



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 1356

DATE FILMED 4/8/83
CAMERA OPERATOR MRS

82040314461





FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 31, 1982

William C. Oldaker, Esquire
1050 Seventeenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

On March 30, 1982, the Commission accepted the conciliation agreement signed by you on behalf of the Machinists Non-Partisan Political League. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days.

2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

A handwritten signature in cursive script, appearing to read "Kenneth A. Gross".

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

82040314462



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
1050 Seventeenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

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Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

BDK
3/31/82

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Machinists Non-Partisan) MUR 1356
Political League)

CONCILIATION AGREEMENT

The Federal Election Commission (hereinafter "the Commission") initiated this matter pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities, and after finding probable cause to believe that the Machinists Non-Partisan Political League ("Respondent" or "MNPL"), by and through its collecting agents and with respect to the actions set forth below, violated:^{1/}

- 2 U.S.C. § 441b(a) by commingling voluntary and union treasury funds in an account maintained for use in connection with federal elections;
- 2 U.S.C. § 437b(a) (2) by making expenditures from a non-designated campaign depository;
- 2 U.S.C. § 432(c) (1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL;
- 2 U.S.C. § 434(b) (6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items; and
- 2 U.S.C. § 434(b) (11) by failing to disclose the total sum of expenditures made by a political committee.

^{1/} All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) prior to the 1979 amendments.

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NOW, THEREFORE, the Commission and Respondent, having duly participated in informal methods of conciliation, 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 affect of a conciliation agreement under 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. The pertinent facts in this matter are as follows:

1. The International Association of Machinists and Aerospace Workers (IAM) is a labor organization.

2. The Machinists Non-Partisan Political League (MNPL) is the separate segregated fund of the International Association of Machinists and Aerospace Workers.

3. The Connecticut State Council of Machinists (CSCM) is a collecting agent of MNPL.

4. The International Association of Machinists -District 15 (IAM-15) is a collecting agent of MNPL.

5. During 1977 and 1978, CSCM deposited the total collections from the sale of raffle tickets, \$12,525, into its savings account, a non-designated depository containing union dues and assessments.

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6. Subsequent to the deposit of the above-referenced funds, CSCM withdrew \$1,972.66 from its savings account to cover the cost of raffle prizes. Net proceeds from the sale of raffle tickets were then transmitted to MNPL for use in connection with federal elections.

7. As a result of CSCM's acts described in Items 5 and 6, supra, MNPL through acts of its collecting agents failed to disclose the total amount of proceeds from the sale of fundraising items.

8. During 1977 and 1978, IAM-15 received contributions from local events which were drawn on local union treasury accounts. These funds were deposited into the District 15 IAM checking account which contained union dues and assessments. From this account, commingled funds totalling \$9,412 were transferred to MNPL for use in connection with federal elections.

WHEREFORE, Respondent agrees:

V. Respondent, by and through its collecting agents and with respect to the acts set forth above in Items 5-8, contends that it inadvertently violated the following provisions of the Federal Election Campaign Act of 1971, as amended:

2 U.S.C. § 441b(a) by commingling voluntary and union treasury funds in an account maintained for use in connection with federal elections;

2 U.S.C. § 437b(a)(2) by making expenditures from a non-designated campaign depository;

2 U.S.C. § 432(c)(1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL;

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2 U.S.C. § 437(b)(6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items; and

2 U.S.C. § 434(b)(11) by failing to disclose the total sum of expenditures made by a political committee.

VI. Respondent, on June 10, 1981, distributed revised guidelines for collecting agents of MNPL, including procedural recommendations for compliance with relevant provisions of the Act pertaining to recordkeeping, deposit and transmittal of contributions. See Appendix A.

VII. Respondent, will amend its reports to disclose the total amount of contributions collected by CSCM and the associated expenditures for fundraising activities.

VIII. Respondent will pay a civil penalty to the Treasurer of the United States in the amount of One Thousand Dollars (\$1,000.00), pursuant to 2 U.S.C. § 437g(a)(5)(A).

IX. Respondent agrees that it shall not undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

X. 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.

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

XII. Respondent shall have no more than thirty (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.

March 21, 1982
Date

Charles N. Steele
General Counsel For the
Federal Election Commission

BY: [Signature]
Kenneth A. Gross
Associate General Counsel
For the Federal Election
Commission

Date

Joseph P. Manners
General Counsel For
Machinists Non-Partisan
Political League

Allison Beck
Assistant General Counsel
For Machinists Non-Partisan
Political League

BY: [Signature]
William C. Oldaker
Attorney for Machinists
Non-Partisan Political
League

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MNPL FUND RAISING GUIDELINES

BELOW IS A LIST OF IMPORTANT PROVISIONS IN THE FEDERAL ELECTION CAMPAIGN ACT AS AMENDED. THIS LIST TELLS YOU WHAT YOU CAN AND CANNOT DO WHEN RAISING VOLUNTARY (GENERAL) FUNDS FOR NATIONAL MNPL.

YOU CAN raise money by raffles (where legal under state law). When you transmit raffle money, you must tell us the amount raised the costs of running the raffle, and how those costs were paid, i.e., treasury funds, donations, proceeds of the raffle. If they were paid for from the proceeds or donated, and any ONE prize costs, or is valued at, more than \$100, you must list the name and address of the place where the prize was purchased, or the name and address of the donor. You must also tell us the exact cost of each prize, and where and when the drawing was held.

YOU CAN buy raffle prizes with treasury money, but the cost cannot exceed 1/3 of the total amount raised. (EXAMPLE: You purchase a television set for \$300 and conduct a raffle among union members with tickets at \$5 each. You sell 200 tickets and therefore raise \$1,000. You need not replace the \$300 dues money with proceeds of the raffle.)

YOU CANNOT co-mingle funds. Contributions given to local lodge agents should be deposited immediately into a MNPL transit checking account. This should be a non-interest bearing account. You may also purchase a money order or cashier's check if no transmittal account exists. DO NOT SEND YOUR OWN PERSONAL CHECK. Contributions of \$50 or more from one contributor must be deposited at MNPL headquarters within 10 days of receipt at the local level. Other contributions must be deposited at headquarters within 30 days of receipt at the local level. Money must not be retained at the local level, SEND IT IN IMMEDIATELY.

Raffle money should be forwarded on a weekly or bi-weekly basis, not held until the drawing. You need only send a general fund remittance form saying "partial returns from raffle". When the raffle is complete, send your final remittance with the form completely filled out.

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State funds must also be separate from federal funds. If you are in a state which permits the use of dues money for state races, refer to the point regarding co-mingling. However, if only voluntary money can be used in your state races, you must be very careful. You may raise a great deal of money, but be unable to send any of it to National MNPL. The reason is this: the law requires that all funds used in federal elections be specifically raised for federal elections. (EXAMPLE: You have a single, voluntary account from which you distribute money for both MNPL and state races and your fund raiser does not specify the percentage which is to go to National MNPL and the percentage to state races. You cannot send this money to MNPL.) Therefore, either

- (a) Make certain you have two bank accounts; one for state funds and one in which you deposit National MNPL funds, or
- (b) anytime you raise money jointly for National MNPL and your state fund specify the percentage for each.

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YOU CANNOT send personal checks for money you collect. (EXAMPLE: You hold an Executive Board meeting and the members each give you \$10 cash to become a sponsoring member. You may not deposit that money in your checking account and write MNPL a check. You must get a money order or deposit the cash in a MNPL transit account.) Personal checks should be used only to pay your own sponsoring membership.

Printed fund raising material (EXAMPLE: raffle tickets) must state on the front or back:

"Proceeds will be sent to National MNPL for use in federal elections"

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Machinist Non-Partisan)
Political League)

MUR 1356 (80)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 30, 1982, the Commission decided by a vote of 5-0 to take the following actions in MUR 1356:

1. Accept the Conciliation Agreement for the Machinists Non-Partisan Political League as submitted with the Memorandum to the Commission dated March 25, 1982.
2. Close the file in MUR 1356.
3. Approve and send the letter to William C. Oldaker, attorney for the respondent Machinists Non-Partisan Political League as attached to the Memorandum dated March 25, 1982.

Commissioners Aikens, Elliott, Harris, McGarry and Reiche voted affirmatively in this matter; Commissioner McDonald did not cast a vote.

Attest:

3/30/82

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

3-25-82, 3:24
3-26-82, 2:00

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200 5
Beck 146
WILLIAM C. OLDAKER
ATTORNEY AT LAW
1000 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20006

TELEPHONE
202 896-0906

CABLE ADDRESS: "WALGRAY"
720-088

March 23, 1982

MAR 23 P 3: 53

GENERAL COUNSEL

BY MESSENGER

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1356

Ken
Dear Mr. Gross:

My client, the Machinists Nonpartisan Political League, has authorized me to accept the Commission's conciliation agreement in MUR 1356 enclosed in your letter of March 5, 1982.

Enclosed is the check for the \$1,000 civil penalty along with the signed conciliation agreement.

Sincerely,

Bill

William C. Oldaker

Enclosures

cc: Allison Beck, Esquire

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THE GRAND LODGE
International Association of Machinists and Aerospace Workers
WASHINGTON, D.C.

15-7
540

No. 240872

PAY TO THE ORDER OF
U.S. TREASURER

DATE

CHECK NO.

AMOUNT

MAR 15 1982 240872

\$1,000.00

\$1,000.00*

GENERAL FUND

William D. Sigler
INTERNATIONAL PRESIDENT

Eugene Stever
GENERAL SECRETARY-TREASURER

THE NATIONAL BANK OF WASHINGTON
DUPONT CIRCLE BRANCH
WASHINGTON, D.C.

⑆ 240872⑆ ⑆ 054000072⑆ 1-06549 1⑆

SUITE 1200

1050 SEVENTEENTH STREET, N W

WASHINGTON, D. C. 20036

BY MESSENGER

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 14, 1981

William C. Oldaker, Esquire
1050 Seventeenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

On December 8, 1981, the Commission determined there is probable cause to believe that your client, Machinists Non-Partisan Political League, committed a violation of the Federal Election Campaign Act of 1971, as amended, sections 441b(a), 437b(a)(2), 432(c)(1) and (3), 434(b)(6) and (11) of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute civil suit in the United States District Court and seek payment of a civil penalty.

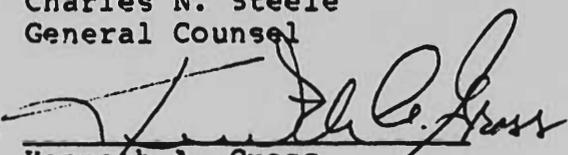
We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Beverly Kramer, the staff member assigned to this matter, at 523-4060.

Sincerely,

Charles N. Steele
General Counsel

By:


Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Machinists Non-Partisan) MUR 1356 (80)
Political League)

CERTIFICATION

I, Marjorie W. Emons, Recording Secretary for the Federal Election Commission's Executive Session on December 8, 1981, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in the above-captioned matter:

1. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §441b(a).
2. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §437b(a) (2).
3. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§432(c) (1) and (3).
4. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §434 (b) (6).
5. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §434 (b) (11).

Continued

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6. Approve the conciliation agreement for the Machinists Non-Partisan Political League as submitted with the General Counsel's October 23, 1981 report in this matter,

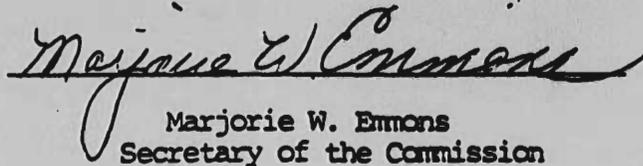
7. Approve and send to Mr. William C. Oldaker, attorney for the Machinists Non-Partisan Political League, the letter attached to the FEC General Counsel's October 23, 1981 report.

