FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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88 APR 25 AM 9:25

U.S. Department of Justice

United States Attorney
District of Alaska at Anchorage

Federal Building & United States Courthouse *907/271-5071*
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 99513

April 12, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF FEDERAL COUNSEL
88 APR 25 PM 3:00

Federal Election Commission
999 'E' Street, N.W.
Washington, D.C. 20463

To whom it may concern:

Enclosed is documentation and correspondence regarding possible violations of Federal Election Laws by Iron Workers Local 751. I have been referred to your office by the United States Department of Labor, Office of Labor Management Standards.

I would appreciate any information or assistance your office can provide.

Thank you for your time and attention.

Sincerely,

MICHAEL R. SPAAN
UNITED STATES ATTORNEY

Neil J. Evans
Assistant U.S. Attorney

Enclosures

NJE/kh

cc: Israel Figueroa Arce

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U.S. Department of Labor

Office of Labor-Management Standards
Room. 3095, 909 First Ave.
Seattle, WA 98174
(206) 442-5216

RECEIVED
OFFICE OF
U.S. ATTORNEY
MAR 31 12 40 PM '88
ALASKA

March 29, 1988

Neil J. Evans, Assistant U.S. Attorney
U.S. Department of Justice
Federal Building & United States Courthouse
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 99513

Dear Mr. Evans:

This is in response to your letter of March 8, 1988, concerning a possible election law violation by Ironworkers Local 751. After reviewing the complaint and documentation you provided, I have determined that the Office of Labor-Management Standards (OLMS) has no investigative jurisdiction in this matter.

The OLMS administers the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). Title IV of the LMRDA prohibits the use of employer contributed "moneys" or union funds received from dues, assessments, or similar levies to promote the candidacy of any person for union office. The LMRDA does not cover political action funds used to support candidates in nonunion elections.

It appears that Mr. Figueroa's complaint could best be addressed under the provisions of the Federal Election Campaign Act (FECA). The FECA is administered by the Federal Election Commission whose address is as follows:

Federal Election Commission
999 'E' Street N.W.
Washington, D.C. 20463
Telephone: (202) 376-5140

In addition, the Employee Retirement Income Security Act of 1974 (ERISA) prohibits the inappropriate use of funds collected for the purpose of providing benefits to members in a covered "employee welfare benefit plan." Local 751's assessment of its vacation plan for political action funding may be a proscribed act under ERISA.

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ERISA is administered by the Pension and Welfare Benefits Administration (PWBA) whose address is:

U.S. Department of Labor
Pension and Welfare Benefits Administration
Federal Office Building
909 First Avenue
Seattle, WA 98174
Telephone: (206) 442-4244

The documentation you provided has been photocopied and I am returning the originals to you for your use. If I can be of any further assistance to you in this matter, please do not hesitate to contact me.

Sincerely,

Suzanne C. Kirchner

Suzanne C. Kirchner
District Director

Enclosures

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U.S. Department of Justice

United States Attorney
District of Alaska at Anchorage

Federal Building & United States Courthouse *907/271-5071*
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 99513

March 8, 1988

U.S. Department of Labor
Office of the Inspector General
7018 Federal Office Building
909 First Avenue
Seatte, Washington 98174

To Whom It May Concern:

Enclosed is documentation I received from Israel Figueroa Arce. It appears that there may be a violation of federal election laws by Ironworkers Local 751. My review reveals that the new Ironworkers Contract requires a total of nine cents per hour be deducted from the vacation trust fund for political action committees.

Mr. Figueroa provided me with all of the information that I have enclosed and I understand that it is your office that would investigate such matters. If this is not the case, please let me know as soon as possible. Mr. Figueroa may be contacted as follow:

12541 Brandon Street
Anchorage, Alaska 99515
(907) 345-0790

I will be more than willing to assist in any matters that I can here in the State of Alaska. Thank you for your time and attention.

Sincerely,

MICHAEL R. SPAAN
UNITED STATES ATTORNEY

Neil J. Evans
Assistant U.S. Attorney

cc: Israel Figueroa Arce

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RECEIVED
OFFICE OF
U.S. ATTORNEY

FEB 16 11 37 AM '88

ANCHORAGE
ALASKA

tober 12, 1987

TO THE MEMBERS OF LOCAL 751

This is to express my thoughts and views in which some businesses are conducted, and my concern of future and long term impact.

First of all, during the last negotiation in 1986, I was opposed to the A-1 A-2 list because I believe, and still believe, that it is not fair and is prejudiced to some Iron Workers that come to Alaska seeking jobs and opportunity during good and bad times. That a person who comes to Alaska to live in the state seeking jobs from our Union and pay his bills, perhaps collect employment benefits, and if he or she lives in the State of Alaska for six months and that person is allowable to collect Permanent Fund Dividend checks from our State according to State laws, my question was and is how can we justify by putting another person upon arrival to the State of Alaska ahead of person No. 1 on our referral system or the list in which we seek employment because the person is not a member of the Pacific Northwest District Council and that person belongs to another District Council which does not pay ten cents per every hour work to the Pacific Northwest for Political contribution.

For over a year or more I have expressed my opposition openly about such action and Kancho Spasoff B.M. has known about my opposition and reasons why.

I can not blame a member from the 751 to be angry, frustrated and mad because for the last year or so when they went to seek work on the Pacific Northwest they were put on an inferior list and were not represented properly as a member of the Pacific Northwest because Local 751 did not want to pay ten cents per hour for political contributions on the 1986 Alaska agreement.

We at Local 751, whether we want to pay ten cents or not, or whether we want to pay one cents or none for political contributions, shall not be discriminated on any referral system. We already pay to the Pacific Northwest monthly per capita to be represented as such.

We did not need to pay ten cents for nothing, and any person or persons who took any action against any member of the Local 751 because of political contributions or the lack of political contributions, and I

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Israel Figueroa view this as an unfair labor practice in the lowest form.

I am discontent in which the business of the last negotiation has turned, although no copies of contract or negotiation have been sent to any member yet. Discussion has been taken in one meeting only, but nothing before that and I would like to apologize for my absence at that meeting because of health reasons.

Kancho Spasoff was aware of the content of the new agreement, however he failed to send us a copy before the meeting takes place, and during these bad economical times in which the State of Alaska and our Local 751 are enduring; and which members of Local 751 have left the State seeking work and people in general are losing their homes, cars, etc.; and are having a hard time making ends meet.....Kancho has negotiated a good comprehensive, honest, and complete trouble solving agreement. Just what every man, woman and child needs during bad economic times - a VACATION PLAN.

Kancho, you have become what you always wanted to be - A LEGEND IN YOUR OWN MIND.

Because of my dissatisfaction with the present administration, I hereby submit my resignation as a trustee

Israel Figueroa Arce

ISRAEL FIGUEROA ARCE
0962162
October 12, 1987

Read at Ex bd meeting on Oct-12-1987

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International Association of
Bridge, Structural and Ornamental Iron Workers

ALASKA IRONWORKERS 751

Anchorage
219 E. International Airport Rd.
Anchorage, Alaska 99518
(907) 563-3876

Fairbanks
315 5th Ave.
Fairbanks, Alaska 99701
(907) 456-6960

Washington, D. C.
Suite 400
1750 New York Avenue, N. W.
Washington, D. C. 20006
(202) 383-4800

Affiliated with AFL-CIO

November 25, 1987

TO ALL MEMBERS

The Childrens Christmas Party will be held on Saturday December 12, 1987 from 12:00 pm to 2:00 pm at the Laborers Training Center at 13500 Old Seward Highway.

The membership voted at the regular meeting held on November 12, 1987 on the recomendation of the Executive Committee NOT to hold the Adult Christmas Party this year.

Enclosed also is new language in our contract. Letters were sent to the membership that a vote on the contract would take place August 10, 1987 at our regular meeting. This notice was sent out at least 15 days before the meeting. Prior to the meeting every member in attendence received a copy of the contract language on which they were to vote on, yes or no. The Executive Board passed a motion in their meeting recommending approval of the contract. The contract language was explained at the regular meeting to those that were in attendence. There was considerable discussion on the matter. A vote was taken by secret ballot and was passed approximately 2 to 1.

Fraternally,

Kancho Spasoff

Kancho Spasoff
Business Manager

KS/ds

encls.

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I. Refferal

Group A - All applicants for employment who have worked at the trade as a journeyman or apprentice at least 800 hours in each year for the past three consecutive years in the type of work covered by this agreement in the jurisdictional area of the Local Union and have previously passed the journeymen examination conducted by a duly constituted Local Union affiliated with the International Association of Bridge Structural and Ornamental Ironworkers qualifying them to work as journeymen of the trade; all apprentices graduating to journeyman status within the coverage of the agreement shall be included in Group A. A workman will not lose his place on the A list for good and bonafide reasons acceptable to the appellate tribunal. A workman who fails to register pursuant to Section 2 shall be removed from his place on the list and upon reregistration, will go to the bottom of the appropriate list.

