FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 3919

DATE FILMED 5-11-94 CAMERA NO. 2

CAMERAMAN Jm N

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: June 11, 1993

ANALYST: Kenneth A. Davis

9403097399 29

I. COMMITTEE: Joint Council No. 73 Political Action Committee (C00260323)
Anthony N. Carracino, Treasurer
2414 Morris Avenue
Union, NJ 07083

II. RELEVANT STATUTE: 11 CFR §114.5(b)(3)
11 CFR §102.5(a)(1)(i)

III. BACKGROUND:

Transfer Received From Non-Federal Account and Prepayment from Connected Organization for Payment of Administrative Expenses

The Joint Council No. 73 Political Action Committee's ("the PAC") 1992 July Quarterly Report disclosed the receipt of a transfer totalling $6,705.36 on April 20, 1992 from its apparent non-federal account (Attachment 2). On August 12, 1992, a Request for Additional Information ("RFAI") was sent informing the PAC that a transfer of funds from an account maintained for non-federal activity is prohibited by 11 CFR §102.5(a)(1)(i) and advised that the full amount of the transfer be returned to the non-federal account (Attachment 3).

On September 3, 1992, a Second Notice was sent to the PAC for failure to respond (Attachment 4). The PAC's treasurer, Anthony N. Carracino responded in a certified letter received on September 1, 1992 that the receipt represented a transfer from a terminated committee.[1/] "Upon

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1/ The PAC's response was placed on the Public Record September 8, 1992.

receipt of your letter and discussion with your office, we became aware that Joint Council No. 73 Political Education Fund was a non-federal account." Enclosed was a copy of a check dated August 21, 1992 for the full amount of the transfer-out. The transaction was subsequently reported on Schedule B of the PAC's 1992 October Quarterly Report[2/] (Attachment 5).

On its 1992 30 Day Post-General Report, the PAC disclosed an $11,000 receipt on October 15, 1992 from its connected organization, the Joint Council No. 73 ("the Joint Council"), that was labeled a reimbursement for operating expenditures (Attachment 6).

On February 10, 1993, an RFAI was sent to the PAC for the 30 Day Post-General Report. The RFAI advised the PAC that the receipt of funds from national banks, corporations, and labor organizations is prohibited by 2 U.S.C. §441b. The notice further advised the PAC to clarify when payments for operating expenditures were made since, under 11 CFR §114.5(b)(3), the Joint Council could reimburse the PAC within thirty (30) days after the expense was paid by the PAC (Attachment 7).

On February 16, 1993, John Prezioso, a PAC representative, contacted the Reports Analysis Division ("RAD") analyst. Mr. Prezioso stated that the intent of the $11,000 from the Joint Council was to pay for administrative expenses. The RAD analyst stated that if the money was received before the actual expense was paid, the $11,000 represented a prepayment and should be refunded to the Joint Council or transferred to a non-federal account. Mr. Prezioso said he would consult with the treasurer and other PAC officials and submit a written response (Attachment 8).

On February 25, 1993, the PAC filed a response to the RFAI of February 10, 1993. The response indicated that the receipt from the connected organization on October 15, 1992 represented a "reimbursement" to the PAC for administrative expenses "disbursed on October 20, 1992". The response also indicated that the money could not be refunded because of insufficient funds (Attachment 9).

On March 4, 1993, a Second Notice was sent to the PAC. The Notice explained that the Commission considered the receipt from the Joint Council a prepayment for administrative expenses. The Notice advised the PAC to either refund the money to the Joint Council, transfer the funds to a non-federal account or the PAC could report the transaction as an outstanding debt to the Joint Council if the PAC had insufficient funds (Attachment 10).

2/ The PAC's October Quarterly Report disclosed the transfer-out as occurring on August 18, 1992.

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In a response dated March 19, 1993, the PAC sent a copy of a $3,500 refund check dated March 18, 1993 to the Joint Council and stated that the remaining $7,500 would be reported as an outstanding debt on Schedule D until the PAC could pay it off (Attachment 11).

9403097393 1

FEDERAL ELECTION COMMISSION
1991-1992
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

ATTACHMENT# 1

JOINT COUNCIL NO 73 POLITICAL ACTION COMMITTEE
CONNECTED ORGANIZATION: JOINT COUNCIL NO 73

ID #C00260323 NON-PARTY QUALIFIED

COMMITTEE DOCUMENT	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
1992 STATEMENT OF ORGANIZATION					14FEB92	2	92FEC/738/1875
STATEMENT OF ORGANIZATION - AMENDMENT					24JUN92	3	92FEC/762/0203
APRIL QUARTERLY	39,889		22,679		11FEB92 -31MAR92	5	92FEC/748/0824
REQUEST FOR ADDITIONAL INFORMATION					11FEB92 -31MAR92	5	92FEC/758/1941
JULY QUARTERLY	37,191		20,251		1APR92 -30JUN92	7	92FEC/764/4398
JULY QUARTERLY - AMENDMENT	-		-		1APR92 -30JUN92	5	92FEC/777/2204
REQUEST FOR ADDITIONAL INFORMATION					1APR92 -30JUN92	3	92FEC/772/5241
REQUEST FOR ADDITIONAL INFORMATION 2ND					1APR92 -30JUN92	4	92FEC/777/2870
OCTOBER QUARTERLY	367		34,035		1JUL92 -30SEP92	6	92FEC/785/5058
POST-GENERAL	19,769		11,420		10CT92 -23NOV92	9	93FEC/820/5079
POST-GENERAL - AMENDMENT	-		-		10CT92 -23NOV92	4	93FEC/830/1331
POST-GENERAL - AMENDMENT	-		-		10CT92 -23NOV92	5	93FEC/832/5082
POST-GENERAL - AMENDMENT	-		-		10CT92 -23NOV92	6	93FEC/838/2307
NOTICE OF FAILURE TO FILE					10CT92 -23NOV92	1	93FEC/818/3255
REQUEST FOR ADDITIONAL INFORMATION					10CT92 -23NOV92	3	93FEC/828/1222
REQUEST FOR ADDITIONAL INFORMATION 2ND					10CT92 -23NOV92	2	93FEC/830/4954
YEAR-END	1,151		7,082		24NOV92 -31DEC92	4	93FEC/821/2563
TOTAL	98,367	0	95,467	0		74	TOTAL PAGES

9403097393 2

ALL REPORTS HAVE BEEN REVIEWED.
CASH-ON-HAND AS OF 12/31/92: $2,896.52.
OUTSTANDING DEBTS AND OBLIGATIONS: $0.00.