Commissioners Aikens, McGarry, Reiche, and Thomson voted affirmatively for the decision; Commissioner Harris dissented; Commissioner Tiernan was not present at the time of the vote.

Attest:

12/9/81

Date


Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS/JODY CUSTER *JC*
DATE: NOVEMBER 10, 1981
SUBJECT: MUR 1356 - First General Counsel's
Report dated October 23, 1981; signed
November 5, 1981

The First General Counsel's Report in MUR 1356, which was inadvertently circulated on a 48 hour tally basis, was later withdrawn from circulation and will be placed on the Executive Session Agenda for Tuesday, November 17, 1981.

For your information, prior to withdrawing this matter from circulation, Commissioner Thomson submitted an objection to the First General Counsel's Report.

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November 4, 1981

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Rayson
SUBJECT: MUR 1356

The attached General Counsel's Report was inadvertently distributed on a 48 hour tally basis. Since this report is recommending a probable cause to believe, please place it on the agenda of November 17, 1981. Thank you.

Attachment

cc: Kramer

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November 1, 1961

MEMORANDUM TO: Marjorie W. Benson
FROM: Phyllis A. Kayson
SUBJECT: MUR 1396

Please have the attached General Council's Report distributed to the Commission on a 48 hour tally basis.

Thank you.

Attachment

cc: B. Kramer

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION
October 23, 1981

RECEIVED
OFFICE OF THE
EXECUTIVE SESSION
NOV 17 1981
81 NOV 5 P 1: 05

In the Matter of)
) MUR 1356 (80)
Machinists Non-Partisan)
Political League)

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
81 NOV 6 AIO: 07

GENERAL COUNSEL'S REPORT

I. Background ^{1/}

On March 25, 1981, the Commission found reason to believe that respondent Machinists Non-Partisan Political League ("MNPL" or "the Committee") violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") (Pub. L. No. 94-283). Specifically, the Commission found reason to believe that MNPL violated:

- a) 2 U.S.C. § 441b(a) by commingling voluntary and union treasury funds.
- b) 2 U.S.C. § 437b(a)(2) by making expenditures from a non-designated campaign depository.
- c) 2 U.S.C. §§ 432(c)(1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL.
- d) 2 U.S.C. § 434(b)(6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items.
- e) 2 U.S.C. § 434(b)(11) by failing to disclose the total sum of expenditures made by a political committee.

1/ All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) and the Title 11 Code of Federal Regulations prior to the 1979-80 amendments.

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The Commission based its determination on findings made during an audit of MNPL and the records maintained by three of its local collecting agents.^{2/} The audit covered the period from January 1, 1977 through February 28, 1979, and was undertaken pursuant to 2 U.S.C. § 438(a)(8) which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the Act.

On September 28, 1981, the Commission's General Counsel notified MNPL of its recommendation to the Commission to find

2/ Since a significant portion of contributions to MNPL are raised and recorded at the local, district, and state council level, the audit staff determined that a review of records maintained at the field level would be necessary to test MNPL's overall compliance with the Act and Commission Regulations. Accordingly, the audit staff selected the following for review, based upon their relatively large proportion of receipts raised for MNPL:

- 1) Connecticut State Council of Machinists (CSCM) New Britain, CT;
- 2) Ohio State Council of Machinists (OSCM) Cleveland, OH; and
- 3) International Association of Machinists - District-15 (IAM-15) New York, NY.

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probable cause to believe MNPL committed violations of the Act. Submitted with this notification was a brief, stating the position of the General Counsel on the legal and factual issues of the case.

On October 14, 1981, Mr. William C. Oldaker, attorney for MNPL, submitted a responsive brief. The arguments presented in respondent's brief go to the merits of disposing of this case, and not to the finding of fact. Therefore, this report addresses the General Counsel's position on the disposition of this case.

II. Legal Analysis

See General Counsel's Brief and Respondent's Brief

III. Disposition of the Case

MNPL does not dispute the factual allegations in the General Counsel's brief, but argues that the Commission should not take punitive actions for what the Committee purports to be "technical failings of MNPL's procedure for collecting contributions." Respondent's brief at 7. Instead, MNPL submits that a "reasonable solution" would be for the Commission to close this case on condition that MNPL take such corrective actions as the Commission deems required.

Some of the mitigating factors presented in support of MNPL's position merit consideration. MNPL argues that the Commission is retreating from the strict segregation approach taken in AFL-CIO v. Federal Election Commission, 628 F.2d 97 (D.C. Cir.), cert. denied, 449 U.S. 982 (1980), to a less rigid approach which places emphasis on whether the facts present an opportunity for prohibited funds to subsidize federal

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political activity. See Advisory Opinions 1981-19, 20 and Proposed Regulations on Transfer of Funds, Collecting Agents, and Joint Fundraising 46 Fed. Reg. 48074-76, September 30, 1981.

In the instant matter, there is no evidence to suggest that prohibited funds subsidized the federal political activity of MNPL. Stated simply, the facts of this case are as follows.

Two collecting agents of MNPL, IAM-15 and CSCM, held annual fundraising raffles on behalf of MNPL. The proceeds from these raffles were deposited into the treasury accounts of the local unions. IAM-15 transmitted the gross proceeds from its union treasury to the separate segregated account of MNPL. CSCM paid for raffle prizes out of its proceeds and transmitted the net proceeds to MNPL. In its reports to the Commission, MNPL disclosed the receipt of net proceeds. The amounts received and expended to defray the costs of raffle activities were not disclosed.

Due to the strict interpretation given to commingling at the time that MNPL collecting agents followed the above procedures, we have deemed these actions as violative of the Act. However,

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Based on the foregoing, the Office of General Counsel recommends that the Commission find probable cause to believe that MNPL violated 2 U.S.C. § 441b(a), § 437b(a)(2), §§ 432(c)(1) and (3), and §§ 434(b)(6) and (11). In addition, we recommend that the Commission approve the attached conciliation agreement for MNPL

Recommendations

1. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a).
2. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 437b(a)(2).
3. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§ 432(c)(1) and (3).

4. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(6).

5. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(11).

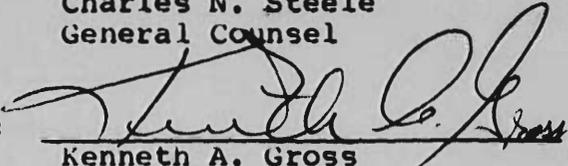
6. Approve the attached conciliation agreement for the Machinists Non-Partisan Political League.

7. Approve and send the attached letter to Mr. William C. Oldaker, attorney for the Machinists Non-Partisan Political League.

82040314486

Charles N. Steele
General Counsel

Nov. 5, 1981
Date

BY: 
Kenneth A. Gross
Associate General Counsel

Attachment:

1. Proposed Conciliation Agreement
2. Letter to William C. Oldaker, attorney for Machinists Non-Partisan Political League

(Note: Incorporated by reference to this report are)
 (the briefs of the Respondent and Commission's)
 (General Counsel, copies of which were previously)
 (circulated to the Commission.)

BEFORE THE FEDERAL ELECTION COMMISSION

October 14, 1981

OCT 14 11:16

GENERAL COUNCIL

In the Matter of

Machinists Non-Partisan Political League

MUR 1356 (80)

RESPONDENT'S BRIEF

I. Introduction

This enforcement action is an attempt to paint inadvertent harmless errors on the part of state and local IAM officials as serious violations of the Federal Election Campaign Act. Respondent Machinists Non-Partisan Political League "MNPL" at all times has been ready to correct the errors alleged to have been committed and to conciliate this matter. Although an admission of guilt and a civil penalty are clearly unwarranted because any violations were at worst technical,

A reasonable review of facts of this case, the parties' intent, and the harmlessness of the errors involved will show that this enforcement action should have been dropped by the Commission or should have been resolved through voluntary compliance which is, and has always been, the goal of the Commission's enforcement efforts.

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II. The Facts of the Case

The General Counsel's Brief alleges that the respondent, through actions of the Connecticut State Council of Machinists ("CSCM") and International Association of Machinists - District 15 ("IAM-15"), violated the Act by (1) commingling with CSCM and IAM-15 treasury money, the gross receipts of certain raffles to benefit respondent MNPL, (2) failing to report the gross receipts of the CSCM raffle, (3) failing to register the local CSCM account as a depository, (4) failing to keep required records in connection with the CSCM raffle and (5) failing to report CSCM expenditures for the prizes given in the raffle.

The alleged violations occurred in 1977 and 1978, at a time when the Commission's regulations were still relatively new. What happened, stripped of the legal extrapolations of the General Counsel's Brief, may be stated quite simply. IAM-15 and CSCM transmitted the proceeds of their annual fundraising raffle to MNPL by means of a check drawn on their local treasuries. The CSCM raffle prizes were paid for out of the receipts from the raffle and therefore were not reported. In following this procedure they merely continued a procedure that they had followed for years before the FEC's creation. They felt that they had no reason to adopt a different procedure since the statute had not been substantively changed when the FEC was created. The only FEC regulation specifically dealing with

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raffles said that the union could use treasury monies to buy prizes. See 11 C.F.R. §114.5(b)(2).

The amounts involved were small. The General Counsel's Brief alleges \$12,252 (sic) 1/ was transmitted by CSCM and \$9,412 by IAM-15. The amount that was unreported, because used for prizes, was even smaller: \$1,972.66. No itemization was required because the tickets were only \$1 each.

III. Discussion

A. Commingling

The General Counsel's Brief approaches commingling as if it were analogous to quarantining a disease. Once touched by treasury monies no contributions may escape. This position reflects neither current law nor recent Commission practice. The inescapable fact in this case is that no treasury monies ever found their way into MNPL or any federal election campaign. 2/

1/ The reason to believe analysis stated \$12,525 was transmitted by CSCM.

2/ The accusation that "MNPL violated 2 U.S.C. §441b(a) by commingling individual voluntary funds with treasury funds in an account maintained for use in connection with a federal election" exemplifies the General Counsel's attitude. GC Brief at 5. The CSCM and IAM-15 accounts were not maintained for use in a federal election, they were maintained for union financial business. Their only remote connection with a federal election was the transmission of raffle proceeds once a year to MNPL. If, however, he means the MNPL account, then apparently the individual raffle contributions became transformed into treasury funds somewhere along the way. This begs the question, where did the contributions disappear to?

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The case has some similarities to AFL-CIO v.

Federal Election Commission 628 F.2d 97 (D.C. Cir.), cert.

denied, 101 S.Ct. 397 (1980), in which the AFL-CIO won reversal

of a \$10,000 civil penalty imposed by the District Court for

"having knowingly and willfully" violated the Act by commingling

COPE treasury funds and COPE-PCC funds. The commingling occurred

through loans between the two funds. The Court of Appeals found

that the Act prohibited the commingling of treasury funds and

separate segregated funds in this fashion but struck down the

civil penalty as inappropriate where the practice had started

before the Commission's creation, had not been previously

questioned by the GAO, and no decision had addressed the

question. 628 F.2d at 100-101.

