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

THIS IS THE END OF MUR # 1420

Date Filmed 12/20/82 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

Routing Slips

Internal Memoranda

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

___	(1) Classified Information	___	(6) Personal privacy
✓	(2) Internal rules and practices (Low 2)	___	(7) Investigatory files
___	(3) Exempted by other statute	___	(8) Banking Information
___	(4) Trade secrets and commercial or financial information	___	(9) Well Information (geographic or geophysical)
✓	(5) Internal Documents		

Signed Michael A. Bonnily

date November 22, 1988

FEC 9-21-77

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 17, 1982

Mr. James Rosen
3997N - 825W
Andrews, Indiana 46702

RE: MUR 1470

Dear Mr. Rosen:

The Federal Election Commission has reviewed the allegations of your complaint dated September 10, 1982, and determined that on the basis of the information provided in your complaint and information provided by the Respondents, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

Kenneth A. Gross
BY: Associate General Counsel

82040362324

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 17, 1982

Harry Huge, Esquire
Rogovin, Huge & Lenzner
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1470
(Richard Peck, Keith Platt
and Sheet Metal Workers'
International Association's
Political Action League)

92040362325

Dear Mr. Huge:

On September 21, 1982, the Commission notified you of a complaint alleging that your clients had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on November 16, 1982, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

However, the Commission did note that the SMWIA PAL Authorization Card submitted by you on behalf of your clients does not make it clear that solicited union members have a right to refuse to contribute at all without reprisal. The authorization card says only that the solicited members can contribute "more or less than the suggested amount without reprisal." Therefore, the authorization card should be modified accordingly.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1470
Richard Peck, et al.	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on November 16, 1982, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 1470:

1. Find no reason to believe that Richard Peck violated 2 U.S.C. §441b(b)(3);

2. Find no reason to believe that Keith Platt violated 2 U.S.C. §441b(b)(3);

3. Find no reason to believe that the Sheet Metal Worker's International Association's Political Action League violated 2 U.S.C. §441b(b)(3);

4. Close the file; and

5. Approve and authorize the sending of the notification letters to respondents' counsel and complainant as recommended in the General Counsel's November 3, 1982 report.

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

Attest:

11-16-82
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY RANSOM

DATE: NOVEMBER 8, 1982

SUBJECT: OBJECTION - MUR 1470 First General Counsel's Report dated November 3, 1982; Received in OCS, 11-3-82, 4:43

The above-named document was circulated to the Commission on November 4, 1982 at 11:00.

Commissioner Aikens submitted an objection at 11:04, November 8, 1982.

This matter will be placed on the agenda for the Executive Session of Tuesday, November 16, 1982.

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[redacted]

[redacted]

[redacted] Virginia A. Sayers

[redacted] MAR 1970

[redacted] Where have the standard First General Counsel's Report deviations by the Commission on a 40 hour week basis.

[redacted]

[redacted]

[redacted]

[redacted]

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

SENSITIVE

82 NOV 3 P4:43
RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION 11-3-82

MUR # 1470
DATE COMPLAINT RECEIVED
BY OGC Sept. 16, 1982
STAFF MEMBER
Michael Dymersky

COMPLAINANT'S NAME: James Rosen

RESPONDENTS: Richard Peck
Keith Platt
Sheet Metal Workers' International Association's Political Action League

RELEVANT STATUTES: 2 U.S.C. §§ 441b(b)(3)(A), (B) and (C), and 11 C.F.R. 114.5(a)(1), (3) and (4)

INTERNAL REPORTS CHECKED: Public Records

FEDERAL AGENCIES CHECKED: None

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SUMMARY OF ALLEGATIONS

This matter was generated by a complaint from James Rosen, in which it is alleged that the Sheet Metal Workers' International Association's Political Action League, through its agents, coerce solicitations from Local 156 Union members.

FACTUAL AND LEGAL ANALYSIS

Complainant's Position

This matter arose out a complaint filed with the Commission

by James Rosen ("Complainant") (See attachment 1). Complainant alleges that the Sheet Metal Workers' Union Local No. 156 of Fort Wayne, Indiana, a local of the Sheet Metal Workers' International Association, ("the Union"), of which he is a member, through its named agents (Richard Peck and Keith Platt) ("Respondents"), failed to inform its members of their right to refuse to contribute free of reprisal when contributions were solicited for its separate segregated fund -- the Union's Political Action League ("PAL"). Complainant alleges that upon being solicited and declining to contribute to PAL, he was verbally harassed and summarily dismissed as both a welding instructor and steward for the Union. Complainant further alleges that contributions were coercively solicited from other Union members as well, by use of "job discrimination" and "on-the-job verbal harassment." Finally, Complainant suggests that Respondents have failed to inform potential Union member contributors of the political purpose of PAL, stating that some member-contributors, "thought they were donating to the Police Athletic League."

Complainant states that contributions to PAL are expended to support political candidates for federal as well as state and local office. (The PAL's statement of organization was amended on February 9, 1981, to so provide).

Respondents' position

On October 13, 1982, a response was received from counsel

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for respondents. (See attachment 2). It appears from the response that complainant filed charges similar in kind to those before the Commission, with the Union's impartial International Trial Board (ITB) and the National Labor Relations Board (NLRB). Significantly, each found independently, that complainant's allegations lacked substantiation in fact. (See relevant ITB and NLRB comments at attachment II, pp. 10-11, 20-25). Essentially, both the Union's ITB and the NLRB found that there was no connection between complainant's voluntary decision not to contribute to PAL and the events described by complainant.

In addition, respondents' counsel has supplied an affidavit from Richard Peck, (See attachment II at pp. 13-19) which sets forth the version of events which the Union's ITB and the NLRB found to be credible. Essentially, respondents assert that the allegations of coercion and reprisals are based upon actions which were taken for reasons unrelated in any way to PAL.

Legal Analysis

2 U.S.C. § 441b(b)(3)(A) makes it unlawful for PAL to make a contribution or expenditure of funds secured by threat of reprisal or job discrimination. Although PAL received no funds from complainant through the Union's alleged threats and job discrimination, complainant implies that there has been and continues to be methodical threats of reprisals by the Union when solicitations for PAL are made, and that contributions have been

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received by the latter under such circumstances. However, complainant offers no substantiation to the allegations in this regard. And considering his credibility as measured by ITB and NLRB findings of fact, there is little reason to expect complainant's assertions with respect to solicitation techniques used to encourage contributions by other Union members to PAL, to be anymore reliable.

As to complainant's allegations of violations of Section 441b(b)(3)(B) and (C), the General Counsel adheres to the view that these are likewise meritless. From the response it is apparent that potential contributors to PAL were aware or should have been aware that the acronym "PAL" represented the Union's Political Action League and not the Police Athletic League. Respondents assert and complainant concedes that "the Riveteer," a Local 156 publication, carried a number of articles relating to PAL. Presumably, such articles set forth at least that PAL is connected with the Union and not the Police Department. Regardless, complainant's allegation of PAL's failure to inform potential contributors of the political purpose of their prospective contributions has no support.

As to the implied assertion that respondents failed to inform potential contributors of their right to refuse to contribute without reprisal, complainant once again relies upon hearsay as a basis for his assertions as to "discrimination to

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which . . . others have been subject." With respect to complainant's assertion of discrimination against himself, the Union's ITB and the NLRB after full investigations and hearings determined that there was no connection between complainant's voluntary decision not to contribute to PAL and his alleged dismissal as a steward for Local 156, (facts developed by ITB and the NLRB indicate that complainant quit of his own accord and was not dismissed) or his alleged dismissal as a welding instructor (facts developed by ITB and the NLRB indicate that the welding class complainant was to teach was dropped from the curriculum in the normal cause by the Joint Apprenticeship Committee). Therefore, it does not appear that freedom from reprisal was offered as a quid pro quo for a contribution; if no contribution is made, the facts do not disclose that reprisals occur.

As a general matter, it is not as clear as it could be from the language in the PAL authorization card (See attachment II at p.12) that solicited members have a right to refuse to contribute at all without reprisal. The authorization card says only that the solicited member can contribute "more or less than the suggested amount without reprisal." The General Counsel does not believe that this shortcoming warrants action by the Commission, but the proposed notification letter to respondents' counsel (See attachment III) contains a suggestion that the PAL authorization card be modified to clear up any ambiguity. Accordingly, the

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General Counsel recommends that the Commission find no reason to believe that respondents violated the Act as alleged by complainant.

RECOMMENDATIONS

1) Find no reason to believe that Richard Peck violated 2 U.S.C. § 441b(b)(3);

2) Find no reason to believe that Keith Platt violated 2 U.S.C. § 441b(b)(3);

3) Find no reason to believe that the Sheet Metal Worker's International Association's Political Action League violated 2 U.S.C. § 441b(b)(3);

4) Close the file; and

5) Approve and authorize the sending of the attached notification letters to respondents' counsel and complainant.

Charles N. Steele
General Counsel

November 3, 1982
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General

Attachments
1) Complaint (3 pages)
2) Response with attachments (25 pages)
3) Proposed notification letter to respondents' counsel
4) Proposed notification letter to complainant.

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(1)

SEP 16 P2:06

3997N-825W
Andrews, Indiana 46702
September 10, 1982

SEP 16 P2:26

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Dear Sirs:

I am a member of Sheet Metal Workers Local Union No. 156, Fort Wayne, Indiana. Representatives of this Local have been soliciting its members for contributions to P.A.L. (Political Action League). Contributions to P.A.L. are used to support candidates for political office at the federal, state and local level. Some member-contributors told me that they thought they were donating to the Police Athletic League. It is my belief that Local No. 156 was also obtaining contributions through the use of job discrimination and on-the-job verbal harassment. Despite this harassment, I refused to contribute to P.A.L.

Consequently, I have been subjected to dismissal as a Welding Instructor of Local No. 156 by Mr. Richard Peck, Business Manager of Local No. 156, P.O. Box 9158, Fort Wayne, Indiana 46899-0158, and also I was removed as Union Steward of Local No. 156 at my employer, C.L. Schust, Inc., 2520 Charleston Place, Fort Wayne, Indiana.

The following is a brief history of the actions which occurred due to my refusal to contribute to P.A.L.:

After I refused to sign up on several previous occasions, Mr. Keith Platt, Business Agent, Local No. 156, solicited me by telephone at C.L. Schust, Inc. on October 7, 1981, for my contribution to P.A.L. Upon my refusal, Mr. Platt informed me that by not contributing some changes would have to be made. At that time, I told Mr. Platt that if I was fired from my position as Welding Instructor, Local No. 156, that I would sue them. About twenty minutes after that telephone conversation, Mr. Platt and his boss, Mr. Peck, arrived at my employer's location and I was relieved of the positions of Union Steward and Welding Instructor, Local No. 156, by Mr. Peck. You can verify this by asking Mr. Jim Rust, a C.L. Schust foreman, about the content of the telephone conversation, since Mr. Platt mistakenly thought he

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Attachment I - (1)

(2)

was speaking to me but, in fact, was speaking to Mr. Rust at the outset of the phone conference.

I had already been approved to teach the welding class by the Joint Apprenticeship Committee which was in charge of the class. However, since the class was taught in the Union Hall, the Union changed the locks and gave new keys to all instructors except me. To verify this information, you may contact K. James Miller, Jr., J.A.C. Secretary, C. Miller & Sons, Inc., 4136 West Washington Center Road, Fort Wayne, Indiana.

I have been harassed once on the job by Mr. Platt for a period of about ten to fifteen minutes, about how I was acting like a non-union member and how I could get back in the good graces of the Union by contributing to P.A.L.

I was also the subject of an investigation conducted by the Executive Committee, Local No. 156, for no apparent reason.

The Union monthly publication, "The Riveteer", written and edited by Mr. Peck, has several times published references to P.A.L. and also on occasion published demeaning remarks as to those of us who have not contributed to P.A.L.

This letter has been a brief summary of events which highlight some of the discrimination to which I and others have been subjected, and I would appreciate your investigating all the practices of Local No. 156 with respect to the manner in which it has been soliciting P.A.L. contributions.

Thanking you in advance for your consideration, I am

Very truly yours,

James E. Rosen

James E. Rosen

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Attachment I-(2)

I swear and affirm that the above and foregoing representations are true and correct to the best of my knowledge and belief.

James E. Rosen

James E. Rosen

State of Indiana)
) SS:
County of Allen)

Subscribed and sworn to before me this 10th day of September, 1982, by Mr. James E. Rosen.