2 JULY QUARTERLY REPORT
ATTACHMENT# 2

SCHEDULE A **ITEMIZED RECEIPTS**

Use for Detailed Summary Page

FOR LINE NUMBER 12

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Joint Council No 73 Political Action Committee

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. Joint Council No. 73 Political Education Fund 2414 Morris Avenue Union, NJ 07083 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Transfer from Education Fund	Aggregate Year-to-Date > $ 6,705.36	4-20-92	6,705.36
B. Drive Political Fund 25 Louisiana Ave., N.W. Washington, D.C. 20001 Receipt For: ☐ Primary ☐ General ☒ Other (specify): Transfer from JAT PAC Fund	Aggregate Year-to-Date > $ 45,092.65	6-11-92 6-16-92	17,500.00 12,092.65
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $		
D. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $		
E. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $		
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $		
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date > $		

SUBTOTAL of Receipts This Page (optional)	36,816.01
TOTAL This Period (last page this line number only)	36,816.01

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

AUG 12 1992

Anthony W. Carracino, Treasurer
Joint Council No. 73 Political
Action Committee
2414 Morris Avenue
Union, NJ 07083

Identification Number: C00260323

Reference: July Quarterly Report (4/1/92-6/30/92)

Dear Mr. Carracino:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses a receipt of a transfer from the Joint Council No. 73 Political Education Fund (pertinent portion(s) attached). Please clarify whether this transfer is from an account maintained by your committee for non-federal activity. If so, be advised that such transfer is prohibited by 11 CFR §102.5(a)(1)(i) and the full amount of the transfer should be returned to the non-federal account. Please inform the Commission immediately in writing and provide a photocopy of your check for the transfer-out. In addition, the transfer-out should be disclosed on a supporting Schedule B for Line 22 of your next report.

If, however, this transaction represents an "internal transfer" of funds from one federal account to another, and the source(s) of such funds has been identified in previous reports of receipts and disbursements, please note that such transfers should not be itemized as doing so inflates total receipts and cash on hand. If this is the case, please amend your report accordingly.

Although the Commission may take further legal action regarding the acceptance of funds from a non-federal account, your prompt transfer-out of the funds in question, or clarification of the transaction, will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this

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letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Kenneth A. Davis, Jr.

Kenneth A. Davis, Jr.
Reports Analyst
Reports Analysis Division

9 4 2 0 3 7 7 2 5 2 3 4 5 2

ATTACHMENT# 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

September 3, 1992

Anthony M. Carracino, Treasurer
Joint Council No. 73 Political
Action Committee
2414 Morris Avenue
Union, NJ 07083

Identification Number: C00260323

Reference: July Quarterly Report (4/1/92-6/30/92)

Dear Mr. Carracino:

This letter is to inform you that as of September 2, 1992, the Commission has not received your response to our request for additional information, dated August 12, 1992. That notice requested information essential to full public disclosure of your federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Kenneth Davis, Jr. on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

9942033079732876

Teamsters Joint Council No. 73 P.A.C.
Political Action Committee

2424 Morris Avenue
Union, N J 07083
Tel. (908) 686-8450
FAX (908) 964-8991

August 21, 1992

Mr. Kenneth A. Davis, Jr.
Reports Analyst
Federal Election Commission
999 E. Street, NW, Room 709
Washington, DC 20463

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RECEIVED
FEDERAL ELECTION
COMMISSION
WASHINGTON, D.C.
SEP 1 2 12 PM '92

Re: Joint Council No. 73
Political Action Committee
I.D. #C00260323
July 1992 Quarterly Report

Dear Mr. Davis:

This is in response to your letter dated August 12, 1992. A copy of your letter is enclosed.

In our July 1992 Quarterly Report we disclosed a receipt on Schedule A from Joint Council No. 73 Political Education Fund. This receipt represented a transfer from a terminated committee. Upon receipt of your letter and discussion with your office, we became aware that Joint Council No. 73 Political Education Fund was a non-federal account. Based upon that information we have transferred-out the entire amount in question. A photocopy of our check for the transfer-out is enclosed.

We hope that our action and prompt response has corrected this situation in a satisfactory manner. If there are any further questions, please do not hesitate to contact me.

Sincerely yours,

Anthony Carracino

Anthony N. Carracino
Treasurer
AC/rc
Enclosures

TEAMSTERS
JOINT COUNCIL NO. 73 P.A.C.
2414 MORRIS AVE.
UNION, NJ 07083

2025

Aug 21 1992

PAY TO THE ORDER OF Joint Council No. 73 $ 6705.36

Six thousand seven hundred five & 35/100 — DOLLARS

TWO SIGNATURES REQUIRED

UNITED JERSEY BANK
CENTRAL, N.A.