The Commission of course, has not charged MNPL

with a knowing and willful violation, since MNPL's alleged

transgressions are far less serious than those involved in the

AFL-CIO case. The Commission, in AFL-CIO, may recall there was

an outstanding balance of \$312,000 owed by COPE to COPE-PCC. 628

F.2d at 99. In this MUR the total involved is less than

\$22,000. At no time did the respondent make a loan of treasury

monies to MNPL, as occurred in AFL-CIO. Despite these

differences, in AFL-CIO the Commission sought in the District

Court only a \$10,000 civil penalty

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In AFL-CIO, the District Court did not issue an opinion. There was, therefore, no court decision on the legality of temporary commingling at the time of the transfers involved in this MUR. That over a period of several years no authority questioned the practice shows that respondent's interpretation of the law was reasonable. Indeed, that the AFL-CIO, presumably the most sophisticated labor organization with respect to election laws, thought the practice permissible indicates that MNPL, and especially the local unions, had every reason to believe this procedure comported with the law.

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Recently, Congress and the Commission have reexamined their interpretation of commingling drawing back from the strict segregation approach exemplified by AFL-CIO. In the House Report to the 1979 Amendments, the House Administration Committee said that an organization that is not a political committee need not establish a separate Federal account as long as it can show by reasonable accounting methods that the funds used for Federal purposes are not from prohibited sources. H. Rep. No. 96-422, 96th Congress 1st Session 6 (1979). This rule has been embodied in Commission Regulations at 11 C.F.R. §102.5(b)(1)(ii). Further softening of the Commission's approach is reflected in Advisory Opinion 1981-19. In Advisory Opinion 1981-19, the Commission permitted the Louisiana State Medical Society Political Action Committee to make a joint investment of "hard" PAC dollars (i.e., non-corporate) and "soft"

administrative fund dollars (i.e., corporate) into a single money-market fund. Because separate checks would be used both to pay into and pay out of the money market fund, and the PAC would not receive any greater return than if a separate account were used, the Commission found no commingling problem. But see Advisory Opinion 1981-20.

The common factor in these recent decisions on commingling is the emphasis on whether the facts present an opportunity for prohibited funds to subsidize federal political activity. Where that danger is present, violative commingling occurs (e.g., Advisory Opinion 1981-20). But where no such danger exists, no violation occurs (e.g., 11 C.F.R. §102.5(b)(1)(ii), Advisory Opinion 1981-19).

The Commission appears ready to formally adopt this approach in its proposed regulations on Transfer of Funds, Collecting Agents, and Joint Fundraising (46 Fed. Reg. 48074-76, September 30, 1981). Under proposed 11 C.F.R. §102.6(b)(1)(D), both CSCM and IAM-15 would have qualified as "collecting agents." As such CSCM and IAM-15's transmittal procedures would be proper because the proposed regulations specifically permit a collecting agent to deposit contributions into its own account as long as separate records are kept. Proposed 11 C.F.R. §102.6(c)(3)(ii), 46 Fed. Reg. 48075 (September 30, 1981).

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It is indeed anomalous that the General Counsel recommends punishing MNPL for following a procedure, at a time when the relevant law was far from clear, that the Commission has proposed adopting for the future. Whatever the technical failings of MNPL's procedure for collecting contributions, one point is clear: at no time did treasury funds subsidize PAC contributions. In fact, CSCM did not take advantage of the possibility of using treasury funds to buy the raffle prizes that Commission Regulations afforded. To call this a commingling violation, in light of recent legal developments, would in no way advance the goals of the Act but instead would be a post facto exercise in formalism and technicality.

B. Fundraising Receipts and Expenditures

The General Counsel's Brief further accuses MNPL of violating the Act by (1) failing to designate the CSCM account as a depository, (2) failing to keep required books and records, (3) failing to report gross receipts of the CSCM raffle, and (4) failing to report expenditures for raffle prizes. All of these alleged violations derive from CSCM's practice of transmitting the net, rather than the gross, proceeds of the raffle to MNPL. If ever a case called for voluntary compliance, rather than admission of guilt and a civil penalty, this is it.

CSCM had for years followed the practice of transmitting net proceeds of its annual raffle to MNPL. The practice started long before the Commission was created. The

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only Commission regulation dealing with raffles at the time said treasury funds could be used to buy the prizes. CSCM was using contributions to defray such expenses, which was more than the regulation demanded. Why should it have any reason to change its procedures?

The raffle tickets were \$1. There was then, and is now, no requirement to keep a record of the names and addresses of \$1 contributors. What information has the public been denied? Only that CSCM received \$1,972.66 more in unitemized contributions than MNPL reported and that this money was spent on raffle prizes. This is hardly an attempt to defeat the purpose of disclosure. It is plainly an inadvertent violation due to a misunderstanding of the Commission's less than clear regulatory requirements. The reasonable solution would be to require MNPL to amend its reports (which it has already done) and make it promise to follow the approved procedure in the future. The public interest in accurate campaign disclosure demands no more.

Once again, it is ironic that at least part of these alledged violations would be permitted under the Commission's Proposed Rules. As a "collecting agent" CSCM would not be required to register and report and the transmittal procedures make no mention of reporting the organization's

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account on a depository if contributions are deposited into it. See Proposed 11 C.F.R. §§102.6(b)() and 102.6(c)(3)(ii); 46 Fed. Reg. 48074-75 (September 30, 1981). It is difficult to understand how a practice can be punished as illegal under less explicit regulations, when a more specific pronouncement indicates Commission approval of that practice.

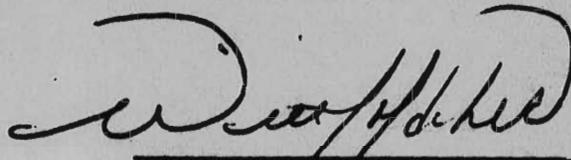
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V. Conclusion

This is a case for voluntary compliance. As much as the General Counsel's Brief attempts to inflate it, it still remains a case of innocent misunderstanding of what the Commission wanted. No important information was in fact denied the public. CSCM and IAM-15's actions were reasonable in light of the lack of clarity in the law and the fact that over a period of years the practice had not been questioned. MNPL is ready to comply with whatever interpretation of the law the Commission decides to adopt. It is grossly unfair, however, to punish MNPL

in these circumstances. The arbitrariness of such an approach is even more evident in light of the recent developments in the law. The Commission therefore should close this case on condition that MNPL take such corrective actions as the Commission deems required. The Commission should not require an admission of guilt from MNPL or payment of a civil penalty.



William C. Oldaker
Attorney for Respondent
1050 17th Street, N.W.
Suite 1200
Washington, D.C. 20036
(202) 296-0505

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

William C. Oldaker, Esquire
1050 Seventeenth Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

On , 1981, the Commission determined there is probable cause to believe that your client, Machinists Non-Partisan Political League, committed a violation of the Federal Election Campaign Act of 1971, as amended, sections 441b(a), 437b(a)(2), 432(c)(1) and (3), 434(b)(6) and (11) of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. If we are unable to reach an agreement during that period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Beverly Kramer, the staff member assigned to this matter, at 523-4060.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

82040314498

BEFORE THE FEDERAL ELECTION COMMISSION

October 14, 1981

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Central Office

In the Matter of
Machinists Non-Partisan Political
League

MUR 1356 (80)

RESPONDENT'S BRIEF

I. Introduction

This enforcement action is an attempt to paint inadvertent harmless errors on the part of state and local IAM officials as serious violations of the Federal Election Campaign Act. Respondent Machinists Non-Partisan Political League "MNPL" at all times has been ready to correct the errors alleged to have been committed and to conciliate this matter. Although an admission of guilt and a civil penalty are clearly unwarranted because any violations were at worse technical,

A reasonable review of facts of this case, the parties' intent, and the harmlessness of the errors involved will show that this enforcement action should have been dropped by the Commission or should have been resolved through voluntary compliance which is, and has always been, the goal of the Commission's enforcement efforts.

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II. The Facts of the Case

The General Counsel's Brief alleges that the respondent, through actions of the Connecticut State Council of Machinists ("CSCM") and International Association of Machinists - District 15 ("IAM-15"), violated the Act by (1) commingling with CSCM and IAM-15 treasury money, the gross receipts of certain raffles to benefit respondent MNPL, (2) failing to report the gross receipts of the CSCM raffle, (3) failing to register the local CSCM account as a depository, (4) failing to keep required records in connection with the CSCM raffle and (5) failing to report CSCM expenditures for the prizes given in the raffle.

The alleged violations occurred in 1977 and 1978, at a time when the Commission's regulations were still relatively new. What happened, stripped of the legal extrapolations of the General Counsel's Brief, may be stated quite simply. IAM-15 and CSCM transmitted the proceeds of their annual fundraising raffle to MNPL by means of a check drawn on their local treasuries. The CSCM raffle prizes were paid for out of the receipts from the raffle and therefore were not reported. In following this procedure they merely continued a procedure that they had followed for years before the FEC's creation. They felt that they had no reason to adopt a different procedure since the statute had not been substantively changed when the FEC was created. The only FEC regulation specifically dealing with

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raffles said that the union could use treasury monies to buy prizes. See 11 C.F.R. §114.5(b)(2).

The amounts involved were small. The General Counsel's Brief alleges \$12,252 (sic) 1/ was transmitted by CSCM and \$9,412 by IAM-15. The amount that was unreported, because used for prizes, was even smaller: \$1,972.66. No itemization was required because the tickets were only \$1 each.

III. Discussion

A. Commingling

The General Counsel's Brief approaches commingling as if it were analogous to quarantining a disease. Once touched by treasury monies no contributions may escape. This position reflects neither current law nor recent Commission practice. The inescapable fact in this case is that no treasury monies ever found their way into MNPL or any federal election campaign. 2/

1/ The reason to believe analysis stated \$12,525 was transmitted by CSCM.

2/ The accusation that "MNPL violated 2 U.S.C. §441b(a) by commingling individual voluntary funds with treasury funds in an account maintained for use in connection with a federal election" exemplifies the General Counsel's attitude. GC Brief at 5. The CSCM and IAM-15 accounts were not maintained for use in a federal election, they were maintained for union financial business. Their only remote connection with a federal election was the transmission of raffle proceeds once a year to MNPL. If, however, he means the MNPL account, then apparently the individual raffle contributions became transformed into treasury funds somewhere along the way. This begs the question, where did the contributions disappear to?

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The case has some similarities to AFL-CIO v. Federal Election Commission 628 F.2d 97 (D.C. Cir.), cert. denied, 101 S.Ct. 397 (1980), in which the AFL-CIO won reversal of a \$10,000 civil penalty imposed by the District Court for "having knowingly and willfully" violated the Act by commingling COPE treasury funds and COPE-PCC funds. The commingling occurred through loans between the two funds. The Court of Appeals found that the Act prohibited the commingling of treasury funds and separate segregated funds in this fashion but struck down the civil penalty as inappropriate where the practice had started before the Commission's creation, had not been previously questioned by the GAO, and no decision had addressed the question. 628 F.2d at 100-101.

The Commission of course, has not charged MNPL with a knowing and willful violation, since MNPL's alleged transgressions are far less serious than those involved in the AFL-CIO case. The Commission, in AFL-CIO, may recall there was an outstanding balance of \$312,000 owed by COPE to COPE-PCC. 628 F.2d at 99. In this MUR the total involved is less than \$22,000. At no time did the respondent make a loan of treasury monies to MNPL, as occurred in AFL-CIO. Despite these differences, in AFL-CIO the Commission sought in the District Court only a \$10,000 civil penalty

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In AFL-CIO, the District Court did not issue an opinion. There was, therefore, no court decision on the legality of temporary commingling at the time of the transfers involved in this MUR. That over a period of several years no authority questioned the practice shows that respondent's interpretation of the law was reasonable. Indeed, that the AFL-CIO, presumably the most sophisticated labor organization with respect to election laws, thought the practice permissible indicates that MNPL, and especially the local unions, had every reason to believe this procedure comported with the law.