Group A-2 - All applicants for employment who have worked at the trade as qualified craftsmen or apprentices in work of the type covered by this agreement for the past three (3) years in the geographic area covered by the District Council of Ironworkers of the Pacific Northwest, provided, however, if such applicants request registration in this Group with the designation of a particular classification or classifications, and specialty or specialties, they shall have worked at least six (6) months within the three (3) years immediately preceding such registration, in such classification or classifications, and specialties. All apprentices graduating to journeyman status within the geographic area covered by the District Council of Ironworkers of the Pacific Northwest shall be included in this Group "A-2".

Group B - All applicants for employment who have worked at the trade as journeymen for the past three years; and have previously passed a journeyman examination conducted by duly constituted Local Union affiliated with the International Association of Bridge, Structural and Ornamental Ironworkers. A workman who fails to register pursuant to Section 2 shall be removed from his place on the list and, upon reregistration, will go to the bottom of the appropriate list.

Group C - All applicants for employment who have worked in the Ironworkers trade for more than two years. A workman who fails to register pursuant to Section 2 shall be removed from his place on the list, and upon reregistration, will go to the bottom of the appropriate list.

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1. Vacation. It is agreed that all employers covered by this agreement shall on and after January 1, 1988, subtract a sum as indicated in Schedule "A" from each Ironworkers net pay check (after taxes) and shall pay this to a Vacation Fund as set forth herein. (NOTE: These sums shall be deductions (after taxes) from the rates shown in Schedule "A"). Said contributions shall be made to the Alaska Ironworkers and Employers Vacation Savings Trust Fund in the manner set forth in the Trust Agreement. The details of the Vacation Savings Plan established by this Trust Fund shall continue to be controlled and administered by a Joint Board of Trustees composed of equal representation from the Union and Employer organizations who are signatories to the Trust Agreement. Each Trustee appointed by the Union shall be a member of the Union and each Trustee appointed by the Employers shall be a member of an affiliated firm of an Employer Organization or a regular paid employee of an Employer Organization. Ironworkers may draw from the Vacation Fund during the month of December of each year.

2. Supplemental Dues. Effective for all work performed on and after January 1, 1988, it is agreed that upon authorization as required by law, the amount of six cents (0.06) per hour for each hour paid for and/or worked, shall be deducted by the Alaska Ironworkers Vacation Trust Fund from the Vacation Benefit of each workman and remitted directly by the Alaska Ironworkers Vacation Trust Fund which remittance shall be made to the Union not less than (2) times per year. The term "Union" as used in this Section shall mean the District Council of Ironworkers of the Pacific Northwest.

3. District Council Political Action Fund. Effective for all work performed on and after January 1, 1988, it is agreed that upon authorization as required by law, the amount of four cents (0.04) per hour for each hour paid for and/or worked, shall be deducted by the Alaska Ironworkers Vacation Trust Fund from the Vacation Benefit of each workman and remitted directly by the Alaska Ironworkers Vacation Trust Fund to the Union. The amount of the deduction shall be specified on the statement transmitted to the workman by the Alaska Ironworkers Vacation Trust Fund which remittance shall be made to the Union not less than two (2) times per year. The tern "Union" as used in this Section shall mean the District Council of Ironworkers of the Pacific Northwest.

4. Alaska Ironworkers Political Action Fund. Effective for all work performed on and after January 1, 1988, it is agreed that upon authorization as required by law, the amount of five cents (.05) per hour for each hour paid for and/or worked, shall be deducted by the Alaska Ironworkers Vacation Trust Fund from the Vacation Benefit of each workman and remitted directly by the Alaska Ironworkers Vacation Trust Fund to the Union. The amount of the deduction shall be specified on the statement transmitted to the workman by the Alaska Ironworkers Vacation Trust Fund which remittance shall be made to the Union not less than two (2) times per year. The term "Union as used in this Section shall mean the Alaska Ironworkers Local 751.

RESTRICTIONS ON POLITICAL CONTRIBUTIONS

[¶ 4880]

Historical background.—Among the miscellaneous provisions of the Taft-Hartley Act (officially the Labor Management Relations Act of 1947) was one dealing with political contributions and expenditures by both corporations and labor unions. The provisions, Section 304 of the Act, was framed as an amendment of Section 313 of the Federal Corrupt Practices Act of 1925. The provision later was inserted into the U.S. Criminal Code at 18 U.S.C., Section 610, thereby making it enforceable in a criminal prosecution by the U.S. Attorney General. It was amended in 1951 to subject to its penalties any person who accepted or received any prohibited contributions, as well as any person or organization which made or consented to prohibited expenditures or contributions. The maximum penalty against individual violators was increased to a fine of $10,000 or imprisonment for two years, or both in a case of a willful violation.

In 1971, Congress passed the Federal Election Campaign Act. With reference to political expenditures and contributions by corporations and labor organizations, it in large part adopted the substantive provisions of the prior law with regard to direct contributions, but does permit contributions to separate funds for political purposes. However, this law provides for civil relief rather than for criminal prosecution and sets up a Federal Election Commission to administer the statute. This law replaced the criminal provisions of 18 U.S.C., Section 610. The relevant provisions of the 1971 legislation are summarized below.

Political expenditures by labor organizations have been a contested issue with regard to the proper use of union dues and fees collected under agency shop agreements. The rights of nonmembers of labor organizations to object to political expenditures of their payments under such agreements is covered at ¶ 4520 (NLRA cases) and ¶ 7180 (Railway Labor Act cases).

Federal Election Campaign Act.—The Federal Election Campaign Act of 1970, as amended, prohibts corporations and labor orgainzations from making contributions or expenditures in connection with federal elections. The law also prohibits officers and directers from approving such expenditures by their company or labor organization and prohibits candidates, political committees and other persons from receiving such contributions—Section 316. 2 U.S.C., Section 441b.

The term "contribution or expenditure" is generally defined as including "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value, (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to. . . ."

However, the law does permit the establishment, administration and solicitation of contributions to separate, segregated funds to be used for political purposes by a corporation or labor organization, with some conditions. One of those conditions is that the money cannot be secured by physcial force, job discrimination or financial reprisal, or by dues, fees or other money required as a condition of membership in a labor organization or as a condition of employment. Labor organizations, with some restrictions, can solicit their members and families for contributions to these segregated funds. Corporations are permitted to solicit only stockholders, executives and administrative personnel or their families. An executive or administrative employee is someone who is paid on a salary basis and who has policymaking, managerial, professional or supervisory responsibilities. Guidelines accompanying the law refer to an interpretative bulletin issued under the Fair Labor Standards Act for guidance on what constitute such responsibilities—see Wages-Hours, volume 1, at ¶ 23,351.99.

The FECA is administered by the Federal Election commission, which has the power to issue advisory opinions, to investigate alleged violations of the Act, and to initiate court proceedings through civil actions for injunctive, declaratory or other appropriate relief. Anyone who believes a violation has occurred may file a complaint with the Commission, and anyone who is aggrieved by a Commission order dismissing a complaint may petition for review in the federal district court for the District of Columbia—Sections 308 and 309. 2 U.S.C., Sections 437f and 437g.

For detailed information regarding the FECA, applicable guidelines, advisory opinions and decisions, consult CCH's FEDERAL ELECTION CAMPAIGN FINANCING GUIDE.

Judicial interpretation of Federal Criminal Code.—Interpreting the prior criminal provisions, which were repealed in 1976, the Supreme Court held that it did not apply to situations where unions used dues-financed newspapers in special advocacy of political candidates (.10). Lower courts upheld union expenditures for radio and newspaper advertising opposing political candidates where the union published no newspaper of its own (.125), and union payment of compensation to an employee who spent part of his time in political activity in behalf of a particular candidate or who solicited voters to register or drive them to the polls (.20). The U.S. Supreme Court later held that an indictment alleging that a union used money from its general treasury fund to pay for a television broadcast to endorse and support candidates for federal offices was sufficient to support a charge of violation of the statute (.12); this situation was contrasted with one in which a union merely distributed its own newspaper to its own members (.10). Moreover, contributions and expenditures by a union on behalf of candidates for federal office are not of themselves unlawful (.081). In interpreting the federal prohibition, the U.S. Supreme Court has held that it does not apply to union political contributions from funds financed in some sense by the voluntary donations of members (.30). However, the High Court cautioned there must be strict segregation of such funds from dues and assessments and that, in soliciting donations, members must be made aware of the purpose of the funds and be reassured against reprials for refusals to contribute.

It was held that this restriction on political expenditures abridges the constitutional right to freedom of the press, but the Supreme Court, in reviewing that decision, found it unnecessary to rule on the constitutionality issue, because no offense under the statute was involved. (.10).

Restrictions on contributions toward election of union officers.—The Labor-Management Reporting and Disclosure Act of 1959 forbids any "moneys" of an employer or any of the dues, assessments or similar levies paid by union members to be contributed or applied toward promoting the candidacy of any person in an election subject to the statute's provisions. See ¶ 7515.