FOR Teamsters Out of Pol Ed Fund

⑈002025⑈ ⑆031203054⑆ 945705530⑈

9403097 9203777 20

Teamsters Joint Council No. 73 P.A.C.
Political Action Committee
2424 Morris Avenue
Union, New Jersey 07083

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CERTIFIED
P 776 613 490
MAIL

NJ 1A 07102

SEP 1 2 12 PM '92
COMMISSION
MAIL ROOM

Mr. Kenneth A. Davis, Jr.
Reports Analyst
Federal Election Commission
999 E. Street, NW, Room 709
Washington, DC 20463

ATTACHMENT# 5
PAGE 3 of 4

1992 OCTOBER QUARTERLY REPORT
ATTACHMENT# 5
PAGE 4 of 4

SCHEDULE B **ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 1

FOR LINE NUMBER 22

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
JOINT COUNCIL NO 73 POLITICAL ACTION COMMITTEE

	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code JOINT COUNCIL NO 73 2414 MORRIS AVE UNION, N.J. 07083	TRANSFER TO AFFILIATED NON-FEDERAL PAC Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	8-15-92	6705.36
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)		

SUBTOTAL of Disbursements This Page (optional)	
TOTAL This Period (last page this line number only)	6705.36

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1992 30 DAY POST-GENERAL REPORT
ATTACHMENT# 6

SCHEDULE A **ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 1 OF 1

FOR LINE NUMBER: 15

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Joint Council No. 73 Political Action Committee

A. Full Name, Mailing Address and ZIP Code Joint Council No. 73 24.4 Morris Avenue Union, NJ 07083	Name of Employer Occupation	Date (month, day, year) 10-15-92	Amount of Each Receipt this Period 11,000.00
Receipt For: ☐ Primary ☐ General ☒ Other (specify) Reimb. Operating Expenditures	Aggregate Year-to-Date > $ 11,000.00		
B. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year-to-Date > $		
C. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year-to-Date > $		
D. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year-to-Date > $		
E. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year to Date > $		
F. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year to Date > $		
G. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify)	Aggregate Year to Date > $		
SUBTOTAL of Receipts This Page (optional)			
TOTAL This Period (last page this line number only)			11,000.00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Anthony N. Carracino, Treasurer
Joint Council No. 73 Political
Action Committee
2414 Morris Avenue
Union, NJ 07083

FEB 10 1993

Identification Number: C00260323

Reference: 30 Day Post-General Report (10/1/92-11/23/92)

Dear Mr. Carracino:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses the receipt of funds from your connected organization (pertinent portion(s) attached). 2 U.S.C. §441b prohibits the receipt of funds from national banks, corporations, and labor organizations. Under 11 CFR §114.5(b)(3), however, a separate segregated fund may be reimbursed for any solicitation or other administrative expense provided that the reimbursement is made no later than thirty (30) days after the expense was paid by the separate segregated fund.

Please provide further clarifying information regarding the date that your committee made payments for any solicitation or other administrative expenses. To the extent that the reimbursement was made beyond the thirty (30) days permitted under 11 CFR §114.5(b)(3), the Commission recommends that you refund the full amount to the donor in accordance with 11 CFR §103.3(b). Alternatively, if you choose to transfer the funds to an account not used to influence federal elections, the Commission advises that you inform the contributor in writing and provide the contributor with the option of receiving a refund. You may wish to seek a written authorization (either before or after the transfer-out) from the donor for any transfer-out to protect the donor's interests.

Please inform the Commission immediately in writing and provide a photocopy of your check for the refund or

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transfer-out. In the best interests of the committee, all refunds and transfers-out should be made within thirty (30) days of the treasurer's receipt of the funds. See 11 CFR §103.3(b). Refunds and transfers-out should be disclosed on a supporting Schedule B for Line 28 or 22 of the report covering the period during which they are made.

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information.

Although the Commission may take further legal steps concerning the acceptance of a prohibited contribution, prompt action by your committee to refund or transfer-out the amount will be taken into consideration.

-Please amend Schedule A supporting Line 15 by providing the aggregate year-to-date amount for each transfer received from a political committee. 11 CFR §§104.3(a)(4)(ii) and (iii)(B)

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Kenneth Davis, Jr.

Kenneth A. Davis, Jr.
Reports Analyst
Reports Analysis Division

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ANALYST: Kenneth Davis

ATTACHMENT# 8

CONVERSATION WITH: John Prezioso, a PAC representative

COMMITTEE: Joint Council No. 73 PAC

DATE: 2/16/93

SUBJECT(S): Receipt from connected organization

Mr. Prezioso contacted me to discuss the RFAI for the 30 Day Post General Report. He stated that the money that the connected organization gave to the PAC was intended to pay for administrative expenses. I stated that if the money was received before the actual disbursement was made, the money was actually a prepayment and therefore the money should either be refunded to the connected organization or transferred to a non federal account. Mr. Prezioso said that he would consult with the treasurer and other PAC officials and submit a written response.

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ATTACHMENT# 9

Teamsters Joint Council No.73

POLITICAL ACTION COMMITTEE

2414 Morris Avenue, Union, New Jersey 07083 • (908) 686-8450 • Fax (908) 964-8991

LOCAL 11 Rockaway Park
LOCAL 35 Trenton
LOCAL 97 Newark
LOCAL 102 East Orange
LOCAL 136 Little Falls
LOCAL 169 Hillside
LOCAL 177 Hillside
LOCAL 194 Union
LOCAL 408 Union
LOCAL 418 Garfield
LOCAL 482 Paramus
LOCAL 489 Hackensack
LOCAL 478 Union
LOCAL 522 Elizabeth
LOCAL 531 Yonkers
LOCAL 560 Union City
LOCAL 575 Union
LOCAL 617 Jersey City
LOCAL 641 Union
LOCAL 680 Union
LOCAL 701 North Brunswick
LOCAL 723 Montville
LOCAL 843 Springfield
LOCAL 861 New York
LOCAL 863 Mountainside
LOCAL 866 Passaic
LOCAL 877 Linden
LOCAL 945 Wayne
LOCAL 986 New York
LOCAL 999 North Haledon
LOCAL 1100 Piscataway
LOCAL 1518 Leonia

94030973931 45

February 18, 1993

Mr. Kenneth A. Davis, Jr.
Federal Election Commission
999 E. Street, N.W.
Room #709
Washington, D.C. 20463

Re: Notice Dated February 10, 1993
I.D# C00260123

Dear Mr. Davis:

This letter is in response to your notice dated February 10, 1993. A copy of the notice is enclosed.