Recently, Congress and the Commission have reexamined their interpretation of commingling drawing back from the strict segregation approach exemplified by AFL-CIO. In the House Report to the 1979 Amendments, the House Administration Committee said that an organization that is not a political committee need not establish a separate Federal account as long as it can show by reasonable accounting methods that the funds used for Federal purposes are not from prohibited sources. H. Rep. No. 96-422, 96th Congress 1st Session 6 (1979). This rule has been embodied in Commission Regulations at 11 C.F.R. §102.5(b)(1)(ii). Further softening of the Commission's approach is reflected in Advisory Opinion 1981-19. In Advisory Opinion 1981-19, the Commission permitted the Louisiana State Medical Society Political Action Committee to make a joint investment of "hard" PAC dollars (i.e., non-corporate) and "soft"

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administrative fund dollars (i.e., corporate) into a single money-market fund. Because separate checks would be used both to pay into and pay out of the money market fund, and the PAC would not receive any greater return than if a separate account were used, the Commission found no commingling problem. But see Advisory Opinion 1981-20.

The common factor in these recent decisions on commingling is the emphasis on whether the facts present an opportunity for prohibited funds to subsidize federal political activity. Where that danger is present, violative commingling occurs (e.g., Advisory Opinion 1981-20). But where no such danger exists, no violation occurs (e.g., 11 C.F.R. §102.5(b)(1)(ii), Advisory Opinion 1981-19).

The Commission appears ready to formally adopt this approach in its proposed regulations on Transfer of Funds, Collecting Agents, and Joint Fundraising (46 Fed. Reg. 48074-76, September 30, 1981). Under proposed 11 C.F.R. §102.6(b)(1)(D), both CSCM and IAM-15 would have qualified as "collecting agents." As such CSCM and IAM-15's transmittal procedures would be proper because the proposed regulations specifically permit a collecting agent to deposit contributions into its own account as long as separate records are kept. Proposed 11 C.F.R. §102.6(c)(3)(ii), 46 Fed. Reg. 48075 (September 30, 1981).

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It is indeed anomalous that the General Counsel recommends punishing MNPL for following a procedure, at a time when the relevant law was far from clear, that the Commission has proposed adopting for the future. Whatever the technical failings of MNPL's procedure for collecting contributions, one point is clear: at no time did treasury funds subsidize PAC contributions. In fact, CSCM did not take advantage of the possibility of using treasury funds to buy the raffle prizes that Commission Regulations afforded. To call this a commingling violation, in light of recent legal developments, would in no way advance the goals of the Act but instead would be a post facto exercise in formalism and technicality.

B. Fundraising Receipts and Expenditures

The General Counsel's Brief further accuses MNPL of violating the Act by (1) failing to designate the CSCM account as a depository, (2) failing to keep required books and records, (3) failing to report gross receipts of the CSCM raffle, and (4) failing to report expenditures for raffle prizes. All of these alleged violations derive from CSCM's practice of transmitting the net, rather than the gross, proceeds of the raffle to MNPL. If ever a case called for voluntary compliance, rather than admission of guilt and a civil penalty, this is it.

CSCM had for years followed the practice of transmitting net proceeds of its annual raffle to MNPL. The practice started long before the Commission was created. The

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only Commission regulation dealing with raffles at the time said treasury funds could be used to buy the prizes. CSCM was using contributions to defray such expenses, which was more than the regulation demanded. Why should it have any reason to change its procedures?

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The raffle tickets were \$1. There was then, and is now, no requirement to keep a record of the names and addresses of \$1 contributors. What information has the public been denied? Only that CSCM received \$1,972.66 more in unitemized contributions than MNPL reported and that this money was spent on raffle prizes. This is hardly an attempt to defeat the purpose of disclosure. It is plainly an inadvertent violation due to a misunderstanding of the Commission's less than clear regulatory requirements. The reasonable solution would be to require MNPL to amend its reports (which it has already done) and make it promise to follow the approved procedure in the future. The public interest in accurate campaign disclosure demands no more.

Once again, it is ironic that at least part of these alledged violations would be permitted under the Commission's Proposed Rules. As a "collecting agent" CSCM would not be required to register and report and the transmittal procedures make no mention of reporting the organization's

account on a depository if contributions are deposited into it. See Proposed 11 C.F.R. §§102.6(b)() and 102.6(c)(3)(ii); 46 Fed. Reg. 48074-75 (September 30, 1981). It is difficult to understand how a practice can be punished as illegal under less explicit regulations, when a more specific pronouncement indicates Commission approval of that practice.

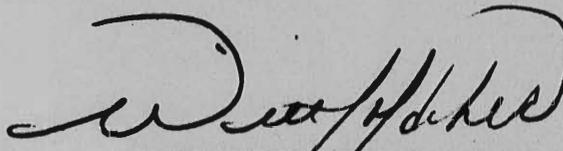
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V. Conclusion

This is a case for voluntary compliance. As much as the General Counsel's Brief attempts to inflate it, it still remains a case of innocent misunderstanding of what the Commission wanted. No important information was in fact denied the public. CSCM and IAM-15's actions were reasonable in light of the lack of clarity in the law and the fact that over a period of years the practice had not been questioned. MNPL is ready to comply with whatever interpretation of the law the Commission decides to adopt. It is grossly unfair, however, to punish MNPL

in these circumstances. The arbitrariness of such an approach is even more evident in light of the recent developments in the law. The Commission therefore should close this case on condition that MNPL take such corrective actions as the Commission deems required. The Commission should not require an admission of guilt from MNPL or payment of a civil penalty.



William C. Oldaker
Attorney for Respondent
1050 17th Street, N.W.
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Washington, D.C. 20036
(202) 296-0505

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 28, 1981

William C. Oldaker, Esquire
1050 17th Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on March 25, 1981, found reason to believe that your client, the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a), § 432(c)(1) and (3), § 434(b)(6) and (11), and § 437b(a)(2), and instituted an investigation in this matter.

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

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

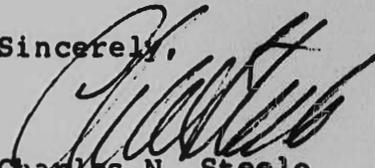
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Letter to William C. Oldaker, Esquire
Page Two
MUR 1356

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Brief

82040314511

September 28, 1991

MEMORANDUM TO: Marjorie W. Emmons
FROM: Phyllis A. Hayson
SUBJECT: NUR 1356

Please have the attached Memo to the Commission distributed to the Commission for their information. Thank you.

Attachment

cc: Kramer

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

81 SEP 28 P 1: 01

September 28, 1981

MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Charles N. Steele
General Counsel *CS*

SUBJECT: MUR # 1356

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on September 28, 1981. Following receipt of the Respondent's reply to this notice, this office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondent

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BEFORE THE FEDERAL ELECTION COMMISSION
September 8, 1981

In the Matter of) MUR 1356(80)
Machinists Non-Partisan Political League)

GENERAL COUNSEL'S BRIEF

I. Statement of the Case ^{1/}

On March 25, 1981, the Commission found reason to believe that respondent Machinists Non-Partisan Political League ("MNPL" or "the Committee") violated 2 U.S.C. §§ 441b(a), 437b(a)(2), 432(c)(1) and (3), 434(b)(6) and (11), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") (Pub. L. No. 94-283). The Commission based its determination on findings made during an audit of MNPL and the records maintained by three of its local collecting agents. ^{2/}

^{1/} All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) and the Title 11 Code of Federal Regulations prior to the 1979-80 amendments.

^{2/} Since a significant portion of contributions to MNPL are raised and recorded at the local, district, and state council level, the audit staff determined that a review of records maintained at the field level would be necessary to test MNPL's overall compliance with the Act and Commission Regulations. Accordingly, the audit staff selected the following for review, based upon their relatively large proportion of receipts raised for MNPL:

- 1) Connecticut State Council of Machinists (CSCM) New Britain, CT;
- 2) Ohio State Council of Machinists (OSCM) Cleveland OH; and
- 3) International Association of Machinists - District-15 (IAM-15) New York, NY.

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The audit covered the period from January 1, 1977 through February 28, 1979, and was undertaken pursuant to 2 U.S.C. § 438(a)(8) which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the Act.

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II. Factual and Legal Analysis

A. Commingling of Voluntary and Union Treasury Funds.

2 U.S.C. § 441b(a) states, in relevant part, that it is unlawful for any labor organization to make a contribution, or expenditure in connection with any federal election. For purposes of this section, the terms "contribution or expenditure" are broadly defined to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value..." 2 U.S.C. § 441b(b)(2). Specifically excepted, however, are the costs incurred for the establishment, administration and solicitation of contributions to a separate segregated fund utilized for political purposes

by a labor organization. 2 U.S.C. § 441b(b)(2)(C). Voluntary funds are required to be kept separate and segregated from monies secured by dues, fees or other monies required as a condition of membership in a labor organization.^{3/}

The audit of records maintained at the Connecticut State Council of Machinists (herein "CSCM") and the International Association of Machinists - District 15 (herein "IAM-15") revealed the following with respect to a violation of 2 U.S.C. § 441b(a).

During the period covered by the audit (January 1, 1977 through February 28, 1979) CSCM received contributions for MNPL totaling \$12,252.00 from the sale of raffle tickets to union members at the local and district level. The proceeds from the sale of raffle tickets were deposited into the union's savings account at the Savings Bank of New Britain and were commingled with union treasury funds (dues and assessments held since 1975). CSCM then withdrew funds (amount received from the sale of raffle tickets) and obtained cashier checks to first pay for raffle prizes and then to transmit the net proceeds to MNPL in Washington.

At IAM-15, proceeds from the sale of \$1.00 raffle tickets were received drawn on local union treasury accounts. These funds were in turn deposited into IAM-15's general checking account at the Amalgamated Bank of New York and were commingled with union

^{3/} See Pipefitters Local Union No. 562 v. United States, 407 U.S. 385, 428-32 (1972)

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treasury funds (dues and assessments). The proceeds were then sent in one lump sum to MNPL in Washington D.C. via a check drawn on IAM-15's general fund checking account. The amount of proceeds transmitted to MNPL via IAM-15's general fund checking account totaled \$9,412.00.

Based upon the foregoing facts, the Office of General Counsel recommends that the Commission find probable cause to believe that MNPL violated 2 U.S.C. § 441b(a) by commingling individual voluntary contributions with treasury funds in an account maintained for use in connection with federal elections.

B. Fundraising Receipts and Expenditures.

2 U.S.C. § 437b(a)(2) requires the treasurer of each political committee to designate one or more national or state banks as campaign depositories of such committee, and to maintain a checking account for the committee at each such depository. All contributions received by such committee must be deposited in such account. No expenditure may be made except by check drawn on such accounts other than petty cash expenditures.

2 U.S.C. § 432(c)(1) and (3) require, in part, that a treasurer of a political committee keep a detailed and exact account of all contributions made to the committee and all expenditures made by the committee. 2 U.S.C. § 434(b)(6) requires that a political committee disclose the total amount of proceeds from the sale of tickets and the sale of items

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for fundraising. 2 U.S.C. § 434(b)(11) provides that a political committee must report the total amount of expenditure made by a political committee.