A noteworthy feature of the section is that it defines the term "labor organization." This definition was probably intended to establish a distinction between labor organizations themselves and such political outgrowths of the labor movement as the Committee on Political Education (COPE). The definition restricts itself to agencies which exists for the purpose, "in whole or in part," of dealing "with employers" concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Law Text

Section 316 of the Federal Election Campaign Act is reproduced at ¶ 870. The section of the Labor-Management Reporting and Disclosure Act restricting contributions toward internal union elections appears at ¶ 674

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Annotations to ¶ 4880 Appear Topically Below as Follows:

Avoidance of Law ..... .25
Conference Report of Provision Concerning Political Contributions ..... .05
Constitutionality of Prohibition ..... .17
Construction of Terms ..... .08
Enforcement of Prohibition ..... .18
Injunction Suit to Test Constitutionality ..... .15
Political Activity by Union Employees Registration and Transportation of Voters ..... .20
Political Advertising Expenditures ..... .12
Union Newspaper Support of Candidate ..... .10
Voluntary Funds ..... .30
Willful Violation ..... .32

.05 Conference Report on Provision Concerning Political Contributions.—"Section 304 of the House bill contained a provision placing on a permanent basis the provisions that were contained in the War Labor Disputes Act, whereby labor organizations were prohibited from making political contributions to the same extent as corporations. In addition, this section extended the prohibition, both in the case of corporations and labor organizations, to include expenditures as well as contributions. Moreover, expenditures contributions in connection with primary elections and political conventions were made unlawful to the same extent as those made in connection with the elections themselves. There was no comparable provision in the Senate amendment. The conference agreement adopts the provisions of the House bill, with one change. Under the conference agreements expenditures and contributions in connection with primary elections, political conventions, and caucuses are made unlawful to the same extent as those made in connection with the elections themselves. As a clarifying change the definition of a labor organization has been set forth in full rather than incorporating the provision of the National Labor Relations Act."—Conference Report, House Report 510, 80th Cong., pp. 67, 68.

.08 Construction of Terms.—Term "expenditure" in LMRA Section 304 [now 18 U. S. C., ch. 29, sec. 610], interpreted in light of legislative history and duty of court to avoid unconstitutional interpretation, prevents narrow interpretation of term "contribution" and does not extend scope of Act to widest range of activities involving expense to a union or corporation.

U. S. v. C. I. O., (U.S., 1948) S.Ct., 15 LC ¶ 64,586, 335 U.S. 106

.081 Contributions or expenditures by union in connection with election of federal candidates are lawful if officers of union consent, contributions are made from funds voluntarily designated for that purpose by individual union members, there is good faith accounting of those funds, and amount contributed does not exceed amount of funds so designated

U. S. v. Teamsters Local 688, (DC Md., 1960) 41 LC ¶ 16,651

.10 Union Newspaper Support of Candidate.—On appeal from District Court ruling (14 Labor Cases ¶ 64,384, 77 Fed. Supp. 355) wherein portions of LMRA Section 304 [now 18 U. S. C., ch. 29, sec. 610] were declared unconstitutional abridgements of rights protected by First Amendment, Supreme Court held that Federal Corrupt Practices Act, as amended by LMRA, does not make it an offense for a union to expend its funds for publication of an issue of a regular union periodical containing statements in support of candidate for Federal office, or to expend funds for its distribution to those accustomed to receive copies thereof. Supreme Court dismissed the indictment for failure to state an offense under the Act, declaring a determination of the Act's constitutionality unnecessary under such circumstances.

U. S. v. C. I. O., (U.S., 1948) S.Ct., 15 LC ¶ 64,586, 335 U.S., 106

.12 Political Advertising Expenditures.—Indictment alleging that union used general funds to pay for television broadcast supporting candidates for federal offices was sufficient to charge violation of Act. Such expenditure differs from that involved in publication of union newspaper and distribution of paper to union members.

U. S. v. Automobile Workers, (U.S., 1957) S.Ct., 32 LC ¶ 70,534, 352 U.S. 567

.125 Compare.—On appeal (prior to decision in .12, above) from District Court ruling (15 LC ¶ 64,670, 79 F.Supp. 516) upholding constitutionality of LMRA Section 304 [now 18 U.S.C. ch. 29, sec. 610], Court of Appeals dismissed indictment for failure to allege an offense under the Act. Expenditures made by small local union, which publishes no newspaper of its own, for radio and newspaper advertisements opposing candidates for Federal office, where these means are natural way for union to communicate with members, and expenditures are duly authorized, are, in principle, same as expenditures made by union in C.I.O. case (.10, above), which have been upheld by Supreme Court as outside scope of Act.

U. S. v. Painters Local 481, (CA-2, 1949) 16 LC ¶ 64,953, 172 F.2d 854

.127 Joint union council did not violate statutory prohibition against union political expenditures by sponsoring four 15-minute televised political broadcasts with payments from fund comprised primarily of voluntary contributions made by member locals to defray cost of council's

regular weekly television program. Payments were not "expenditures" within meaning of statute.

U.S. v. Anchorage Central Labor Council, (DC Alas.; 1961) 42 LC ¶ 16,910.

.15 Injunction Suit to Test Constitutionality.—In an action before a special three-judge Federal court to enjoin the enforcement of LMRA Section 304 [now 18 U.S.C., ch. 29, sec. 610] which prohibits expenditures by labor organizations in connection with certain elections, conventions or caucuses on the basis that such prohibition is unconstitutional, the complaint must be dismissed on motion when the facts alleged are insufficient to justify the exercise of equity powers in the issuance of such injunction, especially where a deliberate violation of the law is admitted which may subject the labor organization to criminal prosecution in which the constitutionality of the statute may be directly attacked.

Reuther v. Clark, (DC D. of C.; 1948) 14 LC ¶ 64,503.

.17 Constitutionality of Prohibition.—Determination of constitutionality of Act should not be made prior to trial on merits.

U.S. v. Automobile Workers, (U.S.; 1957) S.Ct., 32 LC ¶ 70,534, 352 U.S. 567.

.171 A statute prohibiting contributions by labor organizations to candidates for federal office does not violate the freedom of association guaranteed by the First Amendment, since at the same time the statute protects a worker from being forced to join a labor union as a condition of employment and then having the union use money collected from him to support a political candidate not of his choosing, it leaves members of labor organizations free to join in separate voluntary political associations and to contribute to candidates through such associations.

U.S. v. Plumbers, Local 562, (CA-8, 1970) 63 LC ¶ 10,953, 434 U.S. 1116, aff'd *per curiam en banc*, (CA-8, 1970) 64 LC ¶ 11,362, 434 F.2d 1127, rem'd on another issue, (U.S., 1972) S.Ct., 68 LC ¶ 12,783.

.172 The statutory ban on political contributions by unions to candidates for federal office, when funds are intended to be used in reaching the public at large rather than the union's own members, is constitutional.

U.S. v. Boyle, (DC D. of C., 1972) 68 LC ¶ 12,597, aff'd, (CA D. of C., 1973) 71 LC ¶ 13,839, 482 F.2d 755, cert. den., (U.S., 1973) S.Ct., 72 LC ¶ 14,213.

.174 Since the NLRA does not authorize the expenditure of dissenters' dues for purposes other than collective bargaining and grievance adjustment, an employee's allegations that his money was being used to support ideological and political causes he did not choose to support raised a First Amendment issue which, because the nature of the union expenditures was not yet fully developed, could not be resolved upon the union's motion for summary judgment.

Lykins v. Aluminum Workers, Local 480, (DC Pa.; 1981) 94 LC ¶ 13,547, 510 F.Supp. 21.

.18 Enforcement of Prohibition.—In a criminal proceeding to prosecute alleged unlawful political contributions by union officers, a federal trial court lacked jurisdiction to review the exercise of discretion by the Executive Branch in selecting alleged violations for prosecution.

U.S. v. Boyle, (DC D. of C.; 1971) 66 LC ¶ 12,121, 331 F.Supp. 1181.

.182 Subpoenas directed to executive and congressional officials to adduce evidence that the recipients of unlawful political contributions had not been prosecuted and that union prosecutions for making such contributions were therefore discriminatory were quashed, and a request for an evidentiary hearing was denied. Permitting the subpoenas would have been tantamount to authorizing a fishing expedition.

U.S. v. Boyle, (DC D. of C.; 1971) 66 LC ¶ 12,121, 331 F.Supp. 1181.

.185 The statute banning union contributions to candidates for federal office prohibits such contributions by union officers, and it is not necessary that the union be indicted and convicted before its officers can be indicted and convicted.

U.S. v. Boyle, (DC D. of C., 1972) 68 LC ¶ 12,597, aff'd, (CA D. of C., 1973) 71 LC ¶ 13,839, 482 F.2d 755, cert. den., (U.S., 1973) S.Ct., 72 LC ¶ 14,213.

.20 Political Activity by Union Employees; Registration and Transportation of Voters.—Congress did not intend to include within prohibited expenditures of labor unions payment of compensation to union employee merely because such employee is engaging in political activity in behalf of particular candidate while in employ of labor organization or payment of compensation to person for work in securing registration of voters or in transporting voters to polls on election day.