Notary Public, Written Signature

Notary Public, Printed Signature

My Commission Expires: 4/5/85
County of Residence: Allen

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Attachment I - (3)

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

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HARRY HUGE
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DAVID R. BOYD
RONNA LEE BECK
JANE C. BERGNER
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VICKI C. JACKSON
KRISTA M. FOGLEMAN
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RANDALL LEE SPECK
MICHAEL D. LOWE
SUSAN G. LAHNE

JAMES F. NEAL
OF COUNSEL

TELEPHONE
(202) 466-6464

TELECOPIER
(202) 466-6420

4

October 14, 1982

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

Re: MUR 1470

Dear Mr. Gross:

We are counsel to the respondents in the above-referenced matter and file this response pursuant to 11 CFR 111.6(a).

Based on the facts set out below, we believe that no action should be taken against the respondents as the allegations set forth in Mr. Rosen's complaint are without merit and his recitation of events is, in many instances, incorrect. There was no connection between Mr. Rosen's voluntary decision not to contribute to the Sheet Metal Workers' International Association's Political Action League ("PAL") and the events, as described, relating to Mr. Rosen. In no way did the respondents harass, discriminate or take action against Mr. Rosen because of his decision not to contribute to PAL.

By way of background, Mr. Rosen has already made similar allegations to his International Union, the Sheet Metal Workers' International Association ("SMWIA"). Pursuant to SMWIA's Constitution, the union's governing

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Attachment II - (1)

(5)

document, an impartial International Trial Board was convened under the SMWIA's internal grievance procedures to hear testimony, make findings of fact and reach a decision. After a full review, the Trial Board concluded that Mr. Rosen had failed to prove the charges that he had made and recommended that the charges be dismissed. Mr. Peck was found not guilty on all issues and charges. 1/ Relevant portions of the Trial Board's Findings of Fact and Decision are attached.

Mr. Rosen also filed charges with the National Labor Relations Board ("NLRB") against Local 156 and the Joint Apprenticeship Committee ("JAC") of Local 156, alleging a violation under Section 8 of the National Labor Relations Act ("NLRA"), as amended. After full investigation and consideration, the Regional Director of the NLRB concluded that no "further proceedings on the charges are warranted inasmuch as there is insufficient evidence of violation" and the Regional Director refused to issue a complaint. Mr. Rosen's appeal to the full NLRB from the decision not to issue a complaint was similarly denied and the Regional Director's decision upheld.

While the focus of the International Trial Board's inquiry was on possible violations of the SMWIA Constitution, and the NLRB's focus was on violations of the labor laws, it is important to note that Mr. Rosen's allegations were substantially the same as the allegations made herein. Both the Trial Board and the NLRB credited Mr. Peck's description of the relevant events. The same description is provided below and in Mr. Peck's affidavit, submitted herewith, and it provides a solid basis for a recommendation to the Commission of no further action.

<u>Mr. Peck Properly Solicited Voluntary Contributions to SMWIA-PAL</u>

Mr. Peck solicited contributions from SMWIA members to PAL but he and all SMWIA officials are well aware of the requirements of voluntariness of contributions. In his affidavit, attached hereto, Mr. Peck states that, "at the beginning of each union meeting I have held up Political Action League ("PAL") contribution forms in the air and

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1/ Findings of Fact of International Trial Board regarding Richard L. Peck, August 2, 1982.

Attachment II -(2)

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asked the membership to sign if anyone is interested."2/ The FEC regulations require that a contribution to a separate segregated fund of a labor organization be voluntary. 11 CFR § 114.5. Mr. Peck's statement at the union meeting indicates his awareness that members' contribution must be made in conformity with FEC regulations.3/

In his affidavit, Mr. Peck states that he never made an oral solicitation for a PAL contribution to Mr. Rosen individual. 4/ Mr. Platt solicited a voluntary contribution rom Mr. Rosen but in no way acted improperly.

Actions that Mr. Rosen alleges evidence coercion or reprisal were found by the International Trial Board and the NLRB to be fully explained and to have been taken for easons unrelated in any way to PAL.

Mr. Rosen's Dismissal as Union Steward Is Unrelated to His Voluntary Decision Not to Contribute to PAL

As business manager and financial secretary of Local 156, Mr. Peck has the authority granted to business manager of local unions by the SMWIA Constitution to appoint union stewards.

Mr. Peck appointed Mr. Rosen to the position of union steward early in 1981.5/ As shop steward, Mr. Rosen received a super seniority status.6/ At that time, Mr. Rosen was not a contributor to PAL.

2/ Peck Affidavit, ¶7.

3/ SMWIA's solicitation of its members for contributions to PAL often results in members signing an authorization form. The form, a copy of which is attached, is in accord with FEC regulations relating to written solicitations. 11 CFR 114.5.

4/ Peck, ¶8.

5/ Id.

6/ Id.

Attachment II-(3)

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On October 7, 1981, Mr. Peck and Mr. Keith Platt, a business agent of Local 156, 7/ went to C.L. Schust Company to investigate the allegation of a member of Local 156 that non-union workers were doing sheet metal work on a structure being built at Schust's shop. 8/ When Mr. Peck questioned Mr. Rosen, as the job steward, asking him why he had not been notified of the non-union activity, Mr. Rosen replied, "If you don't like the way I am doing the steward's job, I quit."9/ Mr. Peck accepted Mr. Rosen's resignation. 10/ Mr. Peck's acceptance of Mr. Rosen's resignation as steward was therefore motivated solely by Mr. Rosen's failure to fully perform his duties as steward and had no connection with any contribution or solicitation of contributions to PAL.

Both the International Trial Board and the NLRB, in considering this allegation, credited Mr. Peck's description of the events. "The International Trial Board finds the accused [Peck] removed Brother Rosen from his office as union steward because Brother Rosen (by Brother Rosens' [sic] own admission) told Brother Peck that Brother Peck could replace him if he didn't like the job he (Brother Rosen) was doing." 11/ Furthermore, the Trial Board found that "Brother Rosen relinquished his position of his own accord." 12/ An identical decision was reached by the NLRB in its Summary Report. 13/

7/ In SMWIA locals, business managers are generally the senior elected full time officials of local unions and locals may also elect one or more business representatives. SMWIA Constitution, Article Twelve, Section 2.

8/ Peck Affidavit, ¶8; see also Findings of Fact of International Trial Board.

9/ Id.

10/ Peck Affidavit, ¶8.

11/ Findings of Fact of International Trial Board.

12/ Id.

13/ NLRB Summary Report

Attachment II - (4)

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(9)

Mr. Rosen Was Not Dismissed as a Welding Instructor; The Welding Class He Was To Teach Was Cancelled for Reasons Entirely Unrelated to Mr. Rosen or his Activities

With respect to the allegation that Mr. Rosen was removed from his position as instructor of the welding class, Mr. Rosen was not removed from the position--there was simply no need for him due to the cancellation of the class he was to teach. Contrary to his complaint that Mr. Peck removed him from his instructor's position, it is clear that all decisions regarding his position as instructor were made by the JAC and for reasons unrelated to any action of Mr. Rosen. Mr. Rosen has stated that he "had been approved to teach the welding class by the Joint Apprenticeship Committee which was in charge of the class."14/ He concedes that he was hired by the Joint Apprenticeship Committee,15/ and he could presumably only be fired by the JAC. The Trial Board subsequently found that Mr. Rosen's removal "was not done by Brother Peck but by the Joint Apprenticeship Committee on which Brother Peck does not serve." 16/

Mr. Peck, in his affidavit, explains the rescheduling of the welding classes.17/ The Trial Board found Mr. Peck's description to be correct and found that "the class was cancelled because a special welding trailer was being used in Lafayette, Indiana and that the Local #156 members were going to use the trailer for training."18/

Moreover, the Joint Apprenticeship Committee made the decision not to offer the journeyman's welding class during the Spring semester of 1982 for reasons entirely unrelated to Mr. Rosen.

14/ Rosen Complaint to FEC, p. 2.

15/ Id.

16/ Findings of Fact of International Trial Board.

17/ Peck Affidavit, ¶3 and 4.

18/ Findings of Fact of International Trial Board.

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Attachment II-(5)

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The NLRB Summary Report concluded that Mr. Rosen's "not being needed as a welding instructor. . . was not predicated on his not signing up to the PAL fund." 19/ The facts as adopted by the NLRB and the International Trial Board and as stated in Mr. Peck's affidavit, demonstrate that no journeyman's welding class was held during the Spring semester. The Committee's reason for reaching that decision related entirely to the decline in jobs, economy and the resulting lack of student enrollment. There is no evidence that the class was cancelled in reasponse to any actions of Mr. Rosen.

Although Mr. Rosen alleges that Mr. Peck terminated him as an instructor for the apprenticeship program, it is clear Mr. Peck did not do so and, indeed, was not in a position to do so. Moreover, the Joint Apprenticeship Committee did not terminate Rosen as an instructor; only the class was cancelled. If the class is reinstated, the JAC will again hire an instructor.

Mr. Rosen's charges of removal from the welding instructor position for any reason related to his decision not to contribute to PAL are ungrounded and not supported by the facts.

There Is No Causal Relationship Between the Locks Being Changed on the Training Center and Mr. Rosen's Decision Not to Make Voluntary Contributions to SMWIA-PAL

In his affidavit, Mr. Peck fully explains the reasons for changing the locks on the apprenticeship training center. First, he states, the locks were changed at the end of the first session of the apprenticeship program due to "several incidents of the building being left in disarray following the welding classes. . . ."21/ Mr. Peck's second reason for changing the locks stemmed from the insistance

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19/ Summary Report.

20/ Peck Affidavit, ¶10.

21/ Id.

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Attachment II-(6)

of the employer members of the Joint Apprenticeship Committee that there be a particular type of training class offered.22/ Prior to this time there had been considerable disagreement between the employer and union members of the JAC. 23/ When the locks were changed, Mr. Peck did give keys to the instructors teaching in the classes actually held in the second training session.24/ In addition, the Trial Board found that Mr. Rosen had never asked Mr. Peck for keys to the building.25/

Neither Of the Other Charges Are Supported by the Evidence

Regarding Mr. Rosen's allegation that he was the subject of an investigation by the Local 156 Executive Board, "investigation" is an inaccurate characterization of the actual events. Upon learning that Mr. Rosen was involved in some manner in the conflict between the union members and the employer members of the JAC, the Executive Board asked Mr. Rosen to appear before the Board to inform the Board about his involvement, if any. Mr. Rosen failed to appear at that meeting of the Board and no further action was taken.

Regarding the articles in "The Riveteer", a local union publication, Mr. Peck regularly writes short pieces on PAL, sometimes listing that Local 156 members who have contributed to PAL and encouraging other members to contribute. Those pieces contain no improper solicitation or harassment. Copies of these items can be provided, if requested, for review.

22/ Id.

23/ Id.

24/ Id.

25/ Findings of Fact of International Trial Board.

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ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION

Conclusion

Mr. Rosen has complained about a number of events which he alleges constituted reprisals or harassment for his voluntary decision not to contribute to PAL. Yet the events he describes were completely unrelated to his decision, a decision that was made voluntarily and with which the respondents did not interfere. An internal union disciplinary proceeding and an NLRB investigation both failed to credit Mr. Rosen's description of the events and credited Mr. Peck's description. It is clear that the respondents acted properly and in compliance with the Act and the Commission's regulations.

For all the reasons set out above, it should be recommended to the Commission that no further action be taken.

Please feel free to contact us if any additional questions arise.

Very truly yours,

Harry Huge

Harry Huge
Counsel to Respondents

8204036234 5

Attachment II - (P)

(12)

ATTACHMENTS TO RESPONSE

MUR 1470

1. Relevant Portions of Findings of Fact and Decision of SMWIA International Trial Board, August 2, 1982.
2. SMWIA-PAL Authorization Card
3. Affidavit of Richard L. Peck
4. NLRB Charge Against Labor Organization or Its Agents, Case No. 25-CB-4834.
5. NLRB Charge Against Employer, Case No. 25-CA-14269.
6. NLRB Summary Report, dated March 25, 1982.
7. NLRB Denial of Appeal, dated May 27, 1982.

6204035234 6

Attachment II - (9)

LU#156 REC'D AUG 3 1982

(13)

DECISION OF INTERNATIONAL TRIAL BOARD

Trial of Richard L. Peck
Membership no. 381065
3012 St. Louis Avenue
Fort Wayne, Indiana 46809

*****

FINDINGS OF FACT

It should be noted that the charging party did not include in his allegations and charges the sections of the Constitution alleged to have been violated, as required by the Constitution, Article 18, Section 1(b). The Trial Board discussed this issue and decided to decide on the allegations and the possible sections of the Constitution that had been involved.