During the review of records maintained at CSCM, the audit staff determined that CSCM deposited the total collections from the sale of raffle tickets (\$12,525.00) into the State Council's savings account, a non-designated depository containing union dues and assessment. (See Part A for discussion of commingling violation). Subsequent to the deposit of these funds, CSCM withdrew \$1,972.66 from the State Council's savings account to cover the cost of raffle prizes. Net proceeds from the sale of raffle tickets were then transmitted to MNPL. MNPL did not disclose the total amount of proceeds from the sale of fundraising items, nor expenditures made to cover the cost of raffle activities.

Based upon the foregoing, the Commission, on March 25, 1981, found reason to believe that MNPL violated 2 U.S.C. §§ 437b(a)(2), 434(b)(6) and (11) and 432(c)(1) and (3).

Documentation obtained from CSCM in the conduct of the audit reveals that the practice and intent of CSCM was to expend a portion of committee funds received from the sale of raffle tickets (i.e., voluntary funds) to defray the costs associated with raffle activities. See Attachment I. Since these funds were deposited in and withdrawn from a non-designated depository (i.e., CSCM's general treasury savings account) for MNPL, MNPL violated 2 U.S.C. § 437b(a)(2).

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The overriding concern pertaining to the subject transaction is the resulting deficiencies in MNPL's disclosure of campaign activity. Due to CSCM's practice of transmitting net proceeds to MNPL subsequent to making expenditures to defray the costs associated with fundraising activities, reports submitted by MNPL failed to accurately reflect the total amount of contributions received and expenditures made from committee funds. Such deficiencies in disclosure violate one of the underlying aims of the Act which seeks to ensure that all funds that individuals contribute for use in connection with federal election campaigns can be readily accounted for by those who examine the public record.

Based on the foregoing, the Office of General Counsel recommends that the Commission find probable cause to believe that MNPL violated 2 U.S.C. § 432(c)(1) and (3), § 434(b)(6) and (11), and § 437b(a)(2).

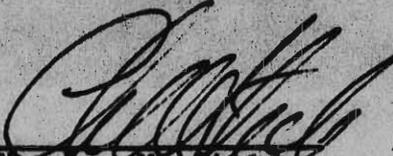
III. General Counsel's Recommendations

1. Find probable cause to believe that the Machinist Non-Partisan Political League violated 2 U.S.C. § 441b(a).
2. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(6).
3. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(11).
4. Find probable cause to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 432(c)(1) and (3).

82040314519

5. Find probable cause to believe that the Machinists
Non-Partisan Political League violated 2 U.S.C. § 437b(a)(2).

26 September 1981
Date


Charles N. Steele
General Counsel

Attachments

- I. Correspondence sent by CSCM to MNPL on October 6, 1977
and September 8, 1978 (6 pages).
- II. Letter to William C. Oldaker

82040314520

CONNECTICUT STATE COUNCIL OF MACHINISTS

INTERNATIONAL ASSOCIATION
OF MACHINISTS
AND AEROSPACE WORKERS



WORKING
COPIES

October 6, 1977

Mr. William Holayter, Director
Machinists Non Partisan Political League
The Machinists Building
1300 Connecticut Avenue, N. W.
Washington, D. C. 20036

Subject: Proceeds from Annual
MNPL Raffle Transferred
to National MNPL

Dear Sir and Brother:

Enclosed please find check number 054439, dated October 5, 1977, in the amount of \$5,661.10 representing net proceeds from our Annual MNPL Raffle. A breakdown of Local Lodges sales is enclosed.

I am also requesting that \$1,415.25 representing 25% of the total amount be credited to our Special Account for the Connecticut State Council of Machinists. Our present balance should be approximately \$793.36 and with the above being credited to it, the new balance should be approximately \$2,209.61.

If there are any further questions or information needed please feel free to contact this office.

Thank you.

With best wishes, I remain

Fraternally yours,

Thomas L. Cassidy
Thomas L. Cassidy, Secy.-Treas.
Connecticut State Council of
Machinists, AFL-CIO

Cassidy S.C.M.

Treas
38163
15,661.10

10-7-77

25/10
1415.25

TLC/cmo

Encl. 2

①

7 10 DAYS

(29)

82040314522

Memo:

As per your tele-
phone request, I am
forwarding the fol-
lowing breakdown of
raffle receipts and
crediting for Local
Lodges of all monies
forwarded to your
office 9-8-78.

Thank you.



Albert Gonzalez
President

ART PRESS 223-2777

(2)

CONNECTICUT STATE COUNCIL OF MACHINISTS

INTERNATIONAL ASSOCIATION
OF MACHINISTS
AND AEROSPACE WORKERS



6

September 8, 1978

Mr. William Holayter, Director
Machinists Non Partisan Political League
The Machinists Building
1300 Connecticut Avenue, N. W.
Washington, D. C. 20036

Subject: Proceeds from Annual MNPL
Raffle transferred to Na-
tional M. N. P. L.

Dear Sir and Brother:

Enclosed please find check number 108607 in the amount of \$4,779.59 representing net proceeds from our 10th Annual MNPL Raffle. A breakdown of Local Lodge sales is also included.

I am again requesting that \$1,194.90 of that money be credited to our Special Account of the Connecticut State Council of Machinists this being the usual 25% of sales. This amount with our present balance of \$2,209.61 should bring our present balance up to \$3,404.51. If this is an incorrect balance, please advise immediately.

If there are any further questions, or information needed, please feel free to contact this office.

Thank you.

With best wishes, I remain

Fraternally yours,

Albert R. Gonzalez
Albert R. Gonzalez,
President

Thomas L. Cassidy
Thomas L. Cassidy,
Secretary-Treasurer,
Connecticut State Council of
Machinists, AFL-CIO

59 Arch St.
New Britain, Conn 06051
ARG/TLC/cmo

41774
4,779.59

3

314523
25%
1,194.90

1978 MNPL RAFFLE - TICKET BREAKDOWN
Connecticut State Council of Machinists

Lodge Number	Total No. of Members	Total Sold Tickets	Minus Expenses 18.20%	Amount To Be Credited Each Local Lodge.
# 144 - 104	65	\$.00	\$.00	\$.00 -
✓ # 265 - 170	164	40.00	7.28	✓ 32.72 ✓
✓ # 35426 - 141	---	30.00	5.46	✓ 24.54 ✓
✓ # 460 - 22	21	10.00	1.81	✓ 8.19 ✓
✓ # 609 - 170	1,251	260.00	47.32	✓ 212.68 ✓
# 627 - 104	159	.00	.00	.00 -
✓ # 700 - 91	1,265	168.00	30.58	✓ 137.42 ✓
✓ # 707 - 91	1,820	242.00	44.04	✓ 197.96 ✓
✓ # 743 - 91	1,545	561.00	102.10	✓ 458.90 ✓
✓ # 782 - LL	354	200.00	36.40	✓ 163.60 ✓
✓ # 902 - 170	453	225.00	40.95	✓ 184.05 ✓
✓ # 966 - 170	149	75.00	13.65	✓ 61.35 ✓
✓ # 983 - 170	219	50.00	9.10	✓ 40.90 ✓
✓ # 995 - 170	106	45.00	8.19	✓ 36.81 ✓
✓ # 1021 - LL	851	229.00	41.68	✓ 187.32 ✓
✓ # 1137 - LL	1,211	610.00	111.02	✓ 498.98 ✓
✓ # 1249 - LL	576	300.00	54.60	✓ 245.40 ✓
✓ # 1279 - 104	316	.00	.00	.00 -
✓ # 1335 - 170	170	80.00	14.56	✓ 65.44 ✓
✓ # 1396 - 170	139	27.00	4.91	✓ 22.09 ✓
✓ # 1433 - LL	2,099	700.00	127.40	✓ 572.60 ✓
✓ # 1474 - 170	88	45.00	8.19	✓ 36.81 ✓
✓ # 1666 - 170	312	134.00	24.39	✓ 109.61 ✓
✓ # 1746 - 91	6,500	799.00	145.42	✓ 653.58 ✓
✓ # 1746-A - 91	2,037	776.00	141.23	✓ 634.77 ✓
✓ # 1871 - LL	1,630	50.00	9.10	✓ 40.90 ✓
✓ # 1882 - 170	264	5.00	.91	✓ 4.09 ✓
✓ # 1913 - 104	537	.00	.00	.00 -
✓ # 1990 - 170	147	75.00	13.65	✓ 61.35 ✓
✓ # 2120 - 170	189	104.00	18.93	✓ 85.07 ✓
✓ # 2473 - 15	---	3.00	.54	✓ 2.46 ✓
31	24,561	\$ 5,843.00	\$ 1,063.41	✓ \$ 4,779.59 *

* Total Amount forwarded to National Machinists Non Partisan Political League on September 8, 1978. Check No. 108607. This amount is to be credited to each Local Lodge. (u)

1978 RIPL RAFFLE - TICKET BREAKDOWN

Lodge No.	Members	100% Club	No. of Tickets	Sold	Return	Missing
# 144	64		25	0	0	25
# 265	164		100	40	0	60
# 354		100%	150	30	120	0
# 782	---			25	0	0
# 460	21	100%	10	10	-	-
# 609	1,251		400	260	140	-
# 627	159		75	-	75	-
# 700	1,265		400	168	232	-
# 707	1,820		800	242	518	40
# 743	1,545		700	561	94	45
# 782	354	100%	175	175	-	-
# 902	453	100%	225	225	-	-
# 966	149	100%	75	75	-	-
# 983	219		100	50	50	0
# 995	106		50	45	-	5
# 1021	851		415	229	181	5
# 1137	1,211	100%	610	610	-	-
# 1249	576	100%	300	300	-	-
# 1279	316		125	-	-	125
# 1335	170	100%	80	80	-	-
# 1396	139		65	27	38	-
# 1433	2,099	100%	700	700	-	-
# 1474	88	100%	45	45	-	-
# 1666	312		150	134	16	-
# 1746	6,500		2,000	799	1,126	75
# 1746-A	2,037		1,000	776	185	39
# 1871	1,630		500	50	215	235
# 1882	264		125	5	120	-
# 1913	537		300	-	-	300
# 1990	147		100	75	15	10
# 2120	189		125	104	21	-
# 2473	-		50	3	47	-
<hr/>						
Totals	26,342		10,000	5,843	3,193	964

paid 7/14/78
paid 1/4/78

Bill for

27 15 100 1000

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685 Unsold and Unaccounted for in New London Area: A. Camaro, V, P.

144 - 25 Tickets

#1279 -125 Tickets

#1871 -235 Tickets

#1913 -300 Tickets

225 235 tickets are in fact lost

7-1 739 are unaccounted for as of 7-14-78

(5)

63

RECONCILIATION - 10th Annual MNPI Raffle
CONNECTICUT STATE COUNCIL OF MACHINISTS

Drawing Date: July 7, 1978

Number of Tickets printed.....10,000

Tickets Sold.....5843
Tickets Returned.....3193
Tickets outstanding or lost..... 964
10,000

EXPENSES:

Art Press Incorporated (Printing tickets).....\$ 101.65
New Britain Police Department (Permit)..... 5.00
Conn. State Police (permit)..... 5.00
Holiday Travel Bureau (1st Prize, Las Vegas Trip)..... 794.00
Olin Corporation, (2nd Prize, Winchester Gun)..... 56.11
Peter C. Janowski (3rd Prize, Stanley Tools)..... 101.65
Totals.....\$ 1,063.41

Total Cash Received from Raffle.....\$ 5,843.00
Less Expenses..... 1,063.41
Net Profit, \$ 4,779.59

WINNERS: 1st. Prize James T. Bradcock.....# 8018
25B Bracewood Road
Waterbury, Conn.
2nd Prize.....Okonkowski Abel.....# 802
525 East Main Street
Branford, Conn.
3rd Prize.....J. E. Strachan.....# 4207
10 Mansfield Avenue
New Britain, Conn.