U.S. v. Construction & Gen'l Laborers Local 264, (DC Mo., 1951) 21 LC ¶ 66,736, 101 F.Supp. 869.

.25 Avoidance of Law.—Although evasion of law prohibiting political contributions or expenditures by unions or corporations is unlawful, avoidance is not unlawful.

U.S. v. Teamsters, Local 688, (DC Mo., 1960) 41 LC ¶ 16,601.

.30 Voluntary Funds.—The prohibition against political contributions by labor organizations does not apply to contributions from funds financed in some sense by the voluntary donations of employee-members. However, there must be a strict segregation of such voluntary funds from union dues and assessments, and, in soliciting such funds, unions must make clear that dona-

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tions are for a political purpose and that refusals to donate will not result in reprisals.

U. S. v. Plumbers, Local 562, (U.S.; 1972) S.Ct., 68 LC ¶ 12,783.

Note: See CCH STANDARD FEDERAL TAX REPORTER at ¶ 3299M.04 for a discussion of political contributions and tax exempt organizations which are not political organizations.

.305 A criminal action against a union and certain of its officers alleging unlawful political contributions was dismissed in light of the government's noncompliance with pretrial discovery orders and the resulting prejudicial delay in proceeding to trial. The government's responses to requests for more information concerning an alleged unlawful union political fund were incomplete and at times at variance with each other.

U. S. v. Seafarers, Atlantic, Gulf, Lakes & Inland Waterways District, (DC N.Y.; 1972) 68 LC ¶ 12,829, 343 F. Supp. 779.

.307 In order to sustain a conviction of a union officer for his consent to the unlawful political use of union funds, it was sufficient to show that the funds contributed to a federal election campaign came from the general treasury of the union where normal union dues were commingled with other funds. Such a contribution then comes from an "involuntary" source as required by the statute.

U.S. v. Boyle, (CA D. of C.; 1973) 71 LC ¶ 13,839, 482 F.2d 755, cert. den., (U.S.; 1973) S.Ct., 72 LC ¶ 14,213.

.308 Although payments to a federal political fund were voluntary, segregated from the union's general treasury and no member was discriminated against for failure to authorize such an allocation, they were nonetheless unlawful, since the diverted money was part of the members' regular dues.

Barber v. Gibbons, (DC Mo.; 1973) 72 LC ¶ 14,135, 367 F. Supp. 1102.

.309 Union officials did not breach their fiduciary obligations to the union's membership by making expenditures unrelated to bargaining activities to political, social and civic organizations. The union officials acted within the scope of their apparent authority by making political contributions from voluntary contributions.

Gabauer v. Woodcock, (CA-8; 1978) 83 LC ¶ 10,350, aff'd on rehearing, (CA-8; 1979) 85 LC ¶ 11,147, 594 F.2d 662, cert. den., (U.S.; 1979) S. Ct., 87 LC ¶ 11,583, 444 U.S. 841.

.32 **Willful Violation.**—A signed jury verdict form containing the sentence "We further find that a willful violation of Section 610 of Title 18, United States Code, was not contemplated," did not require that defendants, who were found guilty under statute prohibiting labor organizations from contributing to candidates for federal office, be acquitted. The element of willfulness did not concern defendants' intent to form unlawful conspiracy, of which they were convicted, but concerned intent of conspiracy to violate ban on contributions. In reality, the jury finding in the sentence quoted above amounted only to a finding that conspiracy related to a misdemeanor rather than a felony, a willful violation being a felony and carrying a higher punishment.

U.S. v. Plumbers, Local 562, (CA-8; 1970) 63 LC ¶ 10,953, 416 F.2d 1120, aff'd *per curiam en banc*, (CA-8; 1970) 64 LC ¶ 11,302, 434 F.2d 1127, rem'd on another issue, (U.S.; 1972) S. Ct., 68 LC ¶ 12,783.

Mup

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 3, 1988

Neil J. Evans, Esquire
United States Attorney's Office
District of Alaska at
Anchorage
Federal Building and United
States Courthouse
Room C-252, Mail Box 9
701 'C' Street
Anchorage, AK 99513

RE: PreMUR 193

Dear Mr. Evans:

This is to acknowledge receipt of your letter on April 25, 1988, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Iron Workers Local 751. We are currently reviewing the matter and will advise you of the Commission's determination.

If you have any questions or additional information, please call Phillip Wise, the attorney assigned to this matter, at (202) 376-8200. Our file number for this matter is PreMUR 193.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), the Commission's review of this matter shall remain confidential until the file has been closed.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

88 AUG -5 PM 3:32

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR #193
Staff Member: Phillip Wise

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

RESPONDENTS: International Association of Bridge, Structural and Ornamental Iron Workers - Local 751

District Council Political Action Fund

Alaska Ironworkers Political Action Fund

RELEVANT STATUTES: 2 U.S.C. § 441b(b)(3)(A)
2 U.S.C. § 441b(b)(3)(C)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

EXECUTIVE SESSION
AUG 30 1988

I. GENERATION OF MATTER

This matter is based on a referral from the Department of Justice. (Attachment 1).

II. FACTUAL AND LEGAL ANALYSIS

Israel Figueroa presented information to the Department of Justice which alleged that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 required by contract that a total of 9 cents per hour for each hour paid for and/or worked, shall be deducted from the vacation benefit of each workman for political action committees (4 cents per hour to the District Council Political Action Fund, and 5

cents per hour to the Alaska Ironworkers Political Action Fund). (Attachment 1(h)).[1/]

2 U.S.C. § 441b(b)(3)(A) states that it shall be unlawful for such a [separate segregated] fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisal, or the threat of force; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction.

2 U.S.C. § 441b(b)(3)(C) states that it shall be unlawful for any person soliciting an employee for a contribution to such a [separate segregated] fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

The contract to all members of Local 751 failed to inform them of their right to refuse to contribute without any reprisal. Futhermore, this contract gave members no opportunity to

1/ Advisory Opinion 1979-60 states that, contributions for a Union PAC may be automatically deducted from an employee vacation fund if the amount to be withdrawn is up to the employee and not the union. In addition, Advisory Opinion 1980-69 indicates that union members may direct that contributions be made from an employer-administered vacation fund if the authorization form clearly allows amounts other than the suggested amount to be contributed.

authorize or refuse such a contribution.[2/] In fact, Mr. Figueroa alleged that when members of Local 751 did not want to pay the set political contribution they were not represented properly, and put on an inferior list when seeking work. In addition, because this money was received by separate segregated funds, it is probable that some contributions were made to federal candidates. The two funds are not registered with the Commission as political committees but are registered in Alaska to participate in State and local elections. It may be that the Committees are not subject to the jurisdiction of the Commission. However, in order to determine these facts it is necessary to open a MUR and find reason to believe to investigate this possibility. Accordingly, the Office of the General Counsel recommends that the Commission open a MUR, and find reason to believe that the District Council Political Action Fund, and the Alaska Iron Workers Political Action Fund have violated 2 U.S.C. § 441b(b)(3)(A) and (C), and the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

2/ In this instant matter the political contributions were automatic with no opportunity to authorize said contributions before deduction. Even if members were allowed to request and receive refunds, rather than being able to disallow its deduction in the first place, this creates a "reverse check-off" system which is also unlawful under the Act. F.E.C. v. National Education Association, 457 F.Supp. 1102 (D.D.C. 1978).

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III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

3. Find reason to believe that the District Council Political Action Fund violated 2 U.S.C. § 441b(b)(3)(A) and (C).

4. Find reason to believe that the Alaska Ironworkers Political Action Fund violated 2 U.S.C. § 441b(b)(3)(A) and (C).

5. Approve the attached letters, questions, and Factual and Legal Analysis.

Lawrence M. Noble
General Counsel

8/5/88
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Referral Material
2. Proposed letters and Factual and Legal Analysis
3. Questions

39040742882

FEDERAL ELECTION COMMISSION
WASHINGTON [illegible]

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /JOSHUA MCFADDEN

DATE: AUGUST 10, 1988

SUBJECT: OBJECTION TO Pre-MUR 193:FIRST G.C. REPORT SIGNED AUGUST 5, 1988

The above-captioned document was circulated to the Commission on Monday, August 8, 1988 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	
Commissioner Elliott	
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	X

This matter will be placed on the Executive Session agenda for August 30, 1988.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Association of Bridge, Structural and Ornamental Iron Workers - Local 751	)	
	)	
District Council Political Action Fund	)	Pre-MUR 193 (MUR 2685)
	)	
Alaska Ironworkers Political Action Fund	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of August 30, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Pre-MUR 193:

1. Open a Matter Under Review (MUR).

2. Find reason to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

3. Find reason to believe that the District Council Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

(continued)

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4. Find reason to believe that the Alaska Ironworkers Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

5. Approve the letters, questions, and Factual and Legal Analysis attached to the General Counsel's report dated August 5, 1988.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

8/31/88
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 6, 1988

Alaska Ironworkers Political Action Fund
219 E International Airport Road
Anchorage, Alaska 99518

RE: MUR 2685
Alaska Ironworkers
Political Action Fund

Dear Sir/Madam:

On August 30, 1988, the Federal Election Commission found that there is reason to believe the Alaska Ironworkers Political Action Fund violated 2 U.S.C. § 441b(b)(3)(A) and (C), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Alaska Ironworkers Political Action Fund. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Alaska Ironworkers Political Action Fund, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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 authorizing such counsel to receive any notifications and other communications from the Commission.