The International Trial Board finds that the accused removed Brother Rosen from his office as Union Steward because Brother Rosen (by Brother Rosens' own admission) told Brother Peck that Brother Peck could replace him if he didn't like the job he (Brother Rosen) was doing. Brother Peck was investigating a problem at the shop where Brother Rosen worked and was Steward. The problem involved non-union workers doing sheet metal work on a small building where Brother Rosen worked. Brother Peck wanted to know why Brother Rosen had not contacted him about the problem. Therefore Brother Rosen response was if you don't like the job I'm doing you can replace me. Brother Rosen relinquished his position of his own accord.

The International Trial Board finds that Brother Rosens' removal as welding instructor was not done by Brother Peck but, by the Joint Apprenticeship Committee on which Brother Peck does not serve. The Board finds that the class was cancelled because, a special welding trailer was being used in Lafayette, Indiana and that Local #156 members were going to use the trailer for training. Brother Rosen (by his own admission) said that he was going to take the welding classes in Lafayette and when asked if he asked Brother Peck for keys to the building he said no.

*****

The International Trial Board finds that Brother Rosen was requested to appear before the Local Executive Board on March 1, 1982. The Trial Board finds that Brother Peck does not serve on the Executive Board and can not find any evidence submitted to show that, Brother Peck was the cause of any harassment through an investigation.

DECISION

After the Trial was completed the Trial Board conferred for approximately four hours regarding the testimony of the witnesses the documentary evidence and validity of the charges that had been presented. The Trial Board recessed.

Attachment II - (10)

6204036234 7

(14)

When no transcript of the proceeding was provided by Brother Rosen, the Trial Committee, in reliance of its' minutes, the testimony of the witnesses and the documentary evidence, prepared its' findings of fact.

The Trial Board concluded that Brother Rosen had failed to prove the charges that had been made and recommend that the charges be dismissed.

The International Trial Board finds the accused not Guilty on all issues and charges.

*****

Date: August 2, 1982

Respectfully submitted,

Michael J. Sullivan

Michael J. Sullivan, Chairman

Arthur Parady, Secretary

Lonnie Allec

Lonnie Allec, Trial Board Member

8204035348

Attachment II-(11)

15

SMWIA PAL Authorization Card

SMWIA PAL FUND

I hereby authorize the Employer to deduct from my pay-check two cents (.02) for each hour worked, and to forward that amount to the PAL Political Fund. This authorization is signed voluntarily and with the understanding that the SMWIA PAL and/or COPE Political Fund will use this money to make political contributions and expenditures in connection with federal, state and local elections. I am aware that the contribution is subject to the prohibitions and limitations of the Federal Election Campaign Act, that the suggested 2 cents an hour donation is only a guideline and that I am free to contribute more or less than the suggested amount without reprisal. This authorization may be revoked at any time by mailing notices of revocation by U.S. Registered or Certified Mail, Return Receipt Requested, to the Treasurer, PAL Political Committee, 1750 New York Avenue, N.W., Washington, D.C. 20006, and to the Employer.

_____
Authorized Signature

Address _____
Street City State Zip

Local Union No. _____ Membership No. _____

LOCAL UNION'S COPY 125

6 2 0 4 0 3 0 2 3 4 9

Attachment II - (12)

(16)

County of Marion)
) SS
State of Indiana)

AFFIDAVIT

I, Richard L. Peck, being first duly sworn upon my oath, hereby state as follows:

I reside at 3012 St. Louis Ave., Fort Wayne, Indiana 46809. My telephone number is 219-747-6296 work: 219-478-1614. I am employed by Sheet Metal Workers Local 156 located at Fort Wayne, Indiana.

1. My elected position with Sheet Metal Workers' Local Union No. 156 ("Local 156") is business manager and financial secretary. Through those positions I am responsible for administrating the Apprentice Training Trust Fund and the Health and Welfare Trust Fund. I have been so employed in those positions for the past ten years. The Constitution and By-laws of the Sheet Metal Workers' International Association specify that the business manager has the authority to appoint stewards.

2. James Rosen has been and continues to be a member in good standing of Local 156. As far as I know he also maintains a position with the Joint Apprenticeship Committee ("JAC") as an apprentice welding instructor. The JAC hired him for that position. I believe he has had that position for the last two or three years. The JAC

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AP

Attachment II-(13)

appoints instructors at the beginning of each school year and I understand that is when Rosen was appointed. I did not attend that meeting at which he was appointed. I sign Mr. Rosen's pay checks for instructing the apprentice welding classes, but I do that in my capacity as administrator of the Apprentice Training Trust Fund. The relationship between the Training Trust Fund and the JAC is that the JAC is funded by the Training Trust Fund. The JAC is comprised of 3 members appointed by the Fort Wayne Area Sheet Metal Contractors Association and 3 members appointed by Local 156. The JAC establishes the curriculum for the apprenticeship program, but the training trust fund trustees have the sole discretion to determine whether to fund the activities of the JAC, including the curriculum. There are two employer trustees and two union trustees of the Training Trust Fund and the trustees are myself, Greg Feise (President of Local 156), Leonard Johnson, Bill Graves (Johnson and Graves are trustees appointed by the Local 156 contractors who are signatory to Local 156 contracts). The monies for the Training Trust Fund are provided by the negotiated contribution rate of 19 cents per hour worked per employee.

3. The apprenticeship program, with respect to the welding instruction, include and are limited to third year apprentices. Beginning in September 1981, due to the

Attachment II - (14)

(18)

decline of the economy and jobs, the number of third year apprentices also declined. Normally, the number of third year apprentices for one class is 10, which is the maximum. The minimum to teach a class is 6. Last year there were 12 applicants and they were split up and taught 6 in the first semester and 6 in the second semester. This year there were ten apprentices and they were all taught in the first semester. There was no apprentice welding class scheduled for the second semester of the 1981-82 school year.

4. I am aware of the January 8, 1982 letter sent out by K. James Miller, Secretary of the JAC, which scheduled a journeyman welding class, and which was scheduled in the time frame replacing the apprenticeship welding class. The letter indicates that the journeyman welding class was to have been taught by James Rosen. The union's position is that Mr. Miller was acting outside the scope of his authority in scheduling the class and accordingly I sent a letter to Robert Petrie of the contractors' association dated January 14, 1982 protesting his action in scheduling a journeyman welding class. Even if Mr. Miller was acting as an agent of the JAC, the JAC did not have the authority to schedule a journeyman class, without prior approval of the membership of Local 156. There is no past practice, and the contract is silent on the establishing of a

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RP

Attachment II - (15)

19

journeyman welding class. The JAC had not scheduled a journeyman welding class previously. My letter of January 14 was the first step of the established grievance procedure. James Miller sent me letters dated February 2, 1982 and March 1, 1982 notifying me of a grievance against Local 156 in reference to this matter. Both of these grievances are subject to the binding arbitration clause in Article 10 of our collective bargaining agreement.

5. Mr. Rosen has not been terminated as instructor for the apprenticeship program. There is no apprenticeship welding class scheduled for the second semester. If there is another apprenticeship welding class taught, it is the authority of the JAC to hire the instructor.

6. The JAC is composed of an equal number of union members and employer members. Since the beginning of the 1981-82 school year, there has been disharmony in the JAC, above the normal amount. For the past several months there has not even been an approved set of minutes. The dispute over a journeyman welding class began as early as August 1981. The employer representatives wanted the journeyman classes and the union representatives resisted funding these classes, without prior approval from the membership. This matter has not been presented to the membership for a vote.

7. Since about June 1981 at each union meeting, I

RP

Attachment II - (16)

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have held Political Action League ("PAL") contribution forms in the air and asked the membership to sign if anyone is interested. I do not ever recall asking or talking to James Rosen about a PAL card. I did not ask him to contribute to the PAL.

8. Sometime about October 7, 1981 Keith Platt and I visited the C. L. Schust Company. A union member, not Rosen, notified me that a lean-to type structure was being constructed on Schust's property using non-union labor. Six to eight months previously Rosen had been appointed by me as the union steward on the job and he was still serving in that capacity. I asked Rosen why he had not let us know about the building. He said "If you don't like the way I'm doing the steward's job, I quit." He pointed to another guy about 30 feet away and said "Go get Jim Shadle to do it." I said "You don't have to tell me you quit twice, I accept your resignation." I then left. The next day I called Bruce Winebrenner, who is owner of C. L. Schust, and soon thereafter, Local 156 members completed the lean-to job, replacing the non-union labor. Having accepted Rosen's resignation, I appointed Greg Geise as steward in a letter to Winebrenner dated November 6, 1981. The steward's job received no compensation but the steward does have super-seniority under the collective bargaining agreement. To the best of my knowledge, all representatives of Local 156 have acted properly as concerns Mr. Rosen and

RP

Attachment II - (17)

0204036 2354

21

in accordance with their official duties.

9. I am aware of a dispute over the vacation fund contribution rate which is deducted from the employee by the employer and then deposited in the bank (Indiana Bank), in a Local 156 account. We have pension fund, health and welfare fund, vacation fund, training fund, industry fund. The bank notified me of a shortage in the vacation fund account sometime during October. It could have been about October 13, 1981. During the investigation of this shortage, it was learned that Schust Company was deducting different amounts from the employee's wages and they were over-deducting on six member's wages. At that time Schust Company had about 15 to 20 employees. It appeared that Schust was deducting over and above the 80 cents required by the collective bargaining agreement and reporting that amount to the bank, but depositing only the 80 cents. The error was a bookkeeping type error and it was corrected by the employer. I mailed a letter dated October 28, 1981 to Winebrenner notifying him of the names of the six employees and asking him to deduct the required amount only. RP Four of those six names had signed PAL cards AND (R.P.) RP (RP) two (RP) had not signed PAL cards, including Mr. Rosen.

10. The first session of the apprenticeship program ended January 20, 1982. The second session began January 23, 1982, which was for the program excluding the welding

Attachment II-(18)

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(22)

class. The welding class would have begun January 27, 1982 if there had been any apprentices for the class. I ordered the locks to the training center changed about January 21, 1982. The reason I changed the locks was because of several incidents of the training center being left in disarray following the welding classes on Wednesday nights. The other reason was that the employer members of the JAC were insisting we were going to have a journeyman welding class. After changing locks, I gave keys to the remaining two instructors and did not give a key to James Rosen. I can describe the incidents of the building being left in disarray if requested.

I have read the foregoing statement consisting of seven pages and declare it to be true and correct to the best of my knowledge and belief.

Signed: Richard Peck
Richard Peck

Subscribed to and sworn to before me this 13th day of October, 1982 in Fort Wayne, Indiana.

Signed: Helen E. Bowman
Notary Public

My commission expires on
July 21, 1985

RP

Attachment II -(19)

6204036 2356

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. NAME OF EMPLOYER: Sheet Metal Workers Local Union No. 156

b. NUMBER OF WORKERS EMPLOYED: 6

(23)

c. ADDRESS OF ESTABLISHMENT (street and number, city, State, and ZIP code): P.O. Box 9158, Fort Wayne, In. 46899-0158

d. EMPLOYER REPRESENTATIVE TO CONTACT:

e. PHONE NO.: 478-1614

f. TYPE OF ESTABLISHMENT (factory, mine, wholesaler, etc.): Union Local

g. IDENTIFY PRINCIPAL PRODUCT OR SERVICE: Local Union Meeting Hall & Training Ctr.

h. THE ABOVE-NAMED EMPLOYER HAS ENGAGED IN AND IS ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8(a), SUBSECTIONS (1) AND _____ (list subsections) OF THE NATIONAL LABOR RELATIONS ACT, AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT.

2. BASIS OF THE CHARGE (be specific as to facts, names, addresses, plants involved, dates, places, etc.)

On or about October 7, 1981, I was informed by Mr. Richard Peck, Business Manager, Sheet Metal Workers Local 156, (above address), that I would no longer be shop steward or employed as Welding Instructor for the Local.

I was not given written notification of this fact until after the first class for 1982 was assembled to meet and the locks on the doors of the Union Hall had been changed. The letter of notification was taped to the shop door. This was on January 27, 1982.

This all came about as I would not sign up for P.A.L. (Political Action League), which is suppose to be a voluntary contribution.

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BY THE ABOVE AND OTHER ACTS, THE ABOVE-NAMED EMPLOYER HAS INTERFERED WITH, RESTRAINED, AND COERCED EMPLOYEES IN THE EXERCISE OF THE RIGHTS GUARANTEED IN SECTION 7 OF THE ACT.