Permits # 6600 (NMPD)

Thomas L. Cassidy, Socy.-Treas.
Connecticut State Council of Machinists
59 Arch Street
New Britain, Connecticut 06051
Telephone: 224-2661

82040314526



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 28, 1981

William C. Oldaker, Esquire
1050 17th Street, N.W.
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Oldaker:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission, on March 25, 1981, found reason to believe that your client, the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a), § 432(c)(1) and (3), § 434(b)(6) and (11), and § 437b(a)(2), and instituted an investigation in this matter.

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

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

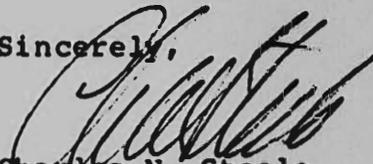
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Letter to William C. Oldaker, Esquire
Page Two
MUR 1356

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Sincerely,



Charles N. Steele
General Counsel

Enclosure
Brief

8 2 0 4 0 3 1 4 5 2 8



FEDERAL ELECTION COMMISSION

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

60-1517

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS/JODY CUSTER *jc*

DATE: APRIL 17, 1981

SUBJECT: REFERRAL OF LETTER REGARDING
MUR 1356

The attached letter regarding MUR 1356 was received in Chairman McGarry's office and then presented to the Secretary of the Commission. It is provided for your action.

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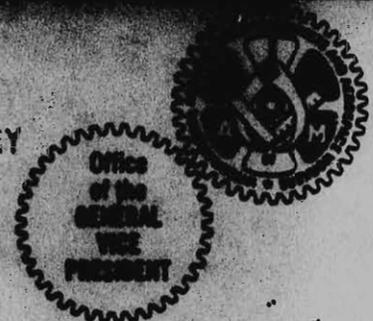
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Attachment:
Letter from International Assoc.
of Machinists and Aerospace Workers
dated April 17, 1981

47

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

MACHINISTS BUILDING, 1300 CONNECTICUT AVENUE, WASHINGTON, D.C. 20004
Area Code 202-857-5200



GL-2 (MNPL)

April 17, 1981

Re: MIR 1356

HAND DELIVERY

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

Dear Mr. McGarry:

We are writing in response to your letter of March 26, 1981, to Mr. Howard F. Dow, Treasurer, Machinists Nonpartisan Political League ("the Committee") setting forth the Federal Election Commission's determination that there is reason to believe that the Committee violated Sections 441b(a), 432(b), 437b(a)(2), 434(b)(6), 434(b)(11), and 432(c)(1) and (3) of the Federal Election Campaign Act of 1971, as amended ("the Act").

We wish to advise you that the Committee has already corrected or taken steps to correct the items outlined in the General Counsel's Factual and Legal Analysis, pursuant to its compliance with the Audit Division's March 11, 1981, Interim Report and recommendations.

Sincerely,

Jos. P. Manners
GENERAL COUNSEL

By: *Allison Beck*
Allison Beck
ASSISTANT GENERAL COUNSEL

AB/rja

cc: Poulin
Holayter
Dow

PRIORITY **ORGANIZE**

31 APR 17 4:09 PM
RECEIVED
GENERAL COUNSEL

82040314530

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**INTERNATIONAL
ASSOCIATION OF
MACHINISTS AND
AEROSPACE WORKERS**

MACHINISTS BUILDING, 1300 CONNECTICUT AVENUE, WASHINGTON, D. C. 20036



Office of the INTERNATIONAL PRESIDENT

HAND
DELIVER

Mr. John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

81 APR 17 A 9: 45

69



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1981

Joseph P. Manners, General Counsel
International Association of Machinists
and Aerospace Workers
Machinists Building
1300 Connecticut Avenue, N.W.
Washington, D.C. 20036

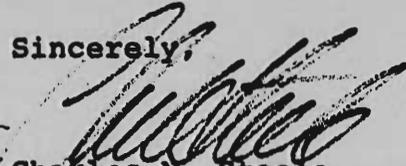
RE: MUR 1356

Dear Mr. Manners:

The Office of General Counsel has reviewed your request for an extension of time to respond to the Commission's finding of reason to believe in MUR 1356. Based on the information in your letter, we are granting the requested extension. Accordingly, we will expect your response by April 17, 1981.

If you have any questions, please contact Beverly Brown at 202/523-4529.

Sincerely,



Charles N. Steele
General Counsel

82040314532

Joseph P. Manners, General Counsel
International Association of Machinists
and Aerospace Workers
Machinists Building
1300 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1980

Dear Mr. Manners:

The Office of General Counsel has reviewed your request for an extension of time to respond to the Commission's finding of reason to believe in MUR 1980. Based on the information in your letter, we are granting the requested extension. Accordingly, we will expect your response by April 17, 1981.

If you have any questions, please contact Beverly Brown at 202/523-4529.

Sincerely,

Charles N. Steele
General Counsel

FBHagan:ano 4/7/81
KAGross

62040314533



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE *MWS*
FROM: MARJORIE W. EMMONS/JODY CUSTER *Jc*
DATE: APRIL 1, 1981
SUBJECT: REFERRAL OF LETTER FROM THE INTERNATIONAL
ASSOCIATION OF MACHINISTS AND AEROSPACE
WORKERS, dated March 31, 1981 (MUR 1356)

The attached letter regarding an extension of time was received in Chairman McGarry's office and then presented to the Secretary of the Commission. It is provided for your action.

82040314534

ATTACHMENT:
Letter

31 APR 1 4:34

RECEIVED
GENERAL INVESTIGATIVE
DIVISION

**INTERNATIONAL
ASSOCIATION OF
MACHINISTS AND
AEROSPACE WORKERS**

MACHINISTS BUILDING, 1300 CONNECTICUT AVENUE, WASHINGTON, D. C. 20036
Area Code 202-857-5200

GCC #4397



RECEIVED
OFFICE
COMMISSION

01 APR 1 9 06

March 31, 1981

Re: MJR 1356

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

Dear Chairman McGarry:

We are writing in response to your letter of March 26, 1981, to Mr. Howard F. Dow, Treasurer, Machinists Nonpartisan Political League (MNPL) setting forth the Federal Election Commission's determination that there is reason to believe that the Machinists Nonpartisan Political League violated Sections 441b(a), 432(b), 437b(a)(2), 434(b)(6), 434(b)(11), and 432(c)(1) and (3) of the Federal Election Campaign Act of 1971, as amended ("the Act").

As provided for in the Act, the MNPL intends to submit to the Commission factual and/or legal materials which it believes will be relevant to the Commission's consideration of this matter. Previous staff commitments, however, will make it impossible for the MNPL to submit this material within 10 days of its receipt of your March 26, 1981, letter. Accordingly, we request an extension of time until April 17, 1981, which is 15 business days from the MNPL's receipt of your letter.

We will greatly appreciate your consideration of this request and look forward to hearing from you or a member of your staff in the near future.

Sincerely,

[Signature]
Jps. P. Manners
GENERAL COUNSEL

JPM/rja

cc: Poulin
Dow

PRIORITY **ORGANIZE**

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GENERAL COUNSEL

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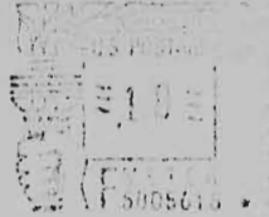
INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS



MACHINISTS BUILDING, 1300 CONNECTICUT AVENUE, WASHINGTON, D. C. 20036

Office of the INTERNATIONAL PRESIDENT

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



01 MAR 1 ALL: 42

CD



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 26, 1981

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Howard F. Dow, Treasurer
Machinists Non-Partisan Political
League
1300 Connecticut Avenue, N.W.,
Suite 413
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Dow:

On March 25 , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated sections 441b(a), 432(b), 437b(a)(2), 434(b)(6), 434(b)(11) and 432(c)(1) and (3) of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

82040314537

TRUCK 135 B. B. Bourne

PS Form 3811, Jan. 1978

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

1. The following service is requested (check one.)

Show to whom and date delivered..... \$

Show to whom, date and address of delivery... \$

RESTRICTED DELIVERY
Show to whom and date delivered..... \$

RESTRICTED DELIVERY.
Show to whom, date, and address of delivery. \$

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Howard F. Bourne

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	965646	

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: VA. Bourne

POSTMARK: MAR 27 1981

5. ADDRESS (Complete only if requested)

6. TABLE OF DELIVERY CHARGES: 8 1/2 MAR 30 1981

CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

☆ GPO : 1978-300-458

RECEIVED 3-25-81

Truck 13562 - B. Bourne

PS Form 3811, Jan. 1976
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SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Howard F. Bourne

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	<i>465646</i>	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

VA. Bourne

DATE OF DELIVERY	POSTMARK
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5. ADDRESS (Complete only if requested)

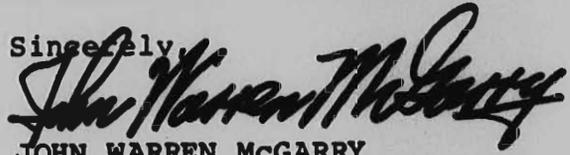
6. NUMBER OF DELIVERIES MADE	CLERK'S INITIALS
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Letter to Howard F. Dow
Page Two
MUR 1356

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beverly Brown, the staff member assigned to this matter at 523-4529.

Sincerely,



JOHN WARREN MCGARRY
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures

82040314540

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Howard F. Dow, Treasurer
Machinists Non-Partisan Political
League
1300 Connecticut Avenue, N.W.,
Suite 413
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Dow:

On , 1981, the Federal Election Commission determined that there is reason to believe that your committee violated sections 441b(a), 432(b), 437b(a)(2), 434(b)(6), 434(b)(11) and 432(c)(1) and (2) of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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... (b) (5) - DPP, unless otherwise indicated, in writing
that you wish the investigation to be made public.
For your information, we have attached a brief description
of the Commission's procedures for handling possible violations
of the Act. If you have any questions, please contact Beverly
Brown, the staff member assigned to this matter at 433-4330.
Sincerely,

82040314542

Enclosures

General Counsel's Factual and Legal Analysis
Procedures

Prepared by Beverly Browniano 3/16/81
Cleared by KAG

BBB 3/16/81
BBB 3/25/81

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE March 25, 1981

MUR NO. 1356
STAFF MEMBER(S) & TEL. NO.
Beverly Brown
(202) 523-4529

RESPONDENT: Machinist Non-Partisan Political League

GENERATION OF MATTER

On December 8, 1980, the Audit Division referred this matter to the Office of General Counsel as a result of findings made during the audit of the Machinists Non-Partisan Political League ("MNPL") and the review of records maintained at three of its field offices. 2/ The audit covered the

- 1/ All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) and the Title 11 Code of Federal Regulations prior to the 1979-80 amendments.
- 2/ Since a significant portion of contributions to MNPL are raised and recorded at the local, district, and state council level, the audit staff determined that a review of records maintained at the field level would be necessary to test MNPL's overall compliance with the Act and Commission Regulations. Accordingly, the audit staff selected the following for review, based upon their relatively large proportion of receipts raised for MNPL:
- 1) Connecticut State Council of Machinists (CSCM) New Britain, CT;
 - 2) Ohio State Council of Machinists (OSCM) Cleveland, OH; and
 - 3) International Association of Machinists - District-15 (IAM-15) New York, NY.

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period from January 1, 1977 through February 28, 1979 and was undertaken pursuant to former 2 U.S.C. § 438(a)(8) which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the Federal Election Campaign Act of 1971, as amended (the "Act").