The notice is in regard to the 30 Day Post-General Report (11/23/92) and requests clarification of a receipt of $11,000 from our connected organization reported on Schedule A.

Please be advised that the receipt from the connected organization represents a reimbursement of administrative expenses. The monies were transferred to the Joint Council No. 73 Political Action Committee on October 15, 1992 in order to cover administrative expenses which were disbursed on October 20, 1992. the intent of the transfer was to pay for these administrative expenses.

Based upon the above we believe that the item in question has been properly reported. In addition, because the monies were used to pay the administrative expenses we do not have the funds to transfer-out. If there are any further questions, please contact me.

Sincerely yours,

Anthony N. Carracino
Treasurer

AC:dg:JC73PAC
Enclosures

FEB 25 11 36 AM '93

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

RQ-3

March 4, 1993

Anthony N. Carracino, Treasurer
Joint Council No. 73 Political
Action Committee
2414 Morris Avenue
Union, NJ 07083

Identification Number: C00260323

Reference: 30 Day Post-General Report (10/1/92-11/23/92)

Dear Mr. Carracino:

On February 10, 1993 you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your February 18, 1993 response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-Schedule A of your report discloses the receipt of funds from your connected organization (pertinent portion(s) attached). 2 U.S.C. §441b prohibits the receipt of funds from national banks, corporations, and labor organizations. Under 11 CFR §114.5(b)(3), however, a separate segregated fund may be reimbursed for any solicitation or other administrative expense provided that the reimbursement is made no later than thirty (30) days after the expense was paid by the separate segregated fund. The monies transferred to the Joint Council No. 73 Political Action Committee on October 15, 1992 are considered a prepayment (i.e. not a reimbursement) for the administrative expenses disbursed on October 20, 1992.

Therefore, the Commission recommends that you refund the full amount to your connected organization in accordance with 11 CFR §103.3(b). Alternatively, you could transfer the funds to an account not used to influence federal elections. Thirdly, if the committee has insufficient funds, the transaction can be reported as an outstanding debt to the connected organization and disclosed on Schedule D.

Please inform the Commission immediately concerning the course of action chosen by your committee.

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If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Kenneth Davis, Jr. on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

9403097394 7

Teamsters Joint Council No.73
POLITICAL ACTION COMMITTEE

2414 Morris Avenue, Union, New Jersey 07083 • (908) 686-8450 • Fax (908) 964-8991

LOCAL 11 Rochelle Park
LOCAL 35 Trenton
LOCAL 97 Newark
LOCAL 102 East Orange
LOCAL 125 Little Falls
LOCAL 165 Hillside
LOCAL 177 Hillside
LOCAL 194 Union
LOCAL 400 Union
LOCAL 410 Garfield
LOCAL 482 Paramus
LOCAL 493 Hoboken
LOCAL 478 Union
LOCAL 522 Elizabeth
LOCAL 531 Yonkers
LOCAL 560 Union City
LOCAL 575 Union
LOCAL 617 JerseyCity
LOCAL 641 Union
LOCAL 680 Union
LOCAL 701 North Brunswick
LOCAL 720 Montville
LOCAL 843 Springfield
LOCAL 881 New York
LOCAL 863 Mountainside
LOCAL 868 Passaic
LOCAL 877 Linden
LOCAL 945 Wayne
LOCAL 986 New York
LOCAL 990 North Haledon
LOCAL 1100 Piscataway
LOCAL 1510 Leonia

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March 19, 1993

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
MAR 24 12 09 PM '93

Mr. John D. Gibson
Assistant Staff Director
Federal Election Commission
Reports Analysis Division
999 E. Street, N.W.
Washington, D.C. 20463

Re: Joint Council No. 73 PAC
I.D.# C00260323
30 Day Post General Report
(10/1/92 - 11/23/92)

Dear Mr. Gibson:

This letter is in response to your notice dated March 4, 1993. A copy of the notice is attached.

As stated in your notice, we will refund $11,000 to our connected organization which represents the full amount of the receipt reported on Schedule A of our November 23, 1992 30 Day Post General Report.

Please be advised that the PAC does not have sufficient funds to refund the entire amount at this time. We have refunded $3,500; see copy of check enclosed. The balance of $7,500 will be refunded as the funds become available and will be reported as an outstanding debt to our connected organization and disclosed in Schedule D.

The transfer from our connected organization to the PAC of $11,000 was made under the belief that the amount represented a reimbursement of administrative expenses. In the future, any reimbursements will be made within 30 days after the expense is paid by the PAC or the expense will be paid directly by the connected organization.

If there are any further questions, please contact me.

Sincerely,

Anthony N. Carracino

Anthony N. Carracino
Treasurer

ANC/cc
enclosure

1993-03-19 17:24

9 4 0 3 0 9 7 3 9 . 41.9

TEAMSTERS
JOINT COUNCIL NO. 73 P.A.C.
2416 MORRIS AVE.
UNION, NJ 07083

2063

MAR 18 1993

PAY TO THE ORDER OF Teamsters Joint Council 73 $ 3,500.00

Three Thousand Five Hundred DOLLARS

UNITED JERSEY BANK
CENTRAL N.A.

TWO SIGNATURES REQUIRED

FOR Repayment

⑈002063⑈ ⑆031203054⑆ 945705530⑈

ATTACHMENT# 11
PAGE 2 of 2

RECEIVED
F.E.C.
SECRETARIAT
94 JAN 13 AM 10:22

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral # 93L-43
Staff Member: Richard Denholm

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer

Joint Council No. 73

RELEVANT STATUTE: 2 U.S.C. § 441b(a)
2 U.S.C. § 441b(b)
11 C.F.R. § 102.5(a)(1)
11 C.F.R. § 102.5(a)(2)
11 C.F.R. § 103.3(b)
11 C.F.R. § 114.5(b)(3)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was referred to the Office of General Counsel by the Reports Analysis Division ("RAD"). (Attachment 1). The referral concerns possible violations of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a) by the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, (the "PAC") and the Joint Council No. 73 (the "union"). The possible violations resulted from the PAC's deposit of apparently impermissible funds into its separate account maintained to finance political activity in connection with federal elections and, in addition, its receipt of apparently impermissible union contributions.