3. FULL NAME OF PARTY FILING CHARGE (if labor organization, give full name, including local name and number): James E. Rosen

4a. ADDRESS (street and number, city, State, and ZIP code): R.R. #1 Box 323, Andrews, Indiana 46702

4b. TELEPHONE NO.: 219-786-3162

5. FULL NAME OF NATIONAL OR INTERNATIONAL LABOR ORGANIZATION OF WHICH IT IS AN AFFILIATE OR CONSTITUENT UNIT (to be filled in when charge is filed by a labor organization): Sheet Metal Workers International Association

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By James E. Rosen
(signature of representative or person filing charge)

Attachment II - (20)

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

(24)

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No. 25-CB-4834

Date Filed 03-08-82

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name	b. Union Representative to Contact	c. Phone No.
Sheet Metal Workers Local Union No. 156	Richard Peck	(219) 478-1614

d. Address (Street, city, State and ZIP code)

P.O. Box 9158, Fort Wayne, IN 46899

e. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (1) and (2) (List Subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

In addition to my regular job at C.L. Schust, where I was the union steward, I was also employed as a welding instructor by the Joint Apprenticeship Committee. This Committee has both union and management representatives.

On October 7, 1981, after I refused to sign up for the union's Political Action League ("P.A.L."), Mr. Richard Peck, Business Manager of the union, informed me that I would no longer be shop steward or an instructor for the Joint Apprenticeship Committee.

The Committee never took steps to remove me from the instructor position, but the union made it impossible for me to perform such duties by changing the locks on the doors and not giving me a key, as they did for the other instructors.

All of the above acts and other forms of discrimination were imposed upon me solely because of my refusal to sign up for P.A.L.

3. Name of Employer	4. Phone No.
Joint Apprenticeship Committee	(219) 478-1048

5. Location of Plant Involved (Street, city, State and ZIP code)	6. Employer Representative to Contact
P.O. Box 9158, Ft. Wayne, IN 46899	- --

7. Type of Establishment (Factory, mine, wholesaler, etc.)	8. Identify Principal Product or Service	9. No. of Workers Employed
	Apprenticeship Training	5

10. Full Name of Party Filing Charge

James E. Rosen

11. Address of Party Filing Charge (Street, city, State and ZIP code)	12. Telephone No.
R. R. #1, Box 323, Andrews, IN 46702	(219)786-3162

13. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By James E. Rosen (Signature of representative or person making charge) (Title or office, if any)

Address R.R. #1, Box 323, Andrews, IN 46702 (219) 786-3162 (Telephone number) 3-3-82 (Date)

Attachment II-(21)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE,

LU#156 REC'D MAR 27 1982

(25)

NATIONAL LABOR RELATIONS BOARD

REGION 25
Room 238, Federal Office Building
575 North Pennsylvania Street
Indianapolis, Indiana 46204

Telephone (317) 269-7381

MAR 25 1982

Gallucci, Hopkins & Theisen, P.C.
Attn: Steven D. Haaser/William Hopkins
600 Lincoln Bank Tower
Fort Wayne, IN. 46802

RE: SHEET METAL WORKERS LOCAL UNION NO. 156
CASE NO. 25-CA-14269
SHEET METAL WORKERS LOCAL UNION NO. 156
CASE NO. 25-CB-4834
(Joint Apprenticeship Committee)

Gentlemen:

The above-captioned cases charging a violation under Section 8 of the National Labor Relations Act, as amended, have been carefully investigated and considered.

As a result of the investigation it does not appear that further proceedings on the charges are warranted inasmuch as there is insufficient evidence of violation (see attached Summary Report). I am, therefore, refusing to issue complaint in these matters.

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action according to the enclosed instructions. This appeal must be received by the close of business on or before APR 7 1982.

Very truly yours,

Robert K. Gentry
Acting Regional Director

Enclosures: Notice of Appeal
NLRB Form 4938

CERTIFIED MAIL NO: 1106325
RETURN RECEIPT REQUESTED

cc: General Counsel, Attn: Office of Appeals, NLRB, Washington, DC 20570

Sheet Metal Workers Local Union No. 156, P.O. Box 9158, Fort Wayne, IN. 46899-0158
Fillenwarth, Dennerline & Groth, Attn: William R. Groth, Suite E6A, 6919 E. 10th St. Indianapolis, IN. 46219
Sheet Metal Workers Int'l. Assoc., Attn: Lonnie Bassett, Dir. Organ., 1750 New York Ave., Washington, D.C. 20006
Sheet Metal Workers Int'l. Assoc., Attn: Raymond Messer, Reg. Dir., Region 2, 4030 Mt. Carmel, Tobasco Road, Suite 219, Cincinnati, OH. 45230
Sheet Metal Workers Int'l. Asso., Attn: Roy F. Stringer, Int'l. Org., 642 Wallbridge Dr., Indianapolis, IN. 46241
James E. Rosen, R.R. #1, Box 323, Andrews, IN. 46702
Joint Apprenticeship Committee, P.O. Box 9158, Fort Wayne, IN. 46899

Attachment III-(22)

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Summary Report

Charging Party, James E. Rosen, alleges that he was removed from his appointed position as shop steward and as a welding instructor in the Joint Apprenticeship Committee program by representatives of Sheet Metal Workers Local Union No. 156 by reason of his refusal to sign up to contribute to the Political Action League (PAL), which is a collection of funds contributed by donors at the rate of 2¢ per hour worked to be used by the Local Union in making political contributions in connection with Federal, State and local elections. Additionally, Rosen also alleges the Local Union and/or its agents opposed having Rosen's employer deduct more than the standard amount from employees' checks for their vacation fund, and changed the locks on the doors of the building where the welding classes were to be held by reason of his not volunteering to contribute to the Union sponsored PAL fund.

The investigation of the above-noted allegations disclosed that on or about October 7, 1981, Rosen and Richard L. Peck, Business Manager and Financial Secretary of the Local Union, were engaged in conversation during which Peck questioned Rosen about why he had not, in his capacity as Union Steward, advised him about his employer using non-union labor in building a small structure then under construction. Rosen admits he advised Peck if he didn't like the job he was doing as Steward to replace him. Rosen and Peck are in agreement that Rosen, by his own admission, relinquished his position of Steward of his own accord.

Regarding Rosen's removal as welding instructor, the evidence discloses that no apprentice welding class was scheduled for the 1982 Spring semester. It was also determined that the employer and union committee members of the Joint Apprenticeship Committee were at odds about establishing and holding a journeyman's welding class during the Spring semester of 1982 and thus no such course was initiated. It becomes apparent, therefore, that Rosen's services were not needed as a welding instructor. The evidence does not support the allegations that the welding classes were suspended by reason of any protected and/or concerted activity in which Rosen was engaged.

It was also determined by the investigation that while the union officers did oppose having more than the standard vacation deduction taken from the checks of Rosen and the other employees, such opposition was based on accounting errors caused at the bank to which the monies were deposited and not by reason of Rosen's refusal to participate in the PAL fund. Of the 6 employees affected by the return of the normal vacation fund deduction, 4 had signed up for PAL deductions and 2 had not.

Based on the events described above, it is determined that Rosen's removal as Union Steward and his not being needed as a welding instructor, together with the Union's request to change back to the normal deduction for his vacation fund was not predicated on his not signing up for the PAL fund or any other activity deemed to be in violation of the Act.

Accordingly, the charges are dismissed.

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Attachment II (23)

NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570

May 27, 1982

(27)

Re: Sheet Metal Workers Local
Union Nr. 156
Cases Nos. 25-CA-14269
25-CB-4836

Steven D. Hanser, Esq.
Callwood, Hopkins & Vanicon, P.C.
600 Lincoln Bank Tower
Ft. Wayne, Indiana 46802

Dear Mr. Hanser:

Your appeal in this matter has been duly considered.

The appeal is denied substantially for the reasons set forth in the Summary [illegible] attached to the Acting Regional Director's letter dated March 25, 1982. [illegible] concluding that Mr. Rosen had resigned his job as steward, particularly noted was his admission that, after the Business Manager's complaint of his failure to report the G.D. Schrat Company's use of non-union labor, he replied that the Business Manager could replace him if he did not like the job he was doing as steward. Furthermore, a union is privileged to select its own stewards if it breaches no statutory proscription. See Shumann, Inc., 237 NLRB 1335.

With reference to the Union's preventing Mr. Rosen from teaching a journeyman's welding class, there was substantial evidence that this action was motivated by an internal dispute among members of the Joint Apprenticeship Committee, his employer. While the Union formed 50% of this Committee, the Fort Wayne area Sheet Metal Contractor's Association, Inc. formed the other 50%. The committee's dispute involved the question of what kind of class should be conducted and had not been resolved as of the time when the Union notified Mr. Rosen of the cancellation of his class.

The decisions cited, Laborers Local 341, 246 NLRB No. 108, and Painters Local 1177, 233 NLRB 820 were deemed inapposite. The former involved a union's unlawful fine for refusal to breach a binding no-strike clause and the latter also involved an attempt to cause an employee to pay a union fine, in both instances the unions affected the employee's employment by causing their discharge. Here Mr. Rosen's employer in this Mr. G.D. Schrat was not affected at all and his lack of employment with J.A.C. was because his services were no longer needed.

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(24)
Attachment II - ([redacted])

(28)

Re: Cases Nos. 25-CA-14269
25-CB-4834

-2-

Accordingly, further proceedings were held unwarranted.

Very truly yours,

William A. Lubbers
General Counsel

By _____
Ronald M. Slatkin
Acting Director
Office of Appeals

cc: Director, Region 25
Sheet Metal Workers Local Union #126, PO Box 9158, Ft. Wayne, Indiana 46899-0158
Fillenwarth, Dennerline & Groth, Suite E6A, 6919 E. 10th Street, Indianapolis, Indiana 46219 Attn: William R. Groth, Esq.
Sheet Metal Workers Int'l Assn., 1750 New York Avenue, Washington, DC 20006 Attn: Mr. Lonnie Bossett, Dir. Organ.
Sheet Metal Workers Int'l Assn., 4020 Mt. Carmel Tobasco Road, Suite 219, Cincinnati, Ohio 45230 Attn: Mr. Raymond Messer, Reg. Dir., Region 2
Sheet Metal Workers Int'l Assn., 642 Wallbridge Dr., Indianapolis, Indiana 46241 Attn: Mr. Roy F. Stringer, Int'l Org.
James E. Rosen, R.R. #1, Box 323, Andrew, Indiana 46702
Joint Apprenticeship Committee, PO Box 9158, Ft. Wayne, Indiana 46899

5204035236 2

(25)
Attachment II - [redacted]

29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harry Huge, Esquire
Rogovin, Huge & Lenzner
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

RE: MUR 1470
(Richard Peck, Keith Platt and Sheet Metal Workers' International Association's Political Action League)

Dear Mr. Huge:

On September 21, 1982, the Commission notified you of a complaint alleging that your clients had violated certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on November , 1982, determined that on the basis of the information in the complaint and information provided by you there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

However, the Commission did note that the SMWIA PAL Authorization Card submitted by you on behalf of your clients does not make it clear that solicited union members have a right to refuse to contribute at all without reprisal. The authorization card says only that the solicited members can contribute "more or less than the suggested amount without reprisal." Therefore, the authorization card should be modified accordingly.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

6204036236 3

Attachment III - (1)

30

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. James Rosen
3997 N - 825XX
Andrews, Indiana 46702

RE: MUR 1470

Dear Mr. Rosen:

The Federal Election Commission has reviewed the allegations of your complaint dated September 10, 1982 and determined that on the basis of the information provided in your complaint and information provided by the Respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

02040302364

Attachment IV -(1)

Gcc# 8924

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

MITCHELL ROGOVIN
HARRY HUGE
TERRY F. LENZNER
GEORGE T. FRAMPTON, JR.
JONATHAN D. SCHILLER
DAVID R. BOYD
RONNA LEE BECK
JANE C. BERGNER
EUGENE J. COMEY
VICKI C. JACKSON
KRISTA M. FOGLEMAN
SUSAN L. CARNEY
SAUL B. GOODMAN
RANDALL LEE SPECK
MICHAEL D. LOWE
SUSAN G. LAHNE

JAMES F. NEAL
OF COUNSEL

TELEPHONE
(202) 466-8464

TELECOPIER
(202) 466-8420

November 9, 1982

'15 AM 11:56

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.,
7th Floor
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

Enclosed is a copy of the issue of The Riveteer to which I referred in our telephone conversation on Monday, November 8, 1982, along with the pamphlet, "PAL can make it better!", that is referred to in The Riveteer article.

Again, I wish to offer our full cooperation in resolving this matter fully and completely. Please let us know if we can be of further assistance.

Sincerely,

Krista M. Fogleman

Krista M. Fogleman

Enclosure

8204036236 5

*****When each of us took our obligation, we swore: "I hereby agree to remain loyal to the principles and policies.....of the Sheet Metal Workers International Association, etc."----------

P.A.L: The majority of our members believe in the value of their word! Do you?

Enclosed are phamplets titled "PAL CAN MAKE IT BETTER!"