SUMMARY OF ALLEGATIONS

The referral of the Audit Division alleges that MNPL, the separate segregated fund established by the International Machinists and Aerospace Workers (IAM), has violated:

- 1) 2 U.S.C. § 441b(a) by commingling voluntary and union treasury funds in accounts maintained for use in connection with federal elections;
- 2) 2 U.S.C. § 432(b) by commingling funds of a political committee with the personal funds of committee officers;
- 3) 2 U.S.C. § 437b(a)(2) by making expenditures on behalf of MNPL from a non-designated campaign depository;
- 4) 2 U.S.C. § 432(c)(1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL;
- 5) 2 U.S.C. § 434(b)(6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items; and
- 6) 2 U.S.C. § 434(b)(11) by failing to disclose the total sum of expenditures made by a political committee.

FACTUAL AND LEGAL ANALYSIS

A. Commingling of Voluntary and Union Treasury Funds

2 U.S.C. § 441b(a) states, in relevant part, that it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election. For purposes of this section, the terms "contribution or expenditure" are broadly defined to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value..." 2 U.S.C. § 441b(b)(2).

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Specifically excepted, however, are the costs incurred for the establishment, administration and solicitation of contributions to a separate segregated fund utilized for political purposes by a labor organization. 2 U.S.C. § 441b(b)(2)(C). Voluntary funds are required to be kept separate and segregated from monies secured by dues, fees or other monies required as a condition of membership in a labor organization. 3/

During the review of records maintained at the Connecticut State Council of Machinists (CSCM), the auditors determined that collections totaling \$12,525.00 (from the sale of raffle tickets at the local and district level during 1977 and 1978) were deposited into and commingled with union treasury funds at CSCM prior to transmittal to MNPL.

In addition, the audit of the International Association of Machinists - District 15 (IAM-15) revealed, through discussion with one IAM official, that collections from local events (e.g., sale of \$1.00 raffle tickets) are received drawn on local union treasury accounts and are commingled with union treasury funds at the district level prior to transmittal to MNPL. 4/

Based upon the foregoing facts, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 441b(a) by commingling individual voluntary contributions with treasury funds in accounts maintained for use in connection with federal elections.

B. Commingling of Personal Funds With Funds of a Political Committee

2 U.S.C. § 432(b) provides that all funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

Based upon conversation with officials from two IAM field offices, IAM-15 and the Ohio State Council of Machinists, auditors determined that these field offices occasionally accepted contributions which were transmitted by check drawn on the personal accounts of collection agents (shop stewards).

3/ See Pipefitters Local Union No. 562 v. United States, 407 U.S. 385, 428-32 (1972)

4/ The audit staff was unable to determine the exact dollar value of commingled funds due to the insufficiency of records maintained by IAM-15.

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A subsequent review of records maintained by IAM-15 revealed that in 1977, contributions totaling \$408.71 were transferred from the personal accounts of seven collection agents. No other records were available to ascertain the extent to which these transactions occurred in 1978 and 1979. Furthermore, no records were available to determine the extent to which such transactions were made by the collection agents of the Ohio State Council of Machinists.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 432(b) and take no further action.

C. Fundraising Receipts and Expenditures

2 U.S.C. § 437b(a)(2) requires the treasurer of each political committee to designate one or more national or state banks as campaign depositories of such committee, and to maintain a checking account for the committee at each such depository. All contributions received by such committee must be deposited in such account. No expenditure may be made except by check drawn on such accounts other than petty cash expenditures.

2 U.S.C. § 432(c)(1) and (3) require, in part, that a treasurer of a political committee keep a detailed and exact account of all contributions made to the committee and all expenditures made by the committee. 2 U.S.C. § 434(b)(6) requires that a political committee disclose the total amount of proceeds from the sale of tickets and the sale of items for fundraising. 2 U.S.C. § 434(b)(11) provides that a political committee must report the total amount of expenditures made by a political committee.

During the review of records maintained at CSCM, the audit staff determined that CSCM deposited the total collections from the sale of raffle tickets (\$12,525.00) into the State Council's savings account, a non-designated depository containing union dues and assessments. (See Part A for discussion of commingling violation) Subsequent to the deposit of these funds, CSCM withdrew \$1,972.66 from the State Council's savings account to cover the cost of raffle prizes. Net proceeds from the sale of raffle tickets were then transmitted to MNPL. CSCM did not advise MNPL of the total amount of contributions collected nor of the associated expenditures for raffle prizes. As a result, MNPL did not disclose the total amount of proceeds from the sale of fundraising items, nor expenditures made to cover the cost of raffle prizes.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL has violated 2 U.S.C. § 437b(a)(2), § 434(b)(6) and (11), and § 432(c)(1) and (3).

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Recommendations

1. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a).
2. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 432(b) and take no further action.
3. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 437b(a)(2).
4. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(6).
5. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(11).
6. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§ 432(c)(1) and (3).

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DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE
FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of General Counsel where they are assigned a MUR (Matter Under Review) number, and assigned to a staff member.

Following review of the information which generated the MUR, a recommendation on how to proceed on the matter, which shall include preliminary legal and factual analysis, and any information compiled from materials available to the Commission shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act (FECA) may have occurred or is about to occur and that the Commission conduct an investigation of the matter; or (b) that the Commission find no reason to believe that a possible violation of the FECA has occurred and that the Commission close the file on the matter.

Thereafter, if the Commission decides by an affirmative vote of four (4) Commissioners that there is reason to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed, the Office of the General Counsel shall open an investigation into the matter. Upon notification of the Commission's finding(s), within 15 days a respondent(s) may submit any factual or legal materials relevant to the allegations. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order answers to interrogatories. The respondent(s) may be contacted more than once by the Commission in its investigation.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Machinists Non-Partisan Political) MUR 1356 (80)
League)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 25, 1981, the Commission decided by a vote of 6-0 to take the following actions in regard to MUR 1356:

1. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a).
2. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 432(b) and take no further action.
3. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 437b(a) (2).
4. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b) (6).
5. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b) (11).
6. Find Reason to Believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§ 432(c) (1) and (3).
7. Approve and send the letter and General Counsel's Factual and Legal Analysis, attached to the First General Counsel's Report dated 3-20-81.

Attest:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

3/25/81
date

Received in Office of Commission Secretary:
Circulated on 48 hour vote basis:

3-20-81, 2:59
3-23-81, 11:00

82040314549

March 10, 1961

MEMORANDUM TO: Marjorie W. Evans
FROM: Elise T. Carr
SUBJECT: MUR 1356

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

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RECEIVED
FEDERAL ELECTION COMMISSION OFFICE OF THE
1325 K Street, N.W. COMMISSION SECRETARY
Washington, D.C. 20463

81 MAR 20 P 2: 59
FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 3-20-81

MUR # 1356(80)
STAFF MEMBER(S)

Beverly Brown

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

RESPONDENT'S NAME: Machinists Non-Partisan Political League

RELEVANT STATUTE ^{1/} :
2 U.S.C. § 441b(a)
2 U.S.C. § 432(b)
2 U.S.C. § 437b(a)(2)
2 U.S.C. § 432(c)(1) and (3)
2 U.S.C. § 434(b)(6) and (11)

INTERNAL REPORTS CHECKED: Interim Audit Report - Machinists
Non-Partisan Political League

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

On December 8, 1980, the Audit Division referred this matter to the Office of General Counsel as a result of findings made during the audit of the Machinists Non-Partisan Political League ("MNPL") and the review of records maintained at three of its field offices. 2/ (See Attachment #1) The audit covered the

1/ All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) and the Title 11 Code of Federal Regulations prior to the 1979-80 amendments.

2/ Since a significant portion of contributions to MNPL are raised and recorded at the local, district, and state council level, the audit staff determined that a review of records maintained at the field level would be necessary to test MNPL's overall compliance with the Act and Commission Regulations. Accordingly, the audit staff selected the following for review, based upon their relatively large proportion of receipts raised for MNPL:

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- 2) Ohio State Council of Machinists (OSCM) Cleveland, OH; and
- 3) International Association of Machinists - District-15 (IAM-15) New York, NY.

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period from January 1, 1977 through February 28, 1979 and was undertaken pursuant to former 2 U.S.C. § 438(a)(8) which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the Federal Election Campaign Act of 1971, as amended (the "Act").

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- 3) 2 U.S.C. § 437b(a)(2) by making expenditures on behalf of MNPL from a non-designated campaign depository;
- 4) 2 U.S.C. § 432(c)(1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL;
- 5) 2 U.S.C. § 434(b)(6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items; and
- 6) 2 U.S.C. § 434(b)(11) by failing to disclose the total sum of expenditures made by a political committee.

FACTUAL AND LEGAL ANALYSIS

A. Commingling of Voluntary and Union Treasury Funds

2 U.S.C. § 441b(a) states, in relevant part, that it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election. For purposes of this section, the terms "contribution or expenditure" are broadly defined to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value..." 2 U.S.C. § 441b(b)(2).

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Specifically excepted, however, are the costs incurred for the establishment, administration and solicitation of contributions to a separate segregated fund utilized for political purposes by a labor organization. 2 U.S.C. § 441b(b)(2)(C). Voluntary funds are required to be kept separate and segregated from monies secured by dues, fees or other monies required as a condition of membership in a labor organization. 3/

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Based upon the foregoing facts, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 441b(a) by commingling individual voluntary contributions with treasury funds in accounts maintained for use in connection with federal elections.

B. Commingling of Personal Funds With Funds of a Political Committee

2 U.S.C. § 432(b) provides that all funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

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3/ See Pipefitters Local Union No. 562 v. United States, 407 U.S. 385, 428-32 (1972)

4/ The audit staff was unable to determine the exact dollar value of commingled funds due to the insufficiency of records maintained by IAM-15.

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Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 432(b) and take no further action.

C. Fundraising Receipts and Expenditures

2 U.S.C. § 437b(a)(2) requires the treasurer of each political committee to designate one or more national or state banks as campaign depositories of such committee, and to maintain a checking account for the committee at each such depository. All contributions received by such committee must be deposited in such account. No expenditure may be made except by check drawn on such accounts other than petty cash expenditures.

2 U.S.C. § 432(c)(1) and (3) require, in part, that a treasurer of a political committee keep a detailed and exact account of all contributions made to the committee and all expenditures made by the committee. 2 U.S.C. § 434(b)(6) requires that a political committee disclose the total amount of proceeds from the sale of tickets and the sale of items for fundraising. 2 U.S.C. § 434(b)(11) provides that a political committee must report the total amount of expenditures made by a political committee.

During the review of records maintained at CSCM, the audit staff determined that CSCM deposited the total collections from the sale of raffle tickets (\$12,525.00) into the State Council's savings account, a non-designated depository containing union dues and assessments. (See Part A for discussion of commingling violation) Subsequent to the deposit of these funds, CSCM withdrew \$1,972.66 from the State Council's savings account to cover the cost of raffle prizes. Net proceeds from the sale of raffle tickets were then transmitted to MNPL. CSCM did not advise MNPL of the total amount of contributions collected nor of the associated expenditures for raffle prizes. As a result, MNPL did not disclose the total amount of proceeds from the sale of fundraising items, nor expenditures made to cover the cost of raffle prizes.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL has violated 2 U.S.C. § 437b(a)(2), § 434(b)(6) and (11), and § 432(c)(1) and (3).