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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 6, 1988

International Association of Bridge,
Structural and Ornamental Iron Workers
Local - 751
219 E International Airport Road
Anchorage, Alaska 99518

RE: MUR 2685
International Association
of Bridge, Structural and
Ornamental Iron Workers

Dear Sir/Madam:

On August 30, 1988, the Federal Election Commission found that there is reason to believe the International Association of Bridge, Structural and Ornamental Iron Workers violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the International Association of Bridge, Structural and Ornamental Iron Workers. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the International Association of Bridge, Structural and Ornamental Iron Workers the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

September 6, 1988

District Council Political Action Fund
219 E International Airport Road
Anchorage, Alaska 99518

RE: MUR 2685
District Council
Political Action Fund

Dear Sir/Madam:

On August 30, 1988, the Federal Election Commission found that there is reason to believe the District Council Political Action Fund violated 2 U.S.C. § 441b(b)(3)(A) and (C), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the District Council Political Action Fund. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the District Council Political Action Fund, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

8904074289 1

VICTOR J. VAN BOURG
GEORGE C. ALLEN (1924-1984)
STEWART WEINBERG
MICHAEL B. ROGER
DAVID A. ROSENFELD
STANFORD L. GELBMAN
WILLIAM A. SOKOL
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MICHAEL W. SCHNAKE
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CHRISTIAN L. RAISNER

LAW OFFICES
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875 BATTERY STREET, SAN FRANCISCO, CALIFORNIA 94111
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417 South Hill Street, Suite 770
Los Angeles, CA 90013
(213) 617-9374
OAKLAND OFFICE
450 Hegenberger Road
Oakland, CA 94621
(415) 562-2844
From San Francisco
(415) 864-4000

OGC-420

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88 SEP 20 PM 12:02

RECEIVED
FEDERAL ELECTION COMMISSION
88 SEP 19 AM 4:49

September 15, 1988

Thomas J. Josefiak, Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2685
International Association of Bridge, Structural and Ornamental Iron Workers

Dear Mr. Josefiak:

I have reviewed with care your letter of September 6, 1988 to the International Association of Bridge, Structural and Ornamental Iron Workers, Local 751, and contrary to the statements in your letter, I find absolutely nothing to support your contention that the Local Union has violated 2 U.S.C. §441(b)(3)(C) of the Federal Election Campaign Act of 1971, as amended. Please do not communicate directly with my client regarding this matter. In the future you should communicate only with the undersigned in this regard.

To my knowledge, the Local Union is not responsible for the actions of the International Union and the International is not responsible for the actions of the Local Union.

When we have received a response from you, including a copy of the referred to findings of the Commission, we will advise our client on whether to respond to the interrogatories. For your ready reference and simply as a courtesy, I have enclosed a copy of the authorization card which is voluntarily signed by an individual for political action fund contributions.

Also, you should be advised that to my knowledge no monies have been transferred to any candidate, whether federal or state, to date from this political action commission, and no monies have been given to others who make contributions to federal candidates.

Furthermore, no deductions are made as to an individual unless the individual voluntarily signs one of the attached authorization cards. Similarly, no monies have been transmitted from the vacation fund to any political action committee yet.

Sincerely,

VICTOR J. VAN BOURG

VVB/HG
opeiu 3 afl-cio(1)
encl.

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LOCAL UNION No. 751 AUTHORIZATION CARD

I hereby authorize the Alaska Iron Workers & Employers Vacation Savings Trust Fund to deduct the amount of .04¢ per hour, and .05¢ per hour for each hour which contributions have been made on my behalf to the Vacation Trust Fund specified in Section 4 and 5 of Article 15 of the admended Alaska Iron Worker Master Labor Agreement, from my undisbursed vacation benefits, and remit said amount directly to the District Council of the Pacific Northwest Political Action League, and the Alaska Iron Worker Political Action Fund, as my voluntary contribution to such funds. This authorization may be revoked by me, in writing to the Vacation Trust Fund, within 30 day period prior to the expiration of said Ironworkers Master Agreement (or such other applicable agreement) or one year from the date hereof whichever is sooner. If not revoked this authorization shall deemed as renewed from year to year thereafter.

SIGNATURE _____

NAME _____
(Print or Type)

SOCIAL SECURITY NO. _____ BOOK NO. _____

LOCAL UNION NO. _____ DATE SIGNED _____

IRONWORKERS LOCAL UNION No. 751
219 East International Rd
Anchorage, Alaska 99205

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 13, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Alaska Iron Workers Political
Action Fund
219 E International Airport Road
Anchorage, Alaska 99518

RE: MUR 2685
Alaska Iron Workers
Political Action Fund

Dear Sir/Madam:

By letter dated September 6, 1988, Alaska Iron Workers Political Action Fund was notified that on August 30, 1988, the Federal Election Commission found reason to believe that there was a violation of 2 U.S.C. § 441b(b)(3)(A) and (C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

To date, you have not responded to the notification. Unless we receive a response from you within 5 days, this Office will proceed to the next stage of the enforcement process.

Attached for your information is a copy of the notification and Factual and Legal Analysis, which formed a basis for the Commission's finding.

Should you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 13, 1988

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

International Association of Bridge,
Structural and Ornamental Iron
Workers, Local - 751
219 E International Airport Rd.
Anchorage, Alaska 99518

RE: MUR 2685
International Association
of Bridge, Structural and
Ornamental Iron Workers,
Local - 751

Dear Sir/Madam:

By letter dated September 6, 1988, International Association of Bridge, Structural and Ornamental Iron Workers, Local - 751 was notified that on August 30, 1988, the Federal Election Commission found reason to believe that there was a violation of 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

To date, you have not responded to the notification. Unless we receive a response from you within 5 days, this Office will proceed to the next stage of the enforcement process.

Attached for your information is a copy of the notification and Factual and Legal Analysis, which formed a basis for the Commission's finding.

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Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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VICTOR J. VAN BOURG
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OAKLAND OFFICE
450 Hegenberger Road
Oakland, CA 94621
(415) 562-2854
From San Francisco
(415) 864-4000

September 15, 1988

Thomas J. Josefiak, Chairman
Federal Election Commission
Washington, D.C. 20463

Alaska Ironworkers Political Action Fund

Re: MUR 2685
International Association of Bridge, Structural and Ornamental Iron Workers, Local 751

Dear Mr. Josefiak:

I have reviewed with care your letter of September 6, 1988 to the Alaska Ironworkers Political Action Fund, and contrary to the statements in your letter, I find absolutely nothing to support your contention that the Alaska Ironworkers has violated 2 U.S.C. §441(b)(3)(C) of the Federal Election Campaign Act of 1971, as amended. Please do not communicate directly with my client regarding this matter. In the future you should communicate only with the undersigned in this regard.

To my knowledge, the Local Union is not responsible for the actions of the International Union and the International is not responsible for the actions of the Local Union.

When we have received a response from you, including a copy of the referred to findings of the Commission, we will advise our client on whether to respond to the interrogatories. For your ready reference and simply as a courtesy, I have enclosed a copy of the authorization card which is voluntarily signed by an individual for political action fund contributions.

Also, you should be advised that to my knowledge no monies have been transferred to any candidate, whether federal or state, to date from this political action commission, and no monies have been given to others who make contributions to federal candidates.

Furthermore, no deductions are made as to an individual unless the individual voluntarily signs one of the attached authorization cards. Similarly, no monies have been transmitted from the vacation fund to any political action committee yet.

Sincerely,

VICTOR J. VAN BOURG

VVB/HG
opeiu 3 afl-cio(1)
encl.
bcc: Kancho Spasoff

9 7 0 4 0 7 4 2 8 9 6

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SIGNATURE _____

NAME _____
(Print or Type)

SOCIAL SECURITY NO. _____ BOOK NO. _____

LOCAL UNION NO. _____ DATE SIGNED _____

IRONWORKERS LOCAL UNION No. 751
219 East International Rd
Anchorage, Alaska 99205

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VICTOR J. VAN BOURG
GEORGE C. ALLEN (1924-1984)
STEWART WEINBERG
MICHAEL B. ROGER
DAVID A. ROSENFELD
STANFORD L. GELBMAN
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(213) 6[illegible]7-9374

OAKLAND OFFICE
450 Hegenberger Road
Oakland, CA 94621
(415) 562-2854
From San Francisco
(415) 864-4000

September 15, 1988

Thomas J. Josefiak, Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2685
District Council Political Action Fund

Dear Mr. Josefiak:

I have reviewed with care your letter of September 6, 1988 to the District Council Political Action Fund, and contrary to the statements in your letter, I find absolutely nothing to support your contention that the District Council has violated 2 U.S.C. §441(b)(3)(C) of the Federal Election Campaign Act of 1971, as amended. Please do not communicate directly with my client regarding this matter. In the future you should communicate only with the undersigned in this regard.