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LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.,
7th Floor
Washington, D.C. 20463

By Hand

Doc# 8679

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

MITCHELL ROGOVIN
HARRY HUGE
TERRY F. LENZNER
GEORGE T. FRAMPTON, JR.
JONATHAN D. SCHILLER
DAVID R. BOYD
RONNA LEE BECK
JANE C. BERGNER
EUGENE J. COMEY
VICKI C. JACKSON
KRISTA M. FOGLEMAN
SUSAN L. CARNEY
SAUL B. GOODMAN
RANDALL LEE SPECK
MICHAEL D. LOWE
SUSAN G. LAHNE

JAMES F. NEAL
OF COUNSEL

TELEPHONE
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(202) 466-8420

October 14, 1982

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HAND-DELIVERED

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.,
7th Floor
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

As we discussed, enclosed is the Affidavit of Richard L. Peck, submitted in connection with respondents' submission in the above-referenced matter.

Sincerely,

Krista M. Fogleman

Enclosure

County of Marion)
) SS
State of Indiana)

AFFIDAVIT

I, Richard L. Peck, being first duly sworn upon my oath, hereby state as follows:

I reside at 3012 St. Louis Ave., Fort Wayne, Indiana 46809. My telephone number is 219-747-6296 work: 219-478-1614. I am employed by Sheet Metal Workers Local 156 located at Fort Wayne, Indiana.

1. My elected position with Sheet Metal Workers' Local Union No. 156 ("Local 156") is business manager and financial secretary. Through those positions I am responsible for administrating the Apprentice Training Trust Fund and the Health and Welfare Trust Fund. I have been so employed in those positions for the past ten years. The Constitution and By-laws of the Sheet Metal Workers' International Association specify that the business manager has the authority to appoint stewards.

2. James Rosen has been and continues to be a member in good standing of Local 156. As far as I know he also maintains a position with the Joint Apprenticeship Committee ("JAC") as an apprentice welding instructor. The JAC hired him for that position. I believe he has had that position for the last two or three years. The JAC

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appoints instructors at the beginning of each school year and I understand that is when Rosen was appointed. I did not attend that meeting at which he was appointed. I sign Mr. Rosen's pay checks for instructing the apprentice welding classes, but I do that in my capacity as administrator of the Apprentice Training Trust Fund. The relationship between the Training Trust Fund and the JAC is that the JAC is funded by the Training Trust Fund. The JAC is comprised of 3 members appointed by the Fort Wayne Area Sheet Metal Contractors Association and 3 members appointed by Local 156. The JAC establishes the curriculum for the apprenticeship program, but the training trust fund trustees have the sole discretion to determine whether to fund the activities of the JAC, including the curriculum. There are two employer trustees and two union trustees of the Training Trust Fund and the trustees are myself, Greg Geise (President of Local 156), Leonard Johnson, Bill Graves (Johnson and Graves are trustees appointed by the Local 156 contractors who are signatory to Local 156 contracts). The monies for the Training Trust Fund are provided by the negotiated contribution rate of 19 cents per hour worked per employee.

3. The apprenticeship program, with respect to the welding instruction, include and are limited to third year apprentices. Beginning in September 1981, due to the

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decline of the economy and jobs, the number of third year apprentices also declined. Normally, the number of third year apprentices for one class is 10, which is the maximum. The minimum to teach a class is 6. Last year there were 12 applicants and they were split up and taught 6 in the first semester and 6 in the second semester. This year there were ten apprentices and they were all taught in the first semester. There was no apprentice welding class scheduled for the second semester of the 1981-82 school year.

4. I am aware of the January 8, 1982 letter sent out by K. James Miller, Secretary of the JAC, which scheduled a journeyman welding class, and which was scheduled in the time frame replacing the apprenticeship welding class. The letter indicates that the journeyman welding class was to have been taught by James Rosen. The union's position is that Mr. Miller was acting outside the scope of his authority in scheduling the class and accordingly I sent a letter to Robert Petrie of the contractors' association dated January 14, 1982 protesting his action in scheduling a journeyman welding class. Even if Mr. Miller was acting as an agent of the JAC, the JAC did not have the authority to schedule a journeyman class, without prior approval of the membership of Local 156. There is no past practice, and the contract is silent on the establishing of a

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journeyman welding class. The JAC had not scheduled a journeyman welding class previously. My letter of January 14 was the first step of the established grievance procedure. James Miller sent me letters dated February 2, 1982 and March 1, 1982 notifying me of a grievance against Local 156 in reference to this matter. Both of these grievances are subject to the binding arbitration clause in Article 10 of our collective bargaining agreement.

5. Mr. Rosen has not been terminated as instructor for the apprenticeship program. There is no apprenticeship welding class scheduled for the second semester. If there is another apprenticeship welding class taught, it is the authority of the JAC to hire the instructor.

6. The JAC is composed of an equal number of union members and employer members. Since the beginning of the 1981-82 school year, there has been disharmony in the JAC, above the normal amount. For the past several months there has not even been an approved set of minutes. The dispute over a journeyman welding class began as early as August 1981. The employer representatives wanted the journeyman classes and the union representatives resisted funding these classes, without prior approval from the membership. This matter has not been presented to the membership for a vote.

7. Since about June 1981 at each union meeting, I

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have held Political Action League ("PAL") contribution forms in the air and asked the membership to sign if anyone is interested. I do not ever recall asking or talking to James Rosen about a PAL card. I did not ask him to contribute to the PAL.

8. Sometime about October 7, 1981 Keith Platt and I visited the C. L. Schust Company. A union member, not Rosen, notified me that a lean-to type structure was being constructed on Schust's property using non-union labor. Six to eight months previously Rosen had been appointed by me as the union steward on the job and he was still serving in that capacity. I asked Rosen why he had not let us know about the building. He said "If you don't like the way I'm doing the steward's job, I quit." He pointed to another guy about 30 feet away and said "Go get Jim Shadle to do it." I said "You don't have to tell me you quit twice, I accept your resignation." I then left. The next day I called Bruce Winebrenner, who is owner of C. L. Schust, and soon thereafter, Local 156 members completed the lean-to job, replacing the non-union labor. Having accepted Rosen's resignation, I appointed Greg Geise as steward in a letter to Winebrenner dated November 6, 1981. The steward's job received no compensation but the steward does have super-seniority under the collective bargaining agreement. To the best of my knowledge, all representatives of Local 156 have acted properly as concerns Mr. Rosen and

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in accordance with their official duties.

9. I am aware of a dispute over the vacation fund contribution rate which is deducted from the employee by the employer and then deposited in the bank (Indiana Bank), in a Local 156 account. We have pension fund, health and welfare fund, vacation fund, training fund, industry fund. The bank notified me of a shortage in the vacation fund account sometime during October. It could have been about October 13, 1981. During the investigation of this shortage, it was learned that Schust Company was deducting different amounts from the employee's wages and they were over-deducting on six member's wages. At that time Schust Company had about 15 to 20 employees. It appeared that Schust was deducting over and above the 80 cents required by the collective bargaining agreement and reporting that amount to the bank, but depositing only the 80 cents. The error was a bookkeeping type error and it was corrected by the employer. I mailed a letter dated October 28, 1981 to Winebrenner notifying him of the names of the six employees and asking him to deduct the required amount only, (RP) [redacted] four of those six names had signed PAL cards AND (R.P.) (RP) [redacted] (RP) two (RP) [redacted] had not signed PAL cards, including Mr. Rosen.

10. The first session of the apprenticeship program ended January 20, 1982. The second session began January 23, 1982, which was for the program excluding the welding

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class. The welding class would have begun January 27, 1982 if there had been any apprentices for the class. I ordered the locks to the training center changed about January 21, 1982. The reason I changed the locks was because of several incidents of the training center being left in disarray following the welding classes on Wednesday nights. The other reason was that the employer members of the JAC were insisting we were going to have a journeyman welding class. After changing locks, I gave keys to the remaining two instructors and did not give a key to James Rosen. I can describe the incidents of the building being left in disarray if requested.

I have read the foregoing statement consisting of seven pages and declare it to be true and correct to the best of my knowledge and belief.

Signed: Richard Peck
Richard Peck

Subscribed to and sworn to before me this 13th day of October, 1982 in Fort Wayne, Indiana.

Signed: Helen E. Bowman
Notary Public

My commission expires on
July 21, 1985

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LAW OFFICES
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A PROFESSIONAL CORPORATION

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WASHINGTON, D.C. 20036

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

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October 14, 1982

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Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

Enclosed is the respondents' submission in the above-referenced matter. As we discussed this morning, the supporting affidavit will be provided to you as soon as it arrives from Indiana tomorrow.

Thank you for your courtesy in this matter. Please feel free to contact us if we can answer any additional questions.

Sincerely,

Krista M. Fogleman

Krista M. Fogleman

Enclosure

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October 14, 1982

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

Re: MUR 1470

Dear Mr. Gross:

We are counsel to the respondents in the above-referenced matter and file this response pursuant to 11 CFR 111.6(a).

Based on the facts set out below, we believe that no action should be taken against the respondents as the allegations set forth in Mr. Rosen's complaint are without merit and his recitation of events is, in many instances, incorrect. There was no connection between Mr. Rosen's voluntary decision not to contribute to the Sheet Metal Workers' International Association's Political Action League ("PAL") and the events, as described, relating to Mr. Rosen. In no way did the respondents harass, discriminate or take action against Mr. Rosen because of his decision not to contribute to PAL.

By way of background, Mr. Rosen has already made similar allegations to his International Union, the Sheet Metal Workers' International Association ("SMWIA"). Pursuant to SMWIA's Constitution, the union's governing

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document, an impartial International Trial Board was convened under the SMWIA's internal grievance procedures to hear testimony, make findings of fact and reach a decision. After a full review, the Trial Board concluded that Mr. Rosen had failed to prove the charges that he had made and recommended that the charges be dismissed. Mr. Peck was found not guilty on all issues and charges. 1/ Relevant portions of the Trial Board's Findings of Fact and Decision are attached.

Mr. Rosen also filed charges with the National Labor Relations Board ("NLRB") against Local 156 and the Joint Apprenticeship Committee ("JAC") of Local 156, alleging a violation under Section 8 of the National Labor Relations Act ("NLRA"), as amended. After full investigation and consideration, the Regional Director of the NLRB concluded that no "further proceedings on the charges are warranted inasmuch as there is insufficient evidence of violation" and the Regional Director refused to issue a complaint. Mr. Rosen's appeal to the full NLRB from the decision not to issue a complaint was similarly denied and the Regional Director's decision upheld.

While the focus of the International Trial Board's inquiry was on possible violations of the SMWIA Constitution, and the NLRB's focus was on violations of the labor laws, it is important to note that Mr. Rosen's allegations were substantially the same as the allegations made herein. Both the Trial Board and the NLRB credited Mr. Peck's description of the relevant events. The same description is provided below and in Mr. Peck's affidavit, submitted herewith, and it provides a solid basis for a recommendation to the Commission of no further action.

Mr. Peck Properly Solicited Voluntary Contributions to SMWIA-PAL

Mr. Peck solicited contributions from SMWIA members to PAL but he and all SMWIA officials are well aware of the requirements of voluntariness of contributions. In his affidavit, attached hereto, Mr. Peck states that, "at the beginning of each union meeting I have held up Political Action League ("PAL") contribution forms in the air and

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1/ Findings of Fact of International Trial Board regarding Richard L. Peck, August 2, 1982.

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asked the membership to sign if anyone is interested."2/ The FEC regulations require that a contribution to a separate segregated fund of a labor organization be voluntary. 11 CFR § 114.5. Mr. Peck's statement at the union meeting indicates his awareness that members' contribution must be made in conformity with FEC regulations.3/

In his affidavit, Mr. Peck states that he never made an oral solicitation for a PAL contribution to Mr. Rosen individual. 4/ Mr. Platt solicited a voluntary contribution rom Mr. Rosen but in no way acted improperly.

Actions that Mr. Rosen alleges evidence coercion or reprisal were found by the International Trial Board and the NLRB to be fully explained and to have been taken for easons unrelated in any way to PAL.

Mr. Rosen's Dismissal as Union Steward Is Unrelated to His Voluntary Decision Not to Contribute to PAL

As business manager and financial secretary of Local 156, Mr. Peck has the authority granted to business manager of local unions by the SMWIA Constitution to appoint union stewards.

Mr. Peck appointed Mr. Rosen to the position of union steward early in 1981.5/ As shop steward, Mr. Rosen received a super seniority status.6/ At that time, Mr. Rosen was not a contributor to PAL.

2/ Peck Affidavit, ¶7.

3/ SMWIA's solicitation of its members for contributions to PAL often results in members signing an authorization form. The form, a copy of which is attached, is in accord with FEC regulations relating to written solicitations. 11 CFR 114.5.

