

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
NTFC Capital Corporation, Inc.) MUR 5098
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that NTFC Capital Corporation, Inc. ("Respondent") violated 2 U.S.C. § 441b. The Commission has neither considered nor made findings as to whether there is reason to believe that the violation in this matter was knowing and willful.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter:

III. Respondent enters voluntarily into this agreement with the Commission.

IV. In order to avoid the disruption, delay, uncertainty, inconvenience and expense of protracted litigation, and for purposes of this conciliation agreement only, the Respondent has agreed to the facts and a full and final settlement as set forth below in this Agreement:

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1. Respondent is a corporation.

2. Dole for President, Inc. and Robert J. Dole, as treasurer, ("Dole for President, Inc.") is a political committee within the meaning of 2 U.S.C. § 431(4).

3. The Federal Election Campaign Act of 1971, as amended, ("the Act"), makes it unlawful for any corporation to make a contribution or expenditure in connection with any federal election to any political office. 2 U.S.C. § 441b(a). The term "contribution" includes any direct or indirect payment, distribution, loan (other than from a bank, pursuant to applicable banking law and regulations, in the ordinary course of business), advance, deposit, or gift of money, or any services, or anything of value. 2 U.S.C. § 441b(b)(2).

4. Pursuant to the Commission's regulations, commercial vendors may extend credit to a candidate, or political committee, without the extension resulting in a contribution, provided that the credit was extended in the ordinary course of the corporation's business and the terms are substantially similar to extensions of credit to non-political debtors that are of similar risk and size of obligation. 11 C.F.R. § 116.3(b).

5. Pursuant to Section 116.4, commercial vendors may forgive debts for less than the amount owed and the amount forgiven will not be considered a contribution if the vendors have treated the debt in a commercially reasonable manner. 11 C.F.R. § 116.4(a)-(b). A debt has been treated in a commercially reasonable manner if: (1) the original extension of credit was made in accordance with 11 C.F.R. § 116.3; (2) the political committee has undertaken all reasonable efforts to satisfy the debt; and (3) the vendor has pursued its remedies against the political committee as vigorously as it would pursue its remedies against a nonpolitical debt. 11 C.F.R. § 116.4(d). The debt remedies may include, but are not limited to, oral and written requests for payment, withholding delivery of additional goods or services until overdue debts are satisfied,

imposition of charges or penalties, referral of debts to debt collection agencies and litigation.

11 C.F.R. § 116.4(d)(3).

6. Respondent did not collect debts of approximately \$35,214 owed by Dole for President, Inc. for telephone lease equipment.

V. Respondent contends that:

1. Respondent did not pursue Dole for President, Inc. and other non-political accountholders in a manner it would have normally pursued a past due lease holder due to complications with Respondent's computer conversion.

2. Respondent contends that Respondent converted its computer systems to a new application on October 31, 1996. One of the consequences of the conversion was that all collection accounts were transferred from Respondent's Nashville location to Cedar Rapids, Iowa. A second consequence of the conversion was that all of the Nashville accounts with past-due amounts owing, but for which no future payments were due, did not appear in the standard collections work queue. The lease for Dole for President, Inc., and other nonpolitical accounts fell into this category.

3. Respondent contends that because of this problem with the computer system, employees were not aware that there was still collection activity for the Dole for President, Inc. lease and other nonpolitical leases.

4. Respondent contends that once Respondent became aware of the computer problem and Dole for President, Inc.'s past due debt, Respondent made commercially reasonable attempts to collect the debt.

5. Respondent contends that Respondent did not report Dole for President, Inc.'s debt to a collection agency, nor did it commence litigation against Dole for President, Inc.

6. Respondent contends that Respondent only refers delinquent accounts to outside collection agencies or commences litigation when it is highly likely that the probable amount collected will well exceed the expense and time needed to collect the debt.

7. Respondent contends that Respondent did not collect debts of approximately \$35,214 owed by Dole for President, Inc. for telephone lease equipment.

8. Respondent contends that Respondent routinely "writes off" outstanding amounts under \$50,000.

9. Respondent contends that Respondent failed to collect past due debts on several nonpolitical accounts due to the computer conversion problem.

10. Respondent contends that Respondent did not make a knowing or willful corporate contribution to Dole for President, Inc.

VI. The effect of the events set out in this agreement is that Respondent made corporate contributions to Dole for President, Inc. and Robert J. Dole, as treasurer, in violation of 2 U.S.C. § 441b(a).

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Seven Thousand Dollars (\$7,000) pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

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X. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

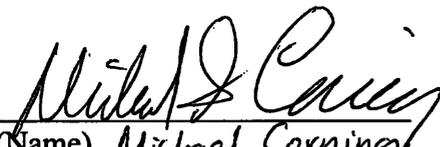
FOR THE COMMISSION:

Lois G. Lerner
Acting General Counsel

BY: 
Gregory R. Baker
Acting Associate General Counsel

4/16/01
Date

FOR THE RESPONDENT:


(Name) Michael Corning
(Position) Vice President

March 30, 2001
Date

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