To my knowledge, the District Council is not responsible for the actions of the International Union and the International is not responsible for the actions of the District Council.

When we have received a response from you, including a copy of the referred to findings of the Commission, we will advise our client on whether to respond to the interrogatories. For your ready reference and simply as a courtesy, I have enclosed a copy of the authorization card which is voluntarily signed by an individual for political action fund contributions.

Also, you should be advised that to my knowledge no monies have been transferred to any candidate, whether federal or state, to date from this political action commission, and no monies have been given to others who make contributions to federal candidates.

Furthermore, no deductions are made as to an individual unless the individual voluntarily signs one of the attached authorization cards. Similarly, no monies have been transmitted from the vacation fund to any political action committee yet.

Sincerely,

VICTOR J. VAN BOURG

VVB/HG
opeiu 3 afl-cio(1)
encl.

bcc: Kancho Spasoff

8 9 0 4 0 7 4 2 8 9 8

LOCAL UNION No. 751 AUTHORIZATION CARD

I hereby authorize the Alaska Iron Workers & Employers Vacation Savings Trust Fund to deduct the amount of .04¢ per hour, and .05¢ per hour for each hour which contributions have been made on my behalf to the Vacation Trust Fund specified in Section 4 and 5 of Article 15 of the admended Alaska Iron Worker Master Labor Agreement, from my undisbursed vacation benefits, and remit said amount directly to the District Council of the Pacific Northwest Political Action League, and the Alaska Iron Worker Political Action Fund, as my voluntary contribution to such funds. This authorization may be revoked by me, in writing to the Vacation Trust Fund, within 30 day period prior to the expiration of said Ironworkers Master Agreement (or such other applicable agreement) or one year from the date hereof whichever is sooner. If not revoked this authorization shall deemed as renewed from year to year thereafter.

SIGNATURE _____

NAME _____
(Print or Type)

SOCIAL SECURITY NO. _____ BOOK NO. _____

LOCAL UNION NO. _____ DATE SIGNED _____

IRONWORKERS LOCAL UNION No. 751
219 East International Rd
Anchorage, Alaska 99205

8 9 0 4 0 7 4 2 8 9 9

06C1434
Mon 2685

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

Pd 2 10

ARRIVED

APOC FORM 1-3A (5/86)

Return To:
ALASKA PUBLIC OFFICES COMMISSION
2221 E. Northern Lights Blvd., Room 128
Anchorage, Alaska 99508
(907) 276-4176

88 DEC 22 AM 9:09

JAN 19 1988

CAMPAIGN DISCLOSURE STATEMENT
SCHEDULE A — PAGE ONE

APOC - ANCH
PM HC
176

STEP ONE
NAME AND ADDRESS

CANDIDATE OR GROUP Alaska Ironworkers Political Action Committee

MAILING ADDRESS 219 East International Road

Anchorage, Alaska 99502

STEP TWO
CANDIDATES: OFFICE FILED FOR

CANDIDATE FOR _____

IN DISTRICT _____

88 DEC 22 AM 11:39

STEP THREE
FOR WHICH ELECTION?

☐ 86 MUNICIPAL ☐ 86 PRIMARY ☐ 86 GENERAL

STEP FOUR
WHICH REPORT IS THIS? (See Reverse Side for Due Dates).

☐ 30 DAY REPORT ☐ 7 DAY REPORT ☐ 10 DAY REPORT

☒ 19 87 YEAR-END REPORT, covering FROM 1/1/87 THRU 12/31/87

☐ FINAL REPORT, covering FROM _____ THRU _____

STEP FIVE
IF YOU RECEIVED **NO** MONEY **AND** SPENT **NO** MONEY, PLACE A CHECK MARK (✓) IN THE ZERO REPORT BOX

This is a "ZERO" REPORT. During the time period shown in Step Four, my campaign received **NO** contributions and made **NO** expenditures.

☐
ZERO REPORT BOX

STEP SIX
THIS REPORT **MUST** BE SIGNED BY EITHER THE **CANDIDATE** OR **TREASURER**

I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE, THIS REPORT IS TRUE, CORRECT AND COMPLETE.

SIGNED [signature]
(IMPORTANT: SIGNATURE MUST BE ORIGINAL NOT PHOTOCOPIED)

DATE January 15, 1988 (CANDIDATE ☐ OR TREASURER ☐).

UN - AUDITED: _____

STATE SUMMARY PAGE
Schedule B

	COLUMN A From your last report		COLUMN B This period		COLUMN C Cumulative totals to date
CONTRIBUTIONS					
1. Monetary Contributions	$ ~~4,260.52~~ 118.02	+	$ 1,826.00 (line 4 Sch C)	=	$ ~~6,086.52~~ 1944.02
2. Unpaid Loans		+	(line 5 Sch E)	=	
3. TOTAL MONETARY CONTRIBUTIONS	$ ~~4,260.52~~ 118.02	+	$ 1,826.00 (add lines 1 and 2)	=	$ ~~6,086.52~~ 1944.02 (add lines 1 and 2)
4. Non-monetary (in-kind) Contributions	$	+	$ (line 3 Sch D)	=	$
EXPENDITURES					
5. Paid Expenditures	$ ~~4,142.50~~ 0	+	$ 1,142.97 (line 3 Sch F)	=	$ ~~5,285.47~~ 1142.97
6. Accrued (unpaid) Expenditures		+	(line 3 Sch G)	=	
7. TOTAL EXPENDITURES	$ ~~4,142.50~~ 0	+	$ 1,142.97 (add lines 5 and 6)	=	$ ~~5,285.47~~ 1142.97 (add lines 5 and 6)

CASH BALANCE AND STATEMENT OF SURPLUS OR DEFICIT

8. CASH ON HAND AT BEGINNING OF THIS PERIOD (from line 11 of last report)	$	118.02
9. MONETARY CONTRIBUTIONS THIS PERIOD (from line 3 of Column B above)		1,826.00
SUB-TOTAL (add lines 8 and 9)	$	1,944.02
10. PAID EXPENDITURES THIS PERIOD (from line 5 of Column B above)		1,142.97
11. CASH ON HAND AT CLOSING DATE (subtract line 10 from Subtotal)	$	801.05
12. LIABILITIES (add line 2 of Column C above and line 6 of Column C above)	$	
13. SURPLUS (If line 11 is more than line 12, subtract line 12 from line 11 and enter "surplus" here)	$	801.05
14. DEFICIT (If line 12 is more than line 11, subtract line 11 from line 12 and enter "deficit" here)	$	

This is your CASH BALANCE. If it does not equal your checkbook balance call the Commission.

Alaska Ironworkers PAC
(NAME OF CANDIDATE OR GROUP)

Check one: ☐ 30 Day, ☐ 7 Day, ☐ 10 Day, XX Year-end
Check one: ☐ Primary, ☐ General 1987

APOC Form 15-3B-S(5/84)

AUDIT REPORT

JAN 19 1988

8 7 0 4 0 7 4 9 0 1

STA[illegible] MONETARY CONTRIBUTIONS - SCHE[illegible]E C

Alaska Ironworkers PAC
(NAME OF CANDIDATE OR GROUP)

INSTRUCTIONS: In Part I itemize the contributors who have given more than $100 to the campaign. Refunds are to be shown as a negative figure in brackets and subtracted from other contributions. The Summary in Part II shows personal contributions from the candidate, the total of contributions at $100 or less, and the sub-total of Part I.

PART 1.

DATE	CHECK NUMBER	NAME AND ADDRESS OF CONTRIBUTOR	OCCUPATION	EMPLOYER (if self-employed list name and address of business)	AMOUNT THIS PERIOD	Cume AMT EACH CONTRIB
7/15/87		Walt Hawes	Ironworker		110.00	110.00

PART 2. SUMMARY

SUB-TOTAL 110.00

1. CANDIDATE'S PERSONAL CONTRIBUTIONS THIS PERIOD ..... $ _____
2. TOTAL OF CONTRIBUTIONS FROM OTHERS OF $100 OR LESS THIS PERIOD
   Number of Contributors(120) 1,716.00
3. TOTAL OF CONTRIBUTIONS FROM OTHERS OVER $100 THIS PERIOD ..... $ 110.00
4. TOTAL MONETARY CONTRIBUTIONS THIS PERIOD (add lines 1,2 and 3) ..... $ 1,826.00
   (enter this total on line 1, Column B, Summary Page)

Check one: ☐ Primary ☐ General 198 7 Check one: ☐ 30 Day, ☐ 7 Day, ☐ 10 Day, XX Year-end

(Please check box ☐ if fund-raiser form on reverse side was used.)