4/ Peck, ¶8.

5/ Id.

6/ Id.

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On October 7, 1981, Mr. Peck and Mr. Keith Platt, a business agent of Local 156, 7/ went to C.L. Schust Company to investigate the allegation of a member of Local 156 that non-union workers were doing sheet metal work on a structure being built at Schust's shop. 8/ When Mr. Peck questioned Mr. Rosen, as the job steward, asking him why he had not been notified of the non-union activity, Mr. Rosen replied, "If you don't like the way I am doing the steward's job, I quit."9/ Mr. Peck accepted Mr. Rosen's resignation. 10/ Mr. Peck's acceptance of Mr. Rosen's resignation as steward was therefore motivated solely by Mr. Rosen's failure to fully perform his duties as steward and had no connection with any contribution or solicitation of contributions to PAL.

Both the International Trial Board and the NLRB, in considering this allegation, credited Mr. Peck's description of the events. "The International Trial Board finds the accused [Peck] removed Brother Rosen from his office as union steward because Brother Rosen (by Brother Rosens' [sic] own admission) told Brother Peck that Brother Peck could replace him if he didn't like the job he (Brother Rosen) was doing." 11/ Furthermore, the Trial Board found that "Brother Rosen relinquished his position of his own accord." 12/ An identical decision was reached by the NLRB in its Summary Report. 13/

7/ In SMWIA locals, business managers are generally the senior elected full time officials of local unions and locals may also elect one or more business representatives. SMWIA Constitution, Article Twelve, Section 2.

8/ Peck Affidavit, ¶8; see also Findings of Fact of International Trial Board.

9/ Id.

10/ Peck Affidavit, ¶8.

11/ Findings of Fact of International Trial Board.

12/ Id.

13/ NLRB Summary Report

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Mr. Rosen Was Not Dismissed as a Welding Instructor; The Welding Class He Was To Teach Was Cancelled for Reasons Entirely Unrelated to Mr. Rosen or his Activities

With respect to the allegation that Mr. Rosen was removed from his position as instructor of the welding class, Mr. Rosen was not removed from the position--there was simply no need for him due to the cancellation of the class he was to teach. Contrary to his complaint that Mr. Peck removed him from his instructor's position, it is clear that all decisions regarding his position as instructor were made by the JAC and for reasons unrelated to any action of Mr. Rosen. Mr. Rosen has stated that he "had been approved to teach the welding class by the Joint Apprenticeship Committee which was in charge of the class."14/ He concedes that he was hired by the Joint Apprenticeship Committee,15/ and he could presumably only be fired by the JAC. The Trial Board subsequently found that Mr. Rosen's removal "was not done by Brother Peck but by the Joint Apprenticeship Committee on which Brother Peck does not serve." 16/

Mr. Peck, in his affidavit, explains the rescheduling of the welding classes.17/ The Trial Board found Mr. Peck's description to be correct and found that "the class was cancelled because a special welding trailer was being used in Lafayette, Indiana and that the Local #156 members were going to use the trailer for training."18/

Moreover, the Joint Apprenticeship Committee made the decision not to offer the journeyman's welding class during the Spring semester of 1982 for reasons entirely unrelated to Mr. Rosen.

14/ Rosen Complaint to FEC, p. 2.

15/ Id.

16/ Findings of Fact of International Trial Board.

17/ Peck Affidavit, ¶3 and 4.

18/ Findings of Fact of International Trial Board.

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The NLRB Summary Report concluded that Mr. Rosen's "not being needed as a welding instructor. . . was not predicated on his not signing up to the PAL fund." 19/ The facts as adopted by the NLRB and the International Trial Board and as stated in Mr. Peck's affidavit, demonstrate that no journeyman's welding class was held during the Spring semester. The Committee's reason for reaching that decision related entirely to the decline in jobs, economy and the resulting lack of student enrollment. There is no evidence that the class was cancelled in reasponse to any actions of Mr. Rosen.

Although Mr. Rosen alleges that Mr. Peck terminated him as an instructor for the apprenticeship program, it is clear Mr. Peck did not do so and, indeed, was not in a position to do so. Moreover, the Joint Apprenticeship Committee did not terminate Rosen as an instructor; only the class was cancelled. If the class is reinstated, the JAC will again hire an instructor.

Mr. Rosen's charges of removal from the welding instructor position for any reason related to his decision not to contribute to PAL are ungrounded and not supported by the facts.

There Is No Causal Relationship Between the Locks Being Changed on the Training Center and Mr. Rosen's Decision Not to Make Voluntary Contributions to SMWIA-PAL

In his affidavit, Mr. Peck fully explains the reasons for changing the locks on the apprenticeship training center. First, he states, the locks were changed at the end of the first session of the apprenticeship program due to "several incidents of the building being left in disarray following the welding classes. . . ."21/ Mr. Peck's second reason for changing the locks stemmed from the insistance

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19/ Summary Report.

20/ Peck Affidavit, ¶10.

21/ Id.

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of the employer members of the Joint Apprenticeship Committee that there be a particular type of training class offered.22/ Prior to this time there had been considerable disagreement between the employer and union members of the JAC. 23/ When the locks were changed, Mr. Peck did give keys to the instructors teaching in the classes actually held in the second training session.24/ In addition, the Trial Board found that Mr. Rosen had never asked Mr. Peck for keys to the building.25/

Neither Of the Other Charges Are Supported by the Evidence

Regarding Mr. Rosen's allegation that he was the subject of an investigation by the Local 156 Executive Board, "investigation" is an inaccurate characterization of the actual events. Upon learning that Mr. Rosen was involved in some manner in the conflict between the union members and the employer members of the JAC, the Executive Board asked Mr. Rosen to appear before the Board to inform the Board about his involvement, if any. Mr. Rosen failed to appear at that meeting of the Board and no further action was taken.

Regarding the articles in "The Riveteer", a local union publication, Mr. Peck regularly writes short pieces on PAL, sometimes listing that Local 156 members who have contributed to PAL and encouraging other members to contribute. Those pieces contain no improper solicitation or harassment. Copies of these items can be provided, if requested, for review.

22/ Id.

23/ Id.

24/ Id.

25/ Findings of Fact of International Trial Board.

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Conclusion

Mr. Rosen has complained about a number of events which he alleges constituted reprisals or harassment for his voluntary decision not to contribute to PAL. Yet the events he describes were completely unrelated to his decision, a decision that was made voluntarily and with which the respondents did not interfere. An internal union disciplinary proceeding and an NLRB investigation both failed to credit Mr. Rosen's description of the events and credited Mr. Peck's description. It is clear that the respondents acted properly and in compliance with the Act and the Commission's regulations.

For all the reasons set out above, it should be recommended to the Commission that no further action be taken.

Please feel free to contact us if any additional questions arise.

Very truly yours,

Harry Huge

Harry Huge
Counsel to Respondents

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ATTACHMENTS TO RESPONSE

MUR 1470

1. Relevant Portions of Findings of Fact and Decision of SMWIA International Trial Board, August 2, 1982.

2. SMWIA-PAL Authorization Card

3. Affidavit of Richard L. Peck

4. NLRB Charge Against Labor Organization or Its Agents, Case No. 25-CB-4834.

5. NLRB Charge Against Employer, Case No. 25-CA-14269.

6. NLRB Summary Report, dated March 25, 1982.

7. NLRB Denial of Appeal, dated May 27, 1982.

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ALL-STATE LEGAL SUPPLY CO. 269 SHEFFIELD STREET, MOUNTAINSIDE, N.J. 07092

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DECISION OF INTERNATIONAL TRIAL BOARD

Trial of Richard L. Peck
Membership no. 381065
3012 St. Louis Avenue
Fort Wayne, Indiana 46809

*****

FINDINGS OF FACT

It should be noted that the charging party did not include in his allegations and charges the sections of the Constitution alleged to have been violated, as required by the Constitution, Article 18, Section 1(b). The Trial Board discussed this issue and decided to decide on the allegations and the possible sections of the Constitution that had been involved.

The International Trial Board finds that the accused removed Brother Rosen from his office as Union Steward because Brother Rosen (by Brother Rosens' own admission) told Brother Peck that Brother Peck could replace him if he didn't like the job he (Brother Rosen) was doing. Brother Peck was investigating a problem at the shop where Brother Rosen worked and was Steward. The problem involved non-union workers doing sheet metal work on a small building where Brother Rosen worked. Brother Peck wanted to know why Brother Rosen had not contacted him about the problem. Therefore Brother Rosen response was if you don't like the job I'm doing you can replace me. Brother Rosen relinquished his position of his own accord.

The International Trial Board finds that Brother Rosens' removal as welding instructor was not done by Brother Peck but, by the Joint Apprenticeship Committee on which Brother Peck does not serve. The Board finds that the class was cancelled because, a special welding trailer was being used in Lafayette, Indiana and that Local #156 members were going to use the trailer for training. Brother Rosen (by his own admission) said that he was going to take the welding classes in Lafayette and when asked if he asked Brother Peck for keys to the building he said no.

*****

The International Trial Board finds that Brother Rosen was requested to appear before the Local Executive Board on March 1, 1982. The Trial Board finds that Brother Peck does not serve on the Executive Board and can not find any evidence submitted to show that, Brother Peck was the cause of any harassment through an investigation.

DECISION

After the Trial was completed the Trial Board conferred for approximately four hours regarding the testimony of the witnesses the documentary evidence and validity of the charges that had been presented. The Trial Board recessed.

When no transcript of the proceeding was provided by Brother Rosen, the Trial Committee, in reliance of its' minutes, the testimony of the witnesses and the documentary evidence, prepared its' findings of fact.

The Trial Board concluded that Brother Rosen had failed to prove the charges that had been made and recommend that the charges be dismissed.

The International Trial Board finds the accused not Guilty on all issues and charges.

*****

Date: August 2, 1982

Respectfully submitted,

Michael J. Sullivan

Michael J. Sullivan, Chairman

Arthur Parady, Secretary

Lonnie Allec, Trial Board Member

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ALL STATE LEGAL SUPPLY CO. ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

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SMWIA PAL Authorization Card

SMWIA PAL FUND

I hereby authorize the Employer to deduct from my pay-check two cents (.02) for each hour worked, and to forward that amount to the PAL Political Fund. This authorization is signed voluntarily and with the understanding that the SMWIA PAL and/or COPE Political Fund will use this money to make political contributions and expenditures in connection with federal, state and local elections. I am aware that the contribution is subject to the prohibitions and limitations of the Federal Election Campaign Act, that the suggested 2 cents an hour donation is only a guideline and that I am free to contribute more or less than the suggested amount without reprisal. This authorization may be revoked at any time by mailing notices of revocation by U.S. Registered or Certified Mail, Return Receipt Requested, to the Treasurer, PAL Political Committee, 1750 New York Avenue, N.W., Washington, D.C. 20006, and to the Employer.

_____
Authorized Signature

Address _____
Street City State Zip

Local Union No. _____ Membership No. _____

LOCAL UNION'S COPY

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ALL STATE LEGAL SUPPLY CO. ONE COMMERCE DRIVE, CRANFORD, NEW JERSEY 07016

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FORM NLRB-508 (4-73)

FORM EXEMPT UNDER 44 U.S.C. 3512

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No. 25-CB-4834

Date Filed 03-08-82

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name: Sheet Metal Workers Local Union No. 156

b. Union Representative to Contact: Richard Peck

c. Phone No.: (219) 478-1614

d. Address (Street, city, State and ZIP code): P.O. Box 9158, Fort Wayne, IN 46899

e. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (1) and (2) (List Subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

In addition to my regular job at C.L. Schust, where I was the union steward, I was also employed as a welding instructor by the Joint Apprenticeship Committee. This Committee has both union and management representatives.

On October 7, 1981, after I refused to sign up for the union's Political Action League ("P.A.L."), Mr. Richard Peck, Business Manager of the union, informed me that I would no longer be shop steward or an instructor for the Joint Apprenticeship Committee.

The Committee never took steps to remove me from the instructor position, but the union made it impossible for me to perform such duties by changing the locks on the doors and not giving me a key, as they did for the other instructors.

All of the above acts and other forms of discrimination were imposed upon me solely because of my refusal to sign up for P.A.L.

