to read in an electioneering message that is not there. For example, the Analysis claims that "The Story" contains an electioneering message because some of the items discussed in that ad, including Senator Dole's military service and value system, were "consistent with the campaign strategy." Analysis, at 13. The Commission also asserts that the timing of the ad (i.e., that it was broadcast by the RNC at a time when DFP was approaching its expenditure limit) indicates that there was an electioneering message. See Id., at 17. The courts, however, have repeatedly held that the Commission may not look to the context of a communication to determine whether it is governed by FECA but must consider the language itself. See Main Right to Life Committee, Inc. v. FEC, 915 F. Supp. 8, 13 (D.Me. 1996) (speaker must not be required to re-evaluate his words as the context of those words changes); see also FEC v. Massachusetts Citizens for Life, 479 U.S. 238(1986); Faucher v. FEC, 928 F.2d 468 (1st Cir. 1991). "By creating a bright-line rule, the Court ensured, to the degree possible,

that individuals would know at what point their political speech would become subject to governmental regulation" thus preserving the First Amendment right to discuss political issues. FEC v. Christian Action Network, Civil Action No. 94-0082-L, 21 (W.Dist.VA 1995).

The Analysis in this case does not even refer to the language of "The Story," let alone use a bright-line test to determine whether such language would qualify as an electioneering message. Rather, the Analysis takes a nebulous excursion into the context of the ad where no reasonable person would be able to divine whether his or her speech is subject to FECA regulation. Respondents are left guessing as to whether their exercise of free speech may be violating FEC regulations. This is particularly disturbing given that the ad did contain clear language of issue advocacy such as "Americans take a stand: work for welfare, criminal justice reform, end wasteful spending, call your elected officials."

Even if the Analysis had pointed to specific language in the ad, the FEC has not yet come up with a bright-line definition of electioneering message as it is required to do under court rulings described above. In the absence of such guidance, the FEC must rely on the only bright-line test it has -- the test for express advocacy. Moreover, the Supreme Court is still in the process of considering whether coordinated activity should be treated any differently from non-coordinated activity. Colorado Republican Federal Campaign Committee v. Federal Election Commission, 116 S.Ct. 2309, 2319 (1996). Thus, at the very least, the Commission should not proceed in this MUR until the Supreme Court has decided that issue.

## II. There Was No Coordination Regarding the Ads

Regardless of the content of the ads or whether there was an electioneering message, the RNC did not coordinate the ads at issue in this MUR with DFP or Dole/Kemp. The RNC created, produced, and distributed those ads without direction from the candidate or the campaign. See enclosed Scott Reed Affidavit, RNC Press Release, and Meet the Press Transcript. The RNC had full and final authority over both the production and the geographic distribution of the ads. Neither Senator Dole nor campaign personnel participated in the production or airing of the ads except that the RNC, as a matter of courtesy, showed the ads to the campaign after

Lawrence M. Noble, Esq.  
April 14, 1998  
Page 4

the ads were finalized and made public. See id. Indeed, there were occasions where Senator Dole and the campaign were dissatisfied after viewing the finalized RNC ads. See id.

The Analysis gives much weight to a televised interview that Senator Dole gave in Orlando, Florida on June 6, 1996, in which he said that the RNC was airing a sixty second ad about the "Bob Dole story." Nowhere in that interview, however, does he suggest that either he or his campaign staff directed or even participated in the production or distribution of the ads. Rather, the interview supports the contrary - that the RNC showed the ad to the campaign after it was finalized and made public.

As for Don Sipple, he and his consulting firm, New Century Media Group, Inc. ("New Century"), ceased being a consultant to the Dole campaign on March 31, 1996. Although he was re-hired by the campaign on June 21, 1996 for convention-related services, he was a paid consultant to the RNC during the time in between. Thus, when the ads at issue were created, produced and aired, Mr. Sipple was being directed by and his legal duty was to the RNC.

Some film footage used in "The Story" had been shot for the campaign earlier by Mr. Sipple. However, the RNC made a decision independent of the campaign to use that footage in its ad and entered into an "arms-length" agreement with DFP to purchase that footage. The RNC purchased certain footage created by Mr. Sipple for the campaign at the standard industry "clip rate" of \$.40 per second. The campaign did not control what film footage was chosen by the RNC or what issues would be addressed by the RNC advertisement.

There is no basis to proceed against Respondents in this matter because there is no language in the ads that even resemble express advocacy or an electioneering message. Also, notwithstanding the content of the ads, there was no coordination between the RNC and the campaign regarding those ads. Thus, the Commission should dismiss this matter. The Commission's finding against Senator Dole is particularly vexing because the only way that an agent of a campaign, other than the treasurer, can be held liable under FECA is if that agent knowingly participated in a violation. 2 U.S.C. § 441a(f). As described above, Senator Dole did not

Attachment 33  
Page 4 of 5

Lawrence M. Noble, Esq.  
April 14, 1998  
Page 5

participate in developing or airing the ads at issue in this MUR. In fact, he did not even become aware of the ads until they were finalized and made public by the RNC.

For the foregoing reasons, no further action should be taken against any of the Respondents.

Respectfully submitted,

  
Kenneth A. Gross

Enclosures

Attachment 33  
Page 5 of 5