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II. FACTUAL AND LEGAL ANALYSIS

Under 11 C.F.R. § 102.5(a)(1), organizations which are political committees under the Federal Election Campaign Act of 1971, as amended, (the "Act") and which finance political activity in connection with both federal and non-federal elections must elect one of two options. They must choose either to: (1) establish a separate federal account in a depository in accordance with 11 CFR part 103; or (2) establish a political committee which can receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. 11 C.F.R. § 102.5(a)(1)(i) and (ii). Where the political committee establishes a separate federal account, it can receive only funds subject to the prohibitions and limitations of the Act for deposit into the federal account. No transfers can be made to the federal account from any other account maintained by the political committee for the purpose of financing activity in connection with non-federal elections. Id.

Pursuant to 11 C.F.R. § 102.5(a)(2), contributions that are deposited into such federal accounts must meet three conditions. First, the contribution must be designated for the federal account. Second, the solicitation must expressly state that the contribution will be used in connection with a federal election.

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Third, the contributors must be informed that all contributions are subject to the limitations and prohibitions of the Act.

It is unlawful for a labor union to make a contribution or expenditure in connection with a federal election and for a political committee to knowingly accept such contribution. 2 U.S.C. § 441b(a). The terms "contribution" or "expenditure" are defined to include any direct or indirect payment, loan, or any services, or anything of value. 2 U.S.C. § 441b(b). Also, pursuant to 2 U.S.C. § 431(7), the term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a committee is responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions, exceed contribution limitations. When a contribution presents a genuine question as to whether it was made by a labor organization, among other prohibited organizations, the treasurer must deposit the funds into a campaign depository or return them to the contributor within ten days of receipt. 11 C.F.R. § 103.3(b)(1). If any such contribution is deposited, the treasurer shall make at least one written or oral request for evidence of the legality of the contribution. Id. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of receipt of the contribution, refund the contribution to the contributor.

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Id. However, if the treasurer determined at the time the contribution was received that it was not from a prohibited contributor, but later discovers its illegality based on new evidence not available to the committee at the time of receipt and deposit, the treasurer shall refund the contribution within thirty days of discovering its illegality. 11 C.F.R. § 103.3(b)(2).

Transfer from Non-federal Account

The PAC's 1992 July Quarterly Report disclosed the receipt of $6,705.36 from an apparent non-federal account, the Joint Council Political Education Fund (the "Education Fund"). (Attachment 1 at 5). The PAC reported that it received the funds on April 20, 1992. On August 12, 1992, RAD sent a Request for Additional Information ("RFAI") to the PAC. RAD informed the PAC that a transfer of funds from an account maintained for non-federal activity is prohibited by 11 C.F.R. § 102.5(a)(1)(i) and that the full amount of the transfer must be returned to the Education Fund.

In a letter dated August 21, 1992, the PAC's treasurer stated that the $6,705.36 was transferred from the Education Fund, a non-federal committee that had since terminated. (Attachment 1 at 9). Following the notification from RAD, the PAC transferred from its federal account to the union the entire amount received from the Education Fund. (Id. at 9-12).

Pursuant to 2 U.S.C. § 441b(a), a political committee is prohibited from knowingly accepting or receiving a contribution

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from a corporation or labor union. During the relevant time period in this matter, New Jersey state law permitted corporate and labor union contributions in state elections and, presumably, the Education Fund contained such contributions, which would be impermissible federal contributions under 2 U.S.C. § 441b(a).[1]

Based on the foregoing, it appears that the Joint Council No. 73 Political Action Committee deposited impermissible funds into its federal account by receiving $6,705.36 from the Joint Council Political Education Fund, in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

Administrative Expenses

While the Act prohibits a labor union from making a contribution or expenditure in connection with a federal election, it specifically excludes from the definitions of "contribution" or "expenditure" allocations for "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a...labor organization." 2 U.S.C. § 441b(b)(2). Commission regulations further provide that if a separate segregated fund pays any administrative expense from its own account which could have been paid for as an administrative expense by its connected organization, the connected organization may reimburse the separate segregated fund no later

1. This Office is making no recommendation about whether the union violated 2 U.S.C. § 441b(a) with respect to the transfer.

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than 30 calendar days after the expense was paid by the separate segregated fund. 11 C.F.R. § 114.5(b)(3).

The 1992 30 Day Post General Report filed by the PAC disclosed that on October 15, 1992, it received $11,000 from its connected organization, Joint Council No. 73, a labor union. (Attachment 1). This receipt was reported as a reimbursement for operating expenditures.

On February 10, 1993, RAD sent the PAC a RFAI concerning the $11,000 receipt. The PAC responded and explained that the union transferred $11,000 to it on October 15, 1992. The transfer was made in order that the PAC could disburse those funds for administrative expenses on October 20, 1992.

On March 4, 1993, RAD sent a second RFAI to the PAC. RAD informed the PAC that the $11,000 receipt was a prepayment of an administrative expense, and the Commission's regulations provide that a connected organization may only reimburse -- not prepay -- administrative expenses paid by a separate segregated fund. See 11 C.F.R. § 114.5(b)(3). In its response dated March 19, 1993, the PAC stated that it would refund the $11,000 to the union.[2] (Attachment 1 at 20). The PAC also demonstrated that it had already refunded $3,500, and it explained that it would report the remaining $7,500 as an outstanding debt on Schedule D until it could make a complete refund. The PAC's 1993 Mid-Year Report, in fact, includes the $11,000 as a debt

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2. The PAC's treasurer, Mr. Carracino, stated: "In the future, any reimbursement will be made within 30 days after the expense is paid by the PAC or the expense will be paid directly by the connected organization." (Attachment 1 at 20).

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owed to the union, and this report further discloses that the PAC has now refunded $6,500.

Based on the foregoing, it appears that the Joint Council No. 73 Political Action Committee received impermissible funds by receiving an $11,000 contribution from the Joint Council No. 73, in violation of 2 U.S.C. § 441b(a).

Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a) with respect to the $6,705.36 transfer from the Education Fund and the $11,000 prepayment of administrative expenses from the Joint Council No. 73. This Office further recommends that the Commission find reason to believe that the Joint Council No. 73 violated 2 U.S.C. § 441b(a) by contributing $11,000 in prepayment of administrative expenses.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

3. Find reason to believe the Joint Council No. 73 violated 2 U.S.C. § 441b(a).

4. Enter into conciliation, prior to a finding of probable cause to believe, with the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer.

5. Enter into conciliation, prior to a finding of probable cause to believe, with the Joint Council No. 73.

6. Approve the attached proposed conciliation agreements.

7. Approve the attached Factual and Legal Analyses, and appropriate letters.

Lawrence M. Noble
General Counsel

1/13/94
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Referral Materials
2. Proposed Conciliation Agreement to the Joint Council No. 73 PAC
3. Proposed Conciliation Agreement to the Joint Council No. 73
4. Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: JANUARY 21, 1994

SUBJECT: RAD REFERRAL #93L-43 - FIRST GENERAL COUNSEL'S REPORT DATED JANUARY 13, 1994.

The above-captioned document was circulated to the Commission on Thursday, January 13, 1994 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	_____
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, January 25, 1994.

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	)	
	)	RAD Referral
Joint Council No. 73 Political	)	#93L-43
Action Committee and Anthony	)	MUR 3919
N. Carracino, as treasurer;	)	
Joint Council No. 73	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 25, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to RAD Referral #93L-43:

1. Open a MUR.

2. Find reason to believe the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

3. Find reason to believe the Joint Council No. 73 violated 2 U.S.C. § 441b(a).

4. Enter into conciliation, prior to a finding of probable cause to believe, with Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer.

(continued)

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5. Enter into conciliation, prior to a finding of probable cause to believe, with the Joint Council No. 73.

6. Approve the proposed conciliation agreements recommended in the General Counsel's report dated January 13, 1994

7. Approve the Factual and Legal Analyses and appropriate letters as recommended in the General Counsel's report dated January 13, 1994.

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

Attest:

1-28-94
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

FEBRUARY 3, 1994

Giroleono Musso
Joint Council No. 73
2414 Morris Avenue
Union, NJ 07083

RE: MUR 3919

Dear Mr. Musso:

On January 25, 1994, the Federal Election Commission found that there is reason to believe the Joint Council No. 73 violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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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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 Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

For the Commission,

Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Joint Council No. 73 **MUR: 3919**

It is unlawful for a labor union to make a contribution or expenditure in connection with a federal election and for a political committee to knowingly accept such contribution. 2 U.S.C. § 441b(a). The terms "contribution" or "expenditure" are defined to include any direct or indirect payment, loan, or any services, or anything of value. 2 U.S.C. § 441b(b). Also, pursuant to 2 U.S.C. § 431(7), the term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a committee is responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions, exceed contribution limitations. When a contribution presents a genuine question as to whether it was made by a labor organization, among other prohibited organizations, the treasurer must deposit the funds into a campaign depository or return them to the contributor within ten days of receipt. 11 C.F.R. § 103.3(b)(1). If any such contribution is deposited, the treasurer shall make at least one written or oral request for evidence of the legality of the contribution. Id. If the contribution cannot be determined to

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be legal, the treasurer shall, within thirty days of receipt of the contribution, refund the contribution to the contributor. Id. However, if the treasurer determined at the time the contribution was received that it was not from a prohibited contributor, but later discovers its illegality based on new evidence not available to the committee at the time of receipt and deposit, the treasurer shall refund the contribution within thirty days of discovering its illegality. 11 C.F.R. § 103.3(b)(2).

Administrative Expenses

While the Act prohibits a labor union from making a contribution or expenditure in connection with a federal election, it specifically excludes from the definitions of "contribution" or "expenditure" allocations for "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a...labor organization." 2 U.S.C. § 441b(b)(2). Commission regulations further provide that if a separate segregated fund pays any administrative expense from its own account which could have been paid for as an administrative expense by its connected organization, the connected organization may reimburse the separate segregated fund no later than 30 calendar days after the expense was paid by the separate segregated fund. 11 C.F.R. § 114.5(b)(3).

The 1992 30 Day Post General Report filed by the Joint Council No. 73 Political Action Committee (the "PAC") disclosed that on October 15, 1992, it received $11,000 from its connected

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organization, Joint Council No. 73, a labor union (the "union"). This receipt was reported as a reimbursement for operating expenditures.

On February 10, 1993, the Reports Analysis Division ("RAD") sent the PAC a Request for Additional Information ("RFAI") concerning the $11,000 receipt. The PAC responded and explained that the union transferred $11,000 to it on October 15, 1992. The transfer was made in order that the PAC could disburse those funds for administrative expenses on October 20, 1992.

On March 4, 1993, RAD sent a second RFAI to the PAC. RAD informed the PAC that the $11,000 receipt was a prepayment of an administrative expense, and the Commission's regulations provide that a connected organization may only reimburse -- not prepay -- administrative expenses paid by a separate segregated fund. See 11 C.F.R. § 114.5(b)(3). In its response dated March 19, 1993, the PAC stated that it would refund the $11,000 to the union.[1] The PAC also demonstrated that it had already refunded $3,500, and it explained that it would report the remaining $7,500 as an outstanding debt on Schedule D until it could make a complete refund. The PAC's 1993 Mid-Year Report, in fact, includes the $11,000 as a debt owed to the union, and this report further discloses that the PAC has now refunded $6,500.

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1. The PAC's treasurer, Mr. Carracino, stated: "In the future, any reimbursement will be made within 30 days after the expense is paid by the PAC or the expense will be paid directly by the connected organization."

Based on the foregoing, it appears that the Joint Council No. 73 Political Action Committee received impermissible funds by receiving an $11,000 contribution from the Joint Council No. 73, in violation of 2 U.S.C. § 441b(a). Accordingly, there is reason to believe that the Joint Council No. 73 violated 2 U.S.C. § 441b(a) by making an impermissible $11,000 contribution, in the form of a prepayment of administrative expenses, to the Joint Council No. 73 Political Action Committee.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEBRUARY 3, 1994

Anthony N. Carracino, Treasurer
Joint Council No. 73 Political
Action Committee
2434 Morris Avenue
Union, NJ 07083

RE: MUR 3919
Joint Council No. 73
Political Action
Committee and Anthony N.
Carracino, as treasurer

Dear Mr. Carracino:

On January 25, 1994, the Federal Election Commission found that there is reason to believe Joint Council No. 73 Political Action Committee and you, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a), provisions of the Federal Election Campaign Act of 1971, as amended. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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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.

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For the Commission,

Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

9403097399 69

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer

MUR: 3919

Under 11 C.F.R. § 102.5(a)(1), organizations which are political committees under the Federal Election Campaign Act of 1971, as amended, (the "Act") and which finance political activity in connection with both federal and non-federal elections must elect one of two options. They must choose either to: (1) establish a separate federal account in a depository in accordance with 11 CFR part 103; or (2) establish a political committee which can receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. 11 C.F.R. § 102.5(a)(1)(i) and (ii). Where the political committee establishes a separate federal account, it can receive only funds subject to the prohibitions and limitations of the Act for deposit into the federal account. No transfers can be made to the federal account from any other account maintained by the political committee for the purpose of financing activity in connection with non-federal elections. Id.

Pursuant to 11 C.F.R. § 102.5(a)(2), contributions that are deposited into such federal accounts must meet three conditions. First, the contribution must be designated for the federal account. Second, the solicitation must expressly state that the

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contribution will be used in connection with a federal election. Third, the contributors must be informed that all contributions are subject to the limitations and prohibitions of the Act.

It is unlawful for a labor union to make a contribution or expenditure in connection with a federal election and for a political committee to knowingly accept such contribution. 2 U.S.C. § 441b(a). The terms "contribution" or "expenditure" are defined to include any direct or indirect payment, loan, or any services, or anything of value. 2 U.S.C. § 441b(b). Also, pursuant to 2 U.S.C. § 431(7), the term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

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Based on the foregoing, it appears that the Joint Council No. 73 Political Action Committee deposited impermissible funds into its federal account by receiving $6,705.36 from the Joint Council Political Education Fund, in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

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1. The PAC's treasurer, Mr. Carracino, stated: "In the future, any reimbursement will be made within 30 days after the expense is paid by the PAC or the expense will be paid directly by the connected organization."

in fact, includes the $11,000 as a debt owed to the union, and this report further discloses that the PAC has now refunded $6,500.

Based on the foregoing, it appears that the Joint Council No. 73 Political Action Committee received impermissible funds by receiving an $11,000 contribution from the Joint Council No. 73, in violation of 2 U.S.C. § 441b(a).

Accordingly, there is reason to believe that the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a) by receiving an impermissible $6,705.36 transfer from the Education Fund. Further, there is reason to believe that the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, violated 2 U.S.C. § 441b(a) by receiving an impermissible contribution in the form of a $11,000 prepayment of administrative expenses from the Joint Council No. 73.

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STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

FEB 18 11 51 AM '94

MUR 3919

NAME OF COUNSEL: Mark Rushfield, Esquire

ADDRESS: Guazzo Perelson Rushfield & Guazzo
658 Ridgewood Road
Maplewood NJ 07040

TELEPHONE: (908) 378-9898

RECEIVED
FEDERAL ELECTION COMMISSION
94 FEB 18 PM 3:57

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

February 16, 1994
Date

Frank Carracino
Signature

RESPONDENT'S NAME: Frank Carracino , President

ADDRESS: Teamsters Joint Council No. 73
2414 Morris Avenue
Union, NJ 07083

HOME PHONE:

BUSINESS PHONE: (908) 686-8450

9403097397 6

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION
94 FEB 18 PM 3:57

MUR 3919

NAME OF COUNSEL: Mark Rushfield, Esq.

ADDRESS: Guazzo Perelson Rushfield & Guazzo
658 Ridgewood Road
Maplewood NJ 07040

TELEPHONE: (908) 378-9898

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

February 16, 1994
Date

Signature

RESPONDENT'S NAME: Donald Paolella, Chairman

ADDRESS: Teamsters Joint Council No. 73 PAC
2414 Morris Avenue
Union NJ 07083

HOME PHONE:

BUSINESS PHONE: (908) 686-8450

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OGC 368

RECEIVED FEDERAL ELECTION COMMISSION MAIL ROOM

MAR 4 11 59 AM '94

LAW OFFICES

GUAZZO, PERELSON, RUSHFIELD & GUAZZO

207 EAST 31ST STREET NEW YORK, NEW YORK 10016

(212) 696-9500
TELECOPIER (212) 696-9505

CAESAR C. GUAZZO*
STEPHEN A. PERELSON*
MARK C. RUSHFIELD†
DELIA M. GUAZZO†

*ADMITTED NEW YORK
†ADMITTED NEW YORK AND NEW JERSEY

□ PLEASE REPLY TO
658 RIDGEWOOD ROAD
MAPLEWOOD, NEW JERSEY 07040
(201) 378-9898
TELECOPIER (201) 378-8441

February 28, 1994

RECEIVED FEDERAL ELECTION COMMISSION 94 MAR -4 PM 2:35

VIA FACSIMILE [202/219-3880] and regular mail

Federal Election Commission
Att: Richard M. Denholm III, Esq.
999 E. St., N.W.
Washington, D.C. 20463

Re: Joint Council No. 73 and
Joint Council No. 73 Political
Action Committee, MUR 3919

Dear Mr. Denholm:

This office represents Joint Council No. 73 ("JC 73") and the Joint Council No. 73 Political Action Committee ("PAC") concerning the above-referenced matter. Pursuant to our conversation and in the spirit of negotiating a conciliation of this matter, I am responding to the February 3, 1994 letters (with enclosures) from Commission Chairman Trevor Potter in this matter.

I have reviewed the Factual and Legal Analysis provided by your office with regard to the two acts cited by the Commission, *i.e.*, the transfer of $6,705.36 from the Joint Council Political Education Fund to the PAC on April 20, 1992 and the transfer of $11,000.00 from JC 73 to the PAC on October 15, 1992 with my clients. My clients have little dispute with the facts alleged.

However, we feel some facts should be highlighted and some additional facts made clear in mitigation of any penalty.

Concerning the $11,000.00, as the Commission notes, it was transferred from JC 73 to the PAC on October 15, 1992 to cover administrative expenses which the PAC was required to pay out on October 20, 1992. This could not be done as a matter of "reimbursement" since the PAC did not then have the funds to pay those expenses prior

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to receipt of the monies from JC 73. Had JC 73 and the PAC realized that such a transfer was violative of 2 U.S.C. § 441 b(b)(2) and 11 C.F.R. § 114.5(b)(3), JC 73 would have paid the expenses directly, which I understand would have been permitted and the PAC would have thereafter reimbursed JC 73. 20/20 hindsight is, of course, a wonderful thing.

The $11,000.00 transfer was reported in the PAC's 1992 30 Day Post General Report and upon being advised that the five day lag between transfer and expenditure created a violation of the Act, the PAC commenced returning the monies to JC 73. In addition to those repayments detailed in the Commission's Factual and Legal Analysis, additional payments of $2,000.00 and $2,500.00 were respectively made by the PAC to JC 73 on July 28, 1993 and August 3, 1993 respectively. These payments, constituting the remainder of the $11,000.00, were reported in the report filed by the PAC and received by the Commission on January 21, 1994.

Concerning the $6,705.36 transferred from the Joint Council Political Education Fund to the PAC on April 20, 1992, this transfer was reported in the PAC's July 1992 Quarterly Report. This transfer was occasioned by the termination of the Fund and the belief that the Political Education Fund was a federal account.

By letter of August 12, 1992 from Kenneth A. Davis, Jr. of RAD to the PAC, the issue was first raised as to whether that Fund represented a non-federal account, so that the receipt of these monies by the PAC would represent a violation of 2 U.S.C. § 441 b(a) and 11 C.F.R. § 102.5(c).

Within days of the receipt of Mr. Davis' letter, on August 21, 1992 the PAC disgorged itself of the $6,705.36 to JC 73 by returning it to JC 73 (the Political Education Fund no longer being in existence). A copy of the PAC's August 21, 1992 letter and its check for $6,705.36 payable to JC 73 is attached hereto.

My clients recognize that these facts do not make their conduct less violative of the Act, but we submit that they establish the unintentional, technical and *de minimus* nature of the violations. They also demonstrate our client's immediate good faith efforts to speedily resolve the violations and undo what had been inadvertently done.

JC 73 is a labor organization whose funds are dues contributions initially deducted from the wages of blue collar employees. The PAC is an organization funded by such employees to support candidates for elected office and positions that will benefit working men and women. It would be a shame if funds of these organizations had to be dedicated to paying penalties for technical errors that had been quickly remedied.

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Very truly yours,

Mark C. Rushfield

Mark C. Rushfield

MCR/lk/JC73.PAC.NJB/Encl.

cc: Joint Council No. 73
(with enclosure)(by regular mail)

Donald Padella, JC 73 PAC
(with enclosure)(by regular mail)

9403097393 0

Teamsters Joint Council No. 73 P.A.C.
Political Action Committee

2424 Morris Avenue
Union, N.J. 07083
Tel. (908) 686-8450
FAX (908) 964-8991

August 21, 1992

Mr. Kenneth A. Davis, Jr.
Reports Analyst
Federal Election Commission
999 E. Street, NW, Room 709
Washington, DC 20463

Re: Joint Council No. 73
Political Action Committee
I.D. #C00260323
July 1992 Quarterly Report

Dear Mr. Davis:

This is in response to your letter dated August 12, 1992. A copy of your letter is enclosed.

In our July 1992 Quarterly Report we disclosed a receipt on Schedule A from Joint Council No. 73 Political Education Fund. This receipt represented a transfer from a terminated committee. Upon receipt of your letter and discussion with your office, we became aware that Joint Council No. 73 Political Education Fund was a non-federal account. Based upon that information we have transferred-out the entire amount in question. A photocopy of our check for the transfer-out is enclosed.

We hope that our action and prompt response has corrected this situation in a satisfactory manner. If there are any further questions, please do not hesitate to contact me.

Sincerely yours,

Anthony N. Carracino

Anthony N Carracino
Treasurer
AC/rc
Enclosures

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TEAMSTERS
JOINT COUNCIL NO. 73 P.A.C.
2414 MORRIS AVE.
UNION, NJ 07083

2025

55-305/312

Aug 21 1992

PAY TO THE ORDER OF Joint Council No. 73 $ 6705.36

Six thousand seven hundred five & 35/100 — DOLLARS

TWO SIGNATURES REQUIRED

UNITED JERSEY BANK
CENTRAL, N.A.

FOR Transfer out of Pol Ed Fund

⑈002025⑈ ⑆031203054⑆ 945705530⑈

9403097398

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 4, 1994

VIA FACSIMILE AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark C. Rushfield, Esq.
Guazzo, Perelson, Rushfield & Guazzo
658 Ridgewood Road
Maplewood, New Jersey 07040

RE: MUR 3919
Joint Council No. 73 and the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer

Dear Mr. Rushfield:

By letter dated February 3, 1994, your clients were notified that the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter, prior to a finding of probable cause to believe. On that same date, your clients were sent conciliation