3. Name of Employer: Joint Apprenticeship Committee

4. Phone No.: (219) 478-1048

5. Location of Plant Involved (Street, city, State and ZIP code): P.O. Box 9158, Ft. Wayne, IN 46899

6. Employer Representative to Contact: --

7. Type of Establishment (Factory, mine, wholesaler, etc.):

8. Identify Principal Product or Service: Apprenticeship Training

9. No. of Workers Employed: 5

10. Full Name of Party Filing Charge: James E. Rosen

11. Address of Party Filing Charge (Street, city, State and ZIP code): R. R. #1, Box 323, Andrews, IN 46702

12. Telephone No.: (219)786-3162

13. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By James E. Rosen (Signature of representative or person making charge)

(Title or office, if any)

Address R.R. #1, Box 323, Andrews, IN 46702 (219) 786-3162 (Telephone number) 3-3-82 (Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

GPO 899-373

ALL-STATE LEGAL SUPPLY CO. 200 SHEFFIELD STREET, MOUNTAINSIDE, N.J. 07092

88126

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FORM NLRB 501
(2-81)

8 2 0 4 3 2 9 6

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

I.O.

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

CASE NO.	DATE FILED
25-CA-14269	02-11-82

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. NAME OF EMPLOYER: Sheet Metal Workers Local Union No. 156

b. NUMBER OF WORKERS EMPLOYED: 6

c. ADDRESS OF ESTABLISHMENT (street and number, city, State, and ZIP code): P.O. Box 9158 Fort Wayne, In. 46899-0158

d. EMPLOYER REPRESENTATIVE TO CONTACT:

e. PHONE NO.: 478-1614

f. TYPE OF ESTABLISHMENT (factory, mine, wholesaler, etc.): Union Local

g. IDENTIFY PRINCIPAL PRODUCT OR SERVICE: Local Union Meeting Hall & Training Ctr.

h. THE ABOVE-NAMED EMPLOYER HAS ENGAGED IN AND IS ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8(a), SUBSECTIONS (1) AND _____ OF THE NATIONAL LABOR RELATIONS ACT, (list subsections)

AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT.

2. BASIS OF THE CHARGE (be specific as to facts, names, addresses, plants involved, dates, places, etc.)

On or about October 7, 1981, I was informed by Mr. Richard Peck, Business Manager, Sheet Metal Workers Local 156, (above address), that I would no longer be shop steward or employed as Welding Instructor for the Local.

I was not given written notification of this fact until after the first class for 1982 was assembled to meet and the locks on the doors of the Union Hall had been changed. The letter of notification was taped to the shop door. This was on January 27, 1982.

This all came about as I would not sign up for P.A.L. (Political Action League), which is suppose to be a voluntary contribution.

BY THE ABOVE AND OTHER ACTS, THE ABOVE-NAMED EMPLOYER HAS INTERFERED WITH, RESTRAINED, AND COERCED EMPLOYEES IN THE EXERCISE OF THE RIGHTS GUARANTEED IN SECTION 7 OF THE ACT.

3. FULL NAME OF PARTY FILING CHARGE (if labor organization, give full name, including local name and number): James E. Rosen

4a. ADDRESS (street and number, city, State, and ZIP code): R.R. #1 Box 323, Andrews, Indiana 46702

4b. TELEPHONE NO.: 219-786-3162

5. FULL NAME OF NATIONAL OR INTERNATIONAL LABOR ORGANIZATION OF WHICH IT IS AN AFFILIATE OR CONSTITUENT UNIT (to be filled in when charge is filed by a labor organization): Sheet Metal Workers International Association

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By James E. Rosen (signature of representative or person filing charge) _____ (title, if any)

Address R.R. #1 Box 323, Andrews, In. 46702 219-786-3162 (telephone number) 2/8/82 (date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

ALL-STATE LEGAL SUPPLY CO. 289 SHEFFIELD STREET, MOUNTAINSIDE, N.J. 07092

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LU#156 REC'D MAR 27 1982

NATIONAL LABOR RELATIONS BOARD

REGION 25
Room 238, Federal Office Building
575 North Pennsylvania Street
Indianapolis, Indiana 46204

Telephone (317) 269-7381

MAR 25 1982

Gallucci, Hopkins & Theisen, P.C.
Attn: Steven D. Haaser/William Hopkins
600 Lincoln Bank Tower
Fort Wayne, IN. 46802

RE: SHEET METAL WORKERS LOCAL UNION NO. 156
CASE NO. 25-CA-14269
SHEET METAL WORKERS LOCAL UNION NO. 156
CASE NO. 25-CB-4834
(Joint Apprenticeship Committee)

Gentlemen:

The above-captioned cases charging a violation under Section 8 of the National Labor Relations Act, as amended, have been carefully investigated and considered.

As a result of the investigation it does not appear that further proceedings on the charges are warranted inasmuch as there is insufficient evidence of violation (see attached Summary Report). I am, therefore, refusing to issue complaint in these matters.

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action according to the enclosed instructions. This appeal must be received by the close of business on or before APR 7 1982.

Very truly yours,

Robert K. Gentry
Acting Regional Director

Enclosures: Notice of Appeal
NLRB Form 4938

CERTIFIED MAIL NO: 1106325
RETURN RECEIPT REQUESTED

cc: General Counsel, Attn: Office of Appeals, NLRB, Washington, DC 20570

Sheet Metal Workers Local Union No. 156, P.O. Box 9158, Fort Wayne, IN. 46899-0158
Fillenwarth, Dennerline & Groth, Attn: William R. Groth, Suite E6A, 6919 E. 10th St., Indianapolis, IN. 46219
Sheet Metal Workers Int'l. Assoc., Attn: Lonnie Bassett, Dir. Organ., 1750 New York Ave., Washington, D.C. 20006
Sheet Metal Workers Int'l. Assoc., Attn: Raymond Messer, Reg. Dir., Region 2, 4030 Mt. Carmel, Tobasco Road, Suite 219, Cincinnati, OH. 45230
Sheet Metal Workers Int'l. Asso., Attn: Roy F. Stringer, Int'l. Org., 642 Wallbridge Dr., Indianapolis, IN. 46241
James E. Rosen, R.R. #1, Box 323, Andrews, IN. 46702
Joint Apprenticeship Committee, P.O. Box 9158, Fort Wayne, IN. 46899

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Summary Report

Charging Party, James E. Rosen, alleges that he was removed from his appointed position as shop steward and as a welding instructor in the Joint Apprenticeship Committee program by representatives of Sheet Metal Workers Local Union No. 156 by reason of his refusal to sign up to contribute to the Political Action League (PAL), which is a collection of funds contributed by donors at the rate of 2¢ per hour worked to be used by the Local Union in making political contributions in connection with Federal, State and Local elections. Additionally, Rosen also alleges the Local Union and/or its agents opposed having Rosen's employer deduct more than the standard amount from employees' checks for their vacation fund, and changed the locks on the doors of the building where the welding classes were to be held by reason of his not volunteering to contribute to the Union sponsored PAL fund.

The investigation of the above-noted allegations disclosed that on or about October 7, 1981, Rosen and Richard L. Peck, Business Manager and Financial Secretary of the Local Union, were engaged in conversation during which Peck questioned Rosen about why he had not, in his capacity as Union Steward, advised him about his employer using non-union labor in building a small structure then under construction. Rosen admits he advised Peck if he didn't like the job he was doing as Steward to replace him. Rosen and Peck are in agreement that Rosen, by his own admission, relinquished his position of Steward of his own accord.

Regarding Rosen's removal as welding instructor, the evidence discloses that no apprentice welding class was scheduled for the 1982 Spring semester. It was also determined that the employer and union committee members of the Joint Apprenticeship Committee were at odds about establishing and holding a journeyman's welding class during the Spring semester of 1982 and thus no such course was initiated. It becomes apparent, therefore, that Rosen's services were not needed as a welding instructor. The evidence does not support the allegations that the welding classes were suspended by reason of any protected and/or concerted activity in which Rosen was engaged.

It was also determined by the investigation that while the union officers did oppose having more than the standard vacation deduction taken from the checks of Rosen and the other employees, such opposition was based on accounting errors caused at the bank to which the monies were deposited and not by reason of Rosen's refusal to participate in the PAL fund. Of the 6 employees affected by the return of the normal vacation fund deduction, 4 had signed up for PAL deductions and 2 had not.

Based on the events described above, it is determined that Rosen's removal as Union Steward and his not being needed as a welding instructor, together with the Union's request to change back to the normal deduction for his vacation fund was not predicated on his not signing up for the PAL fund or any other activity deemed to be in violation of the Act.

Accordingly, the charges are dismissed.

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ALL-STATE LEGAL SUPPLY CO. 289 SHEFFIELD STREET, MOUNTAINSIDE, N.J. 07092

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NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, D.C. 20570 May 27, 1982

Re: Sheet Metal Workers Local
Union No. 156
Cases Nos. 25-CA-14269
25-CB-4834

Steven D. Hesser, Esq.
Callwood, Hopkins & Theisen, P.C.
600 Lincoln Bank Tower
Ft. Wayne, Indiana 46802

Dear Mr. Hesser:

Your appeal in this matter has been duly considered.

The appeal is denied substantially for the reasons set forth in the Summary Report attached to the Acting Regional Director's letter dated March 25, 1982. In concluding that Mr. Rosen had resigned his job as steward, particularly noted was his admission that, after the Business Manager's complaint of his failure to report the C.D. Schust Company's use of non-union labor, he replied that the Business Manager could replace him if he did not like the job he was doint as steward. Furthermore, a union is privileged to select its own stewards if it breaches no statutory proscription. See Shoemaker, Inc., 237 NLRB 1355.

With reference to the Union's preventing Mr. Rosen from teaching a journeymen's welding class, there was substantial evidence that this action was motivated by an internal dispute among members of the Joint Apprenticeship Committee, his employer. While the Union formed 50% of this Committee, the Fort Wayne area Sheet Metal Contractor's Association, Inc. formed the other 50%. The committee's dispute involved the question of what kind of class should be conducted and had not been resolved as of the time when the Union notified Mr. Rosen of the cancellation of his class.

The decisions cited, Laborers Local 731, 246 NLRB No. 108, and Painters Local 1127, 232 NLRB 820 were deemed inapposite. The former involved a union's unlawful fine for refusal to breach a binding no-strike clause and the latter case involved an attempt to cause an employee to pay a union fine, in both instances the unions affected the employees' employment by causing their discharge. Here Mr. Rosen's employment with the C.D. Schust was not affected at all and his lack of employment with J.A.C. was because his services were no longer needed.

Accordingly, further proceedings were deemed unwarranted.

Very truly yours,

William A. Lubbers
General Counsel

By Ronald M. Slatkin
Ronald M. Slatkin
Acting Director
Office of Appeals

cc: Director, Region 25
Sheet Metal Workers Local Union #156, PO Box 9158, Ft. Wayne, Indiana 46899-0158
Fillenwarth, Dennerline & Groth, Suite E6A, 6919 E. 10th Street, Indianapolis, Indiana 46219 Attn: William R. Groth, Esq.
Sheet Metal Workers Int'l Assn., 1750 New York Avenue, Washington, DC 20006 Attn: Mr. Lonnie Bassett, Dir. Organ.
Sheet Metal Workers Int'l Assn., 4030 Mt. Carmel Tobasco Road, Suite 219, Cincinnati, Ohio 45230 Attn: Mr. Raymond Messer, Reg. Dir., Region 2
Sheet Metal Workers Int'l Assn., 642 Wallbridge Dr., Indianapolis, Indiana 46241 Attn: Mr. Roy F. Stringer, Int'l Org.
James E. Rosen, R.R. #1, Box 323, Andres, Indiana 46702
Joint Apprenticeship Committee, PO Box 9158, Ft. Wayne, Indiana 46899

8204036 2402

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION

1730 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.,
7th Floor
Washington, D.C. 20463

HAND-DELIVERED

9040362400

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

WASHINGTON D.C. 30 SEP 1982

RECEIVED FEC 02 OCT 1 P1:37

Mr. Michael Dymersky
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

202917

RECEIVED AT THE FEC
Doc # 8575
82 OCT 1 P1:07

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

MITCHELL ROGOVIN
HARRY HUGE
TERRY F. LENZNER
GEORGE T. FRAMPTON, JR.
JONATHAN D. SCHILLER
DAVID R. BOYD
RONNA LEE BECK
JANE C. BERGNER
EUGENE J. COMEY
VICKI C. JACKSON
KRISTA M. FOGLEMAN
SUSAN L. CARNEY
SAUL B. GOODMAN
RANDALL LEE SPECK
MICHAEL D. LOWE
SUSAN G. LAHNE

JAMES F. NEAL
OF COUNSEL

TELEPHONE
(202) 466-6464

TELECOPIER
(202) 466-6420

82 OCT 1 P2:31

September 30, 1982

Michael Dymersky
Office of General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

We are counsel to Richard Peck, Keith Platt and Sheet Metal Workers' Local Union No. 156, respondents in the above-referenced matter.

Enclosed is the Statement of Designation of Counsel form showing this firm and William Groth, Esquire as counsel.