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Recommendations

1. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a).
2. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 432(b) and take no further action.
3. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 437b(a)(2).
4. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(6).
5. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(11).
6. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§ 432(c)(1) and (3).
7. Approve and send the attached letter with enclosed General Counsel's Factual and Legal Analysis.

Attachments

- Attachment #1 - Referral from the Audit Division
- Attachment #2 - Letter to Mr. Howard F. Dow
with enclosed General Counsel's
Factual and Legal Analysis

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1. Receipt of Funds on Union Accounts

Section 441b(a) of Title 2 of the United States Code, states, in part, that it is unlawful for any labor organization to make a contribution or expenditure in connection with any Federal election.

Subsequent to the audit fieldwork, Section 102.6(b) of Title 11, Code of Federal Regulations, was amended to require, in part, that organizations acting as fundraising agents for a political committee shall either:

- (1) Establish a transmittal account to be used solely for the deposit of funds collected as a fundraising agent and for forwarding funds to its affiliate. Only funds subject to the prohibitions and limitations of the Act shall be deposited into such account. If any disbursement is made from the account, other than a transfer of funds to an affiliated committee, the account shall be considered a depository of the recipient affiliated political committee and all activity of that account shall be reported; or
- (2) Transmit contributions which it has collected as a fundraising agent either by money order, cashier's check or similar instrument without depositing such contributions in any account prior to the transfers.

During our review of records at the three (3) IAM field offices, the Audit staff determined that:

a) at the International Association of Machinists - District 15 (IAM-15), according to an IAM official, some collections from events held at the local level (usually from the sale of \$1.00 raffle tickets) are received drawn on local union treasury accounts, and are commingled with union funds at the district level, prior to transmittal to the Committee. Due to insufficient records maintained by IAM-15, the Audit staff was unable to determine the exact dollar value of commingled contributions.

b) at the Connecticut State Council of Machinists (CSCM), collections totaling \$12,525.00, from the sale of raffle tickets at the local and district level during 1977 and 1978, were deposited into and commingled with union funds at CSCM prior to transmittal to the Committee.

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2. Commingling of Contributions

During the period of the audit, Section 432(b) of Title 2, United States Code, requires, in part, that all funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

Our review of the three (3) IAM field offices disclosed that two (2) of the offices, IAM-15 and OSCM, occasionally accepted contributions received by collection agents (shop stewards) which were transmitted by checks drawn on their personal accounts. This determination is based on conversations with officials from these IAM field offices since records to determine the exact amount of commingled contributions were unavailable.

3. Expenditures Not Made From Campaign Depository

During the period covered by the audit, Section 437b(a) (2) of Title 2, United States Code, required, in part, that the treasurer designate one (1) or more national or State banks as campaign depositories and shall maintain a checking account for the committee at each depository. No expenditure may be made by the committee except by check drawn on such accounts, other than petty cash expenditures.

During our review we determined that CSCM deposited the total collections from the sale of raffle tickets (\$12,525.00) into the State Council's savings account, a non-designated depository, and subsequently paid for raffle prizes totaling \$1,972.66 by withdrawing funds from the account, prior to transmitting the net proceeds on to the Committee. (See next finding for the impact of these transactions on the Committee's disclosure.)

4. Accounting for Fundraising Receipts and Expenditures

During the period covered by the audit, Section 432(c) (1) and (3) of Title 2 of the United States Code, required, in part, that a treasurer of a political committee keep a detailed and exact account of all contributions made to the committee and all expenditures made by the committee. During the period covered by the audit, Section 434(b) (6) required that a political committee disclose the total amount of proceeds from the sale of tickets and the sale of items for fundraising. During the period covered by the audit, Section 434(b) (11) also stated that a political committee should report the total amount of expenditures made by the committee.

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As a result of our review, we determined that CSCM paid for raffle prizes from proceeds collected and subsequently forwarded the remaining balance of proceeds to the Committee as "net proceeds" collected. CSCM did not advise the Committee of the total amount of contributions collected or the associated expenditures for raffle prizes. As a result, the total of the proceeds collected and the raffle prize expenditures were not disclosed by the Committee.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Howard F. Dow, Treasurer
Machinists Non-Partisan Political
League
1300 Connecticut Avenue, N.W.,
Suite 413
Washington, D.C. 20036

RE: MUR 1356

Dear Mr. Dow:

On _____, 1981, the Federal Election Commission determined that there is reason to believe that your committee violated sections 441b(a), 432(b), 437b(a)(2), 434(b)(6), 434(b)(11) and 432(c)(1) and (3) of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Your response should be submitted within ten days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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Letter to Howard F. Dow
Page Two
MUR 1356

The investigation now being conducted will be confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Beverly Brown, the staff member assigned to this matter at 523-4529.

Sincerely,

Enclosures

General Counsel's Factual and Legal Analysis
Procedures

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FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

DATE _____

MUR NO. 1356
STAFF MEMBER(S) & TEL. NO.
Beverly Brown
(202) 523-4529

RESPONDENT: Machinist Non-Partisan Political League

GENERATION OF MATTER

On December 8, 1980, the Audit Division referred this matter to the Office of General Counsel as a result of findings made during the audit of the Machinists Non-Partisan Political League ("MNPL") and the review of records maintained at three of its field offices. 2/ The audit covered the

- 1/ All cites noted herein refer to the Federal Election Campaign Act of 1971 (Pub. L. No. 94-283) and the Title 11 Code of Federal Regulations prior to the 1979-80 amendments.
- 2/ Since a significant portion of contributions to MNPL are raised and recorded at the local, district, and state council level, the audit staff determined that a review of records maintained at the field level would be necessary to test MNPL's overall compliance with the Act and Commission Regulations. Accordingly, the audit staff selected the following for review, based upon their relatively large proportion of receipts raised for MNPL:
- 1) Connecticut State Council of Machinists (CSCM) New Britain, CT;
 - 2) Ohio State Council of Machinists (OSCM) Cleveland, OH; and
 - 3) International Association of Machinists - District-15 (IAM-15) New York, NY.

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period from January 1, 1977 through February 28, 1979 and was undertaken pursuant to former 2 U.S.C. § 438(a)(8) which, at the time of the audit, directed the Commission to make from time to time audits and field investigations with respect to reports and statements filed under the Federal Election Campaign Act of 1971, as amended (the "Act").

SUMMARY OF ALLEGATIONS

The referral of the Audit Division alleges that MNPL, the separate segregated fund established by the International Machinists and Aerospace Workers (IAM), has violated:

- 1) 2 U.S.C. § 441b(a) by commingling voluntary and union treasury funds in accounts maintained for use in connection with federal elections;
- 2) 2 U.S.C. § 432(b) by commingling funds of a political committee with the personal funds of committee officers;
- 3) 2 U.S.C. § 437b(a)(2) by making expenditures on behalf of MNPL from a non-designated campaign depository;
- 4) 2 U.S.C. § 432(c)(1) and (3) by failing to keep a detailed and exact account of all contributions made to or for MNPL and all expenditures made by or on behalf of MNPL;
- 5) 2 U.S.C. § 434(b)(6) by failing to disclose the total amount of proceeds from the sale of tickets and other fundraising items; and
- 6) 2 U.S.C. § 434(b)(11) by failing to disclose the total sum of expenditures made by a political committee.

FACTUAL AND LEGAL ANALYSIS

A. Commingling of Voluntary and Union Treasury Funds

2 U.S.C. § 441b(a) states, in relevant part, that it is unlawful for any labor organization to make a contribution or expenditure in connection with any federal election. For purposes of this section, the terms "contribution or expenditure" are broadly defined to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services or anything of value..." 2 U.S.C. § 441b(b)(2).

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Specifically excepted, however, are the costs incurred for the establishment, administration and solicitation of contributions to a separate segregated fund utilized for political purposes by a labor organization. 2 U.S.C. § 441b(b)(2)(C). Voluntary funds are required to be kept separate and segregated from monies secured by dues, fees or other monies required as a condition of membership in a labor organization. 3/

During the review of records maintained at the Connecticut State Council of Machinists (CSCM), the auditors determined that collections totaling \$12,525.00 (from the sale of raffle tickets at the local and district level during 1977 and 1978) were deposited into and commingled with union treasury funds at CSCM prior to transmittal to MNPL.

In addition, the audit of the International Association of Machinists - District 15 (IAM-15) revealed, through discussion with one IAM official, that collections from local events (e.g., sale of \$1.00 raffle tickets) are received drawn on local union treasury accounts and are commingled with union treasury funds at the district level prior to transmittal to MNPL. 4/

Based upon the foregoing facts, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 441b(a) by commingling individual voluntary contributions with treasury funds in accounts maintained for use in connection with federal elections.

B. Commingling of Personal Funds With Funds of a Political Committee

2 U.S.C. § 432(b) provides that all funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

Based upon conversation with officials from two IAM field offices, IAM-15 and the Ohio State Council of Machinists, auditors determined that these field offices occasionally accepted contributions which were transmitted by check drawn on the personal accounts of collection agents (shop stewards).

3/ See Pipefitters Local Union No. 562 v. United States, 407 U.S. 385, 428-32 (1972)

4/ The audit staff was unable to determine the exact dollar value of commingled funds due to the insufficiency of records maintained by IAM-15.

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A subsequent review of records maintained by IAM-15 revealed that in 1977, contributions totaling \$408.71 were transferred from the personal accounts of seven collection agents. No other records were available to ascertain the extent to which these transactions occurred in 1978 and 1979. Furthermore, no records were available to determine the extent to which such transactions were made by the collection agents of the Ohio State Council of Machinists.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL violated 2 U.S.C. § 432(b) and take no further action.

C. Fundraising Receipts and Expenditures

2 U.S.C. § 437b(a)(2) requires the treasurer of each political committee to designate one or more national or state banks as campaign depositories of such committee, and to maintain a checking account for the committee at each such depository. All contributions received by such committee must be deposited in such account. No expenditure may be made except by check drawn on such accounts other than petty cash expenditures.

2 U.S.C. § 432(c)(1) and (3) require, in part, that a treasurer of a political committee keep a detailed and exact account of all contributions made to the committee and all expenditures made by the committee. 2 U.S.C. § 434(b)(6) requires that a political committee disclose the total amount of proceeds from the sale of tickets and the sale of items for fundraising. 2 U.S.C. § 434(b)(11) provides that a political committee must report the total amount of expenditures made by a political committee.

During the review of records maintained at CSCM, the audit staff determined that CSCM deposited the total collections from the sale of raffle tickets (\$12,525.00) into the State Council's savings account, a non-designated depository containing union dues and assessments. (See Part A for discussion of commingling violation) Subsequent to the deposit of these funds, CSCM withdrew \$1,972.66 from the State Council's savings account to cover the cost of raffle prizes. Net proceeds from the sale of raffle tickets were then transmitted to MNPL. CSCM did not advise MNPL of the total amount of contributions collected nor of the associated expenditures for raffle prizes. As a result, MNPL did not disclose the total amount of proceeds from the sale of fundraising items, nor expenditures made to cover the cost of raffle prizes.

Based upon the foregoing, the Office of General Counsel recommends that the Commission find reason to believe that MNPL has violated 2 U.S.C. § 437b(a)(2), § 434(b)(6) and (11), and § 432(c)(1) and (3).

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Recommendations

1. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 441b(a).

2. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 432(b) and take no further action.

3. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 437b(a)(2).

4. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(6).

5. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. § 434(b)(11).

6. Find reason to believe that the Machinists Non-Partisan Political League violated 2 U.S.C. §§ 432(c)(1) and (3).

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FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1358 :

DATE FILMED 4/8/50

CAMERA OPERATOR [Signature]

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