Apoc Form 15-3C-S(5/84) SCHEDULE C, Page _____

JAN 19 1988

STATE CAMPAIGN PAID EXPENDITURES

Schedule F

APOC FORM 15-3F-S

INSTRUCTIONS: If payment has actually been made for goods or services, whether or not they have been received, the paid expenditure is itemized in Part 1 of this schedule. Do not itemize any payments which have been made for any accrued expenditures previously reported on Schedule G. However, enter on this schedule, Part 2, line 2, the total of accrued expenditures paid from Schedule G, Part 3, line 2. Refunds are to be shown as a negative figure in brackets (–) and subtracted from other expenditures.

Alaska Ironworkers PAC
(NAME OF CANDIDATE OR GROUP)

Check one: ☐ 30 Day, ☐ 7 Day, ☐ 10 Day, ☒ Year-end
Check one: ☐ Primary ☐ General 198 7

PART 1. PAID EXPENDITURES (Itemize)

DATE	CHECK No.	NAME AND ADDRESS OF PAYEE	PURPOSE OF EXPENDITURE	AMOUNT
2/27/87		Alaska Mutual Bank P.O. Box 99003 Anchorage, Alaska 99509-9003	Service Charge	9.55
3/12/87	125	Jermain, Dunnagan, & Owens 3000 "A", Suite 300 Anchorage, Alaska 99503	Legal Fees	13.00
3/31/87		Alaska Mutual Bank P.O. Box 99003 Anchorage, Alaska 99509-9003	Service Charge	9.72
4/14/87	126	Alaska State Dept. of Commerce 3601 C, Suite 722 Anchorage, Alaska 99503	Non-profit corporation fee	18.00
4/30/87		Alaska Mutual Bank P.O. Box 99003 Anchorage, Alaska 99509-9003	Service Charge	9.81
5/8/87	127	Alaska State Dept. of Commerce 3601 C, Suite 722 Anchorage, Alaska 99503	Non-profit corporation fee	12.00
5/21/87	128	Monica Lewis 946 West 16th, Apt. A Anchorage, Alaska 99501	Bookkeeping fees	75.00
5/26/87	129	Anchorage Bucs 1309 E Street Anchorage, Alaska 99501	Donation for Solidarity Night	200.00
5/29/87		Alaska Mutual Bank P.O. Box 99003 Anchorage, Alaska 99509-9003	Service Charge	7.16
6/11/87	130	Anchorage Bucs 1309 E Street Anchorage, Alaska 99501	Raffle Ticket	100.00
6/30/87		Alaska Mutual Bank P.O. Box 99003 Anchorage, Alaska 99509-9003	Service Charge	7.77
7/2/87	131	Bob Deaton Cap Company 807 Stout Will Court Miamisburg, Ohio 45342	Purchase caps	630.00
7/31/87		Alaska Mutual Bank	Service Charge	9.10
8/31/87		P.O. Box 99003	Service Charge	9.44
9/30/87		Anchorage, Alaska 99509-9003	Service Charge	9.47
10/30/87		Alaska Mutual Bank	Service Charge	9.44
11/30/87		P.O. Box 99003	Service Charge	7.13
12/31/87		Anchorage, Alaska 99509-9003	Service Charge	6.38

PART 2. SUMMARY OF PAID EXPENDITURES

SUB-TOTAL 1,142.97

1. PAID EXPENDITURES THIS PERIOD (from Part 1 + any continuation sheets) ..... $ 1,142.97
2. PAID ACCRUED EXPENDITURES THIS PERIOD (from line 2 of Part 3, Schedule G) .... $ _____
3. TOTAL PAYMENTS THIS PERIOD ..... $ 1,142.97

JAN 19 1988

RECEIVED
FEDERAL ELECTION COMMISSION
89 FEB 14 PM 5:32

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Association of Bridge, Structural and Ornamental Iron Workers - Local 751	)	MUR 2685
	)	
District Council Political Action Fund	)	
	)	
Alaska Ironworkers Political Action Fund	)	
	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the International Association of Bridge, Structural and Ornamental Iron Workers Local 751, District Council Political Action Fund and Alaska Ironworkers Political Action Fund, based on the assessment of the information presently available.

2/14/89
Date

Lawrence M. Noble
General Counsel

3 7 0 4 0 7 4 2 9 0 4

FEDERAL RECEIVED COMMISSION

89 FEB 22 PM 3:19

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

February 22, 1989

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR # 2685

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe were mailed on February 22, 1989. Following receipt of the respondents reply to this notice, this Office will make a further report to the Commission.

Attachments
1-Brief
2-Letter to respondents

89040742905

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 1989

Victor J. Van Bourg, Esquire
875 Battery Street
San Francisco, California 94111

RE: MUR 2685
International Association of
Bridge, Structural and
Ornamental Iron Workers
Local 751, et al

Dear Mr. Van Bourg:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on August 30, 1988, the Federal Election Commission found reason to believe that your clients, International Association of Bridge, Structural and Ornamental Iron Workers Local 751, violated 2 U.S.C. § 441b(b)(3)(C), and that the District Council Political Action Fund, and the Alaska Ironworkers Political Action Fund had each violated 2 U.S.C. §§ 441b(b)(3)(A) and (C) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

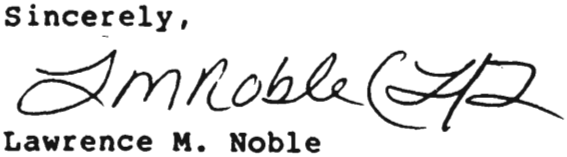
If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

LMNoble (LP)



Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Association of Bridge, Structural and Ornamental Iron Workers - Local 751	)	MUR 2685
	)	
District Council Political Action Fund	)	
	)	
Alaska Ironworkers Political Action Fund	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF CASE

On August 30, 1988, the Commission opened a Matter Under Review (MUR) and found reason to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C); that the District Council Political Action Fund ("DCP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C); and that the Alaska Ironworkers Political Action Fund ("AIP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C). This matter was based on information indicating that International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 required by contract that a total of 9 cents per hour for each hour paid for and/or worked shall be deducted from the vacation benefit of each workman for political action committees (4 cents per hour to the District Council Political Action Fund, and 5 cents per hour to the Alaska Ironworkers Political Action Fund).

On September 6, 1988, notification of the Commission's findings was mailed to each Respondent. On September 19, 1988,

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the Commission received a response from the Counsel representing DCP. October 27, 1988, this Office received the responses from AIP and Local 751.

Both DCP and AIP appear to be the state political action committees for the International Association of Bridge, Structural and Ornamental Iron Workers. Attached to each Respondent's response was a copy of an authorization card which indicated that political action fund contributions were to be deducted only after the signing of said card. In addition, Respondents contended that all cards were voluntarily signed by each individual. Respondents also asserted that no monies have been transferred to any candidate from the political action committees (DCP and AIP), no monies have been given to others who make contributions to federal candidates, and no monies have been transmitted from the vacation fund to any political action committee.

The investigation into this matter also revealed that the two funds (DCP and AIP) are not registered with the Commission as political committees but AIP is registered in Alaska to participate in State and local elections. DCP is not registered with the State.

To verify the Respondents' assertions a staff member from

this Office requested a copy of the reports filed by AIP with the Alaska Public Offices Commission. This staff member was informed that a 1987 Year End Report was filed. The Public Offices Commission expected no 1988 Year End Report because AIP had indicated there would be no campaign activity in 1988, therefore no report was required. A review of AIP's 1987 Year End Report discloses no federal activity.

II. ANALYSIS

2 U.S.C. § 441b(b)(3)(A) states that it shall be unlawful for a separate segregated fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisal, or the threat of force; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.

2 U.S.C. § 441b(b)(3)(C) states that it shall be unlawful for any person soliciting an employee for a contribution to such a separate segregated fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

In light of the facts that the Respondents are not registered with the Commission, do not appear to have spent monies to influence federal elections, and have furnished evidence that deductions for political contributions are

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authorized by each individual who desires such deduction for contribution purposes, the Office of the General Counsel recommends that the Commission find no probable cause to believe that the International Association of Bridge, Structural and Ornamental Iron Workers -Local 751 violated 2 U.S.C. § 441b(b)(3)(C); that the District Council Political Action Fund ("DCP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C); and that the Alaska Ironworkers Political Action Fund ("AIP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

III. **GENERAL COUNSEL'S RECOMMENDATIONS**

1. Find no probable cause to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

2. Find no probable cause to believe that the District Council Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

3. Find no probable cause to believe that the Alaska Ironworkers Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

4. Close the file.

2-22-89
Date

L M Noble (LGT)
Lawrence M. Noble
General Counsel

J. VAN BOURG
E. C. ALLEN (1924-1984)
T. WEINBERG
B. ROGER
ROSENFELD
D L. GELBMAN
SOKOL
HARRINGTON JR
W DANIEL BOONE
ROBERT M. HIRSCH
PAUL D. SUPTON
BOYTHE MICKELSON
BARRY E. HINKLE
JAMES RUTKOWSKI
SANDRA RAE BENSON
LORA JO FOO
JAMES G. VARGA
ANTONIO SALAZAR HOBSON
STEVEN W. SIEMERS
CHRISTIAN L. RAISNER
SHERRI HAYES SAWYER

LAW OFFICES
VAN BOURG, WEINBERG, ROGER & ROSENFELD
875 BATTERY STREET, SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 864-4000

LOS ANGELES OFFICE
417 South Hill Street, Suite 770
Los Angeles, CA 90013
(213) 617-9374

OAKLAND OFFICE
450 Hegenberger Road
Oakland, CA 94621
(415) 562-2854
From San Francisco
(415) 864-4000

MUR 2685

March 8, 1989

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

89 MAR 14 PM 12: 34

RE: 2/22/89 Correspondence from the Federal Election Commission (International Association of Bridge, Structural and Ornamental Iron Workers Local 751)

Dear Mr. Noble:

Thank you for your letter and attachment of February 22, 1989 in the above-captioned matter. I have reviewed the General Counsel's brief, and we choose at this time not to submit any additions, comments or corrections to the brief.

Sincerely,

VICTOR J. VAN BOURG

VVB/EMG
opeiu 3 afl-cio(1)

89 MAR 14 AM 10: 20

RECEIVED
FEDERAL ELECTION COMMISSION
89 MAR 21 PM 3:50

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Association of Bridge, Structural and Ornamental Iron Workers - Local 751	)	MUR 2685
	)	
District Council Political Action Fund	)	
	)	
Alaska Ironworkers Political Action Fund	)	
	)	

EXECUTIVE SESSION
MAR 28 1989
SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On August 30, 1988, the Commission opened a Matter Under Review (MUR) and found reason to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C); that the District Council Political Action Fund ("DCP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C); and that the Alaska Ironworkers Political Action Fund ("AIP") violated 2 U.S.C. §§ 441b(b)(3)(A) and (C). This matter was based on information indicating that International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 required by contract that a total of 9 cents per hour for each hour paid for and/or worked shall be deducted from the vacation benefit of each workman for political action committees (4 cents per hour to the District Council Political Action Fund, and 5 cents per hour to the Alaska Ironworkers Political Action Fund).

On September 6, 1988, notification of the Commission's findings was mailed to each Respondent. On September 19, 1988, the Commission received a response from the Counsel representing

DCP. On October 27, 1988, this Office received the responses from AIP and Local 751.

Both DCP and AIP appear to be the state political action committees of the International Association of Bridge, Structural and Ornamental Iron Workers. Attached to each Respondent's response was a copy of an authorization card which indicated that political action fund contributions were to be deducted only after the signing of said card. In addition, Respondents contended that all cards were voluntarily signed by each individual. Respondents also asserted that no monies have been transferred to any candidate from the political action committees (DCP and AIP), no monies have been given to others who make contributions to federal candidates, and no monies have been transmitted from the vacation fund to any political action committee.

The investigation into this matter also revealed that the two funds (DCP and AIP) are not registered with the Commission as political committees, but AIP is registered in Alaska to participate in State and local elections. DCP is not registered with the State.

To verify the Respondents' assertions a staff member from this Office requested a copy of the reports filed by AIP with the Alaska Public Offices Commission. This staff member was informed that a 1987 Year End Report was filed. The Public Offices Commission expected no 1988 Year End Report because AIP had

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indicated there would be no campaign activity in 1988, therefore no report was required. A review of AIP's 1987 Year End Report discloses no federal activity.

On February 22, 1989, this Office mailed respondents a brief stating the General Counsel's position on the legal and factual issues in this matter. This brief also informed respondents that the General Counsel was recommending that the Commission find no probable cause to believe that the violations occurred. On March 8, 1989 respondents by letter stated they choose not to comment at this time. (Attachment 1).

II. **ANALYSIS** (See General Counsel's Brief dated February 22, 1989)

III. **RECOMMENDATIONS**

1. Find no probable cause to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

2. Find no probable cause to believe that the District Council Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

3. Find no probable cause to believe that the Alaska Ironworkers Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

4. Close the file.

3/21/89
Date

Lawrence M. Noble
General Counsel

Attachments
1. Response to brief
2. Letter to Respondents

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
International Association of Bridge, Structural and Ornamental Iron Workers - Local 751	)	MUR 2685
	)	
District Council Political Action Fund	)	
	)	
Alaska Ironworkers Political Action Fund	)	

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session on March 28, 1989, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2685:

1. Find no probable cause to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751 violated 2 U.S.C. § 441b(b)(3)(C).

2. Find no probable cause to believe that the District Council Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

3. Find no probable cause to believe that the Alaska Ironworkers Political Action Fund violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

4. Close the file as recommended in the General Counsel's report dated March 21, 1989.

Commissioners Aikens, Josefiak, McDonald, McGarry and Thomas voted affirmatively for this decision. Commissioner Elliott was not present.

Attest:

3/29/89
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant

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plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 30, 1989

Victor J. Van Bourg, Esquire
875 Battery Street
San Francisco, California 94111

RE: MUR 2685

Dear Mr. Van Bourg:

This is to advise you that on March 28, 1989, the Federal Election Commission found that there is no probable cause to believe your clients, International Association of Bridge, Structural and Ornamental Iron Workers - Local 751, violated 2 U.S.C. § 441b(b)(3)(C), and that the District Council Political Action Fund and the Alaska Ironworkers Political Action Fund had each violated violated 2 U.S.C. §§ 441b(b)(3)(A) and (C). Accordingly, the file in this matter has been closed.

This matter will become part of the public record within 30 days. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2685

DATE FILMED 4/13/89 CAMERA NO. 4

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE PUBLIC FILE OF CLOSED MUR 2685.

89040752195

plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 2, 1989

Neil J. Evans, Esquire
United States Attorney's Office
District of Alaska at Anchorage
Federal Building and United
States Courthouse
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 99513

Re: MUR 2685
International Association of
Bridge, Structural and
Ornamental Iron Workers -
Local 751, et al.

Dear Mr. Evans:

This is in reference to the matter involving the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751, which your Office referred to the Federal Election Commission.

After conducting an investigation into this matter, the Commission, on August 30, 1988, found that there was reason to believe that the International Association of Bridge, Structural and Ornamental Iron Workers - Local 751, violated 2 U.S.C. § 441b(b)(3)(C), and that the District Council Political Action Fund and the Alaska Ironworkers Political Action Fund had each violated 2 U.S.C. §§ 441b(b)(3)(A) and (C).

On September 19 and October 27, 1988, Respondents submitted responses to the Commission's reason to believe findings. These responses explained away the allegations of any wrongdoing as stated by Mr. Israel Figueroa, in your referral. Accordingly, on March 28, 1989, the Commission found no probable cause to believe the above violations occurred and closed the file.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Federal Election Campaign Act of 1971, as amended.

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Attached for your information is a copy of the Commission findings and the General Counsel's Brief and Report in this matter. If you have any questions, please contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

By: George F. Rishel
Acting Associate General Counsel

Enclosure
Certification
General Counsel's Brief
General Counsel's Report
First General Counsel's Report

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U.S. Department of Justice

United States Attorney
District of Alaska at Anchorage

Federal Building & United States Courthouse 907/271-5071
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 995

CLOSED

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ADMINISTRATIVE DIVISION
89 MAY 22 PM 12:46

May 17, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
89 MAY 22 PM 3:47

Office of General Counsel
Federal Election Commission
Attn: Philip L. Wise
Washington, D.C. 20463

Re: MUR 2685 International Association of Bridge, Structural and Ornamental Iron Workers - Local 751, et. al.

Dear Mr. Wise:

Thank you for your letter of May 2, 1989, and the attached briefs and reports. I have just a couple of follow-up questions.

First, how much of the information, if any, attached to your letter of May 2, 1989, may be disclosed to the complainant Mr. Israel Figueroa?

Second, the certification of no probable cause to believe violations of federal laws rely in substantial part on the response of September 15, 1988, by Victor D. Van Bourg, Attorney for all three respondents. Not being familiar with this type of investigation, I am a little concerned with the very general responses provided by Mr. Van Bourg. His assertions appear to have been taken at face value even though he equivocates on a number of issues.

I would appreciate a response to my questions and thank you for your time and attention.

Sincerely,

MICHAEL R. SPAAN
UNITED STATES ATTORNEY

Neil J. Evans
Assistant U.S. Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 24, 1989

Neil J. Evans
Assistant U.S. Attorney
Room C-252, Mail Box 9
701 'C' Street
Anchorage, AK 99513

Re: MUR 2685

Dear Mr. Evans:

This letter responds to your follow-up questions regarding MUR 2685 outlined in your letter dated May 17, 1989.

First, because the Commission voted to close the file in this matter, all the documents sent to you are part of the public record and may be disclosed to Mr. Figueroa or anyone else.

Second, the Commission's no probable cause findings were based on an investigation that related to a jurisdictional question. The investigation adequately established that the political action funds had not made contributions to or expenditures on behalf of federal candidates and, thus, had not become political committees under the Federal Election Campaign Act of 1971, as amended. Thus, for this reason, the Commission did not investigate or address questions regarding the solicitation methods for the funds, although some reference is made to the allegations and response on this issue; and therefore, its findings should not be read as having made any determination on this issue.

If you have any further questions regarding this matter, please continue to contact Phillip L. Wise, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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