This letter will also confirm your statement to me that an extension of time to file a response to the charges until October 12, 1982 is proper and will not cause the respondents to waive any rights they have.

Thank you for your courtesy.

Sincerely,

Krista M. Fogleman

cc: Richard Peck
Keith Platt
Local 156
William Groth, Esq.

82040362405

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL:	Mr. Harry Huge Rogovin, Huge & Lenzner	(and)	Mr. William Groth Fillenwarth, Dennerline & Groth
ADDRESS:	1730 Rhode Island Ave.N.W. Washington, D. C. 20036		6919 E. 10th Street Suite E6A Indianapolis, Ind. 46219
TELEPHONE:	(202)466-6464		(317)353-9363

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

MUR 1470

September 27, 1982
Date

Richard Peck
Signature
Richard Peck

NAME: Richard Peck, Keith Platt, and Sheet Metal Workers Local Union No. 156

ADDRESS: P. O. Box 9158
Fort Wayne, Indiana 46899

HOME PHONE: (219)747-6298 (Peck) - (219)758-3281 (Platt) - (219)478-1614 (Local)

BUSINESS PHONE: (219)478-1614

8204036240 6

MUR # 1470
DATE 9/12/82

PLEASE PROVIDE THE NAMES AND ADDRESSES OF ALL RESPONDENTS WHICH ARE TO BE SENT A COPY OF THE COMPLAINT. IF A PRINCIPAL CAMPAIGN COMMITTEE IS A RESPONDENT, A CARBON COPY IS TO BE SENT TO THE CANDIDATE. PLEASE PROVIDE THE NAME AND ADDRESS OF THE CANDIDATE AND PUT A "CC" BESIDE THE CANDIDATE'S NAME. IF A CANDIDATE IS A RESPONDENT, A CARBON COPY IS TO BE SENT TO THE CANDIDATE'S PRINCIPAL CAMPAIGN COMMITTEE. PLEASE PROVIDE THE NAME AND ADDRESS OF THE PRINCIPAL CAMPAIGN COMMITTEE AND PUT A "CC" BESIDE THE COMMITTEE'S NAME. PLEASE PROVIDE THIS INFORMATION, ON THIS SHEET, WITHIN 24 HOURS OF RECEIPT OF THIS NOTICE. THANK YOU.

Richard Peck
Business Manager
S M W Union Local 156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

Keith Platt
Business Agent
S M W Union Local 156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

Sheet metal Workers Union
Local No. 156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

8204036240 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 21, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Richard Peck, Business Manager
Sheet Metal Workers Union
Local #156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

Re: MUR 1470

Dear Mr. Peck:

This letter is to notify you that on September 16, 1982, the Federal Election Commission received a complaint which alleges that your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1470. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. For your information, we have recieved your letter of September 8, 1982.

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

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

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If you have any questions, please contact Michael Dymersky, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

6204036240 9

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 21, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Keith Platt, Business Agent
Sheet Metal Workers Union
Local #156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

Re: MUR 1470

Dear Mr. Platt:

This letter is to notify you that on September 16, 1982, the Federal Election Commission received a complaint which alleges that your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1470. Please refer to this number in all future correspondence.

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0 2 0 4 0 3 0 2 4 1 0

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

6204036241 1

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 21, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sheet Metal Workers Union
Local #156
P.O. Box 9158
Fort Wayne, Indiana 46899-0158

Re: MUR 1470

Dear Sir/Madam:

This letter is to notify you that on September 16, 1982, the Federal Election Commission received a complaint which alleges that your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1470. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. For your information, we have recieved your letter of September 8, 1982.

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

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

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If you have any questions, please contact Michael Dymersky, the staff member assigned to this matter at (202) 523-4057. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

6204036241 3

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 17, 1982

Mr. James Rosen
3997N-825W
Andrews, Indiana 46702

Dear Mr. Rosen:

This letter is to acknowledge receipt of your complaint of September 10, 1982, against the Sheet Metal Workers Local Union #156 which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Steven Barndollar at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

82040362414

Gcc# 8477

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAL OCCURRENCE

2 SEP 16 P2:06

3997N-825W
Andrews, Indiana 46702
September 10, 1982

SEP 16 P2:26

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Dear Sirs:

I am a member of Sheet Metal Workers Local Union No. 156, Fort Wayne, Indiana. Representatives of this Local have been soliciting its members for contributions to P.A.L. (Political Action League). Contributions to P.A.L. are used to support candidates for political office at the federal, state and local level. Some member-contributors told me that they thought they were donating to the Police Athletic League. It is my belief that Local No. 156 was also obtaining contributions through the use of job discrimination and on-the-job verbal harassment. Despite this harassment, I refused to contribute to P.A.L.

Consequently, I have been subjected to dismissal as a Welding Instructor of Local No. 156 by Mr. Richard Peck, Business Manager of Local No. 156, P.O. Box 9158, Fort Wayne, Indiana 46899-0158, and also I was removed as Union Steward of Local No. 156 at my employer, C.L. Schust, Inc., 2520 Charleston Place, Fort Wayne, Indiana.

The following is a brief history of the actions which occurred due to my refusal to contribute to P.A.L.:

After I refused to sign up on several previous occasions, Mr. Keith Platt, Business Agent, Local No. 156, solicited me by telephone at C.L. Schust, Inc. on October 7, 1981, for my contribution to P.A.L. Upon my refusal, Mr. Platt informed me that by not contributing some changes would have to be made. At that time, I told Mr. Platt that if I was fired from my position as Welding Instructor, Local No. 156, that I would sue them. About twenty minutes after that telephone conversation, Mr. Platt and his boss, Mr. Peck, arrived at my employer's location and I was relieved of the positions of Union Steward and Welding Instructor, Local No. 156, by Mr. Peck. You can verify this by asking Mr. Jim Rust, a C.L. Schust foreman, about the content of the telephone conversation, since Mr. Platt mistakenly thought he

62040362415

was speaking to me but, in fact, was speaking to Mr. Rust at the outset of the phone conference.

I had already been approved to teach the welding class by the Joint Apprenticeship Committee which was in charge of the class. However, since the class was taught in the Union Hall, the Union changed the locks and gave new keys to all instructors except me. To verify this information, you may contact K. James Miller, Jr., J.A.C. Secretary, C. Miller & Sons, Inc., 4136 West Washington Center Road, Fort Wayne, Indiana.

I have been harassed once on the job by Mr. Platt for a period of about ten to fifteen minutes, about how I was acting like a non-union member and how I could get back in the good graces of the Union by contributing to P.A.L.

I was also the subject of an investigation conducted by the Executive Committee, Local No. 156, for no apparent reason.

The Union monthly publication, "The Riveteer", written and edited by Mr. Peck, has several times published references to P.A.L. and also on occasion published demeaning remarks as to those of us who have not contributed to P.A.L.

This letter has been a brief summary of events which highlight some of the discrimination to which I and others have been subjected, and I would appreciate your investigating all the practices of Local No. 156 with respect to the manner in which it has been soliciting P.A.L. contributions.

Thanking you in advance for your consideration, I am

Very truly yours,

James E. Rosen

James E. Rosen

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I swear and affirm that the above and foregoing representations are true and correct to the best of my knowledge and belief.

James E Rosen
James E. Rosen

State of Indiana)
) SS:
County of Allen)

Subscribed and sworn to before me this 10th day of September, 1982, by Mr. James E. Rosen.

Nancy B Hopkins
Notary Public, Written Signature

NANCY B HOPKINS
Notary Public, Printed Signature

My Commission Expires: 12/15/85
County of Residence: Allen

02040365247

James E. Rosen
3997N-825W
Andrews, IN 46702

FORT WAYNE, IN
PM
10 SEP
1982
468

0662

Federal Election Commission
1325 K Street, N.W.
Washington, DC 20005

82 SEP 16 P 1:37

82040028118

FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 1470

Date Filmed 12/20/82 Camera No. --- 2

Cameraman SPC

FEDERAL ELECTION COMMISSION

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

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1470.

83040374267

Ccc#9015

R. R. 1, Box 323
Andrews, Indiana 46702
November 24, 1982

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 1470

Dear Mr. Gross:

I am deeply disappointed that the Commission has decided to close the file on this matter. I still believe that there was a violation of the Act. Since your finding of no violation was based upon information provided by the Respondents, I should have an opportunity to rebut that information. I am therefore requesting that I be furnished with a copy of the information supplied by the Respondents. I feel that this is only fair since they were given a copy of my charges. Furthermore, such information may reveal new facts of which I am not aware and will be of great aid in determining whether to seek judicial review.

Very truly yours,

James Rosen

James Rosen

8304057426 8

Mr. Kenneth A. Gross
Associate General Counsel
Federal Election Commission
Washington, DC 20463

02 NOV 29 A9:24

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

END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1470.

33040574270

FEDERAL ELECTION COMMISSION

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

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1470.

83040383139

204128 RECEIVED BY FEC Cat# 9559

83 FEB 24 P1:52

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

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TERRY F. LENZNER
GEORGE T. FRAMPTON, JR.
JONATHAN D. SCHILLER
DAVID R. BOYD
RONNA LEE BECK
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VICKI C. JACKSON
KRISTA M. FOGLEMAN
SUSAN L. CARNEY
SAUL B. GOODMAN
RANDALL LEE SPECK
MICHAEL D. LOWE
SUSAN G. LAHNE

JAMES F. NEAL
OF COUNSEL

TELEPHONE
(202) 466-6464
TELECOPIER
(202) 466-6420

83 FEB 24 P2:26

February 22, 1983

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

In a letter dated November 17, 1982, Kenneth A. Gross, Esquire, of your office, notified this firm that the Federal Election Commission ("Commission") determined that there is no reason to believe that a violation of any statute within its jurisdiction had been committed by our clients, Richard Peck, Keith Platt and Sheet Metal Workers' International Association's Political Action League ("SMWIA-PAL"). Mr. Gross further indicated that the SMWIA-PAL authorization card submitted to the Commission in a letter of response on behalf of our clients does not make it clear that solicited union members have a right to refuse to contribute at all without reprisal.

In light of your notification, we have modified the SMWIA-PAL authorization card accordingly. Please find a sample card for your files that expressly states, "I am free to contribute more or less than the suggested amount without reprisal and the SMWIA and its affiliated union will not favor or disadvantage me by reason of the amount of my contribution or my decision not to contribute."

Please let me know if any additional questions arise.

Sincerely,

Krista M. Fogleman

Enclosure
cc: Kenneth A. Gross, Esq.

83040583110

VOLUNTARY AUTHORIZATION OF CONTRIBUTION FROM PAYROLL TO THE SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION POLITICAL ACTION LEAGUE ("SMWIA-PAL")

I hereby authorize my Employer to deduct from my paycheck two cents ($0.02) for each hour worked, and to forward that amount to SMWIA-PAL. This authorization is signed voluntarily and with the understanding that my voluntary contributions to SMWIA-PAL and/or AFL-CIO Committee on Political Education Political Contribution Committee "(COPE-PCC)" will be used to make political contributions and expenditures in connection with federal, state and local elections. I am aware that the contribution is subject to the prohibitions and limitations of the Federal Election Campaign Act, that the suggested two cents ($0.02) an hour donation is only a guideline, that I am free to contribute more or less than the suggested amount without reprisal and the SMWIA and its affiliated local unions will not favor or disadvantage me by reason of the amount of my contribution or my decision not to contribute. This authorization may be revoked at any time by mailing notices of revocation by U.S. Registered or Certified Mail, Return Receipt Requested, to the Treasurer, SMWIA-PAL, 1750 New York Avenue, N.W., Washington, D.C. 20006, and to my Employer.

_____
Authorized Signature

_____
Name (Please Print or Type)

Address _____
Street City State Zip

Local Union No. _____ Membership No. _____

EMPLOYER'S COPY 125

8 3 0 4 0 3 8 3 1 1 1

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

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Michael Dymersky, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION

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

END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1470.

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

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 1470.

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LAW OFFICES
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A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

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February 22, 1983

83 FEB 23 P 3:22

Michael Dymersky, Esquire
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
7th Floor
Washington, D.C. 20463

Re: MUR 1470

Dear Mr. Dymersky:

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Sincerely,

Krista M. Fogleman

Enclosure
cc: Kenneth A. Gross, Esq.

83040100016

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_____
Authorized Signature

_____
Name (Please Print or Type)

Address _____
Street City State Zip

Local Union No. _____ Membership No. _____

125

3304000111

LAW OFFICES
ROGOVIN, HUGE & LENZNER
A PROFESSIONAL CORPORATION
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036

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NATIONAL
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Kenneth A. Gross, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W., 7th Floor
Washington, D.C. 20463

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

END OF ADDITIONAL MATERIAL FOR CLOSED MUR 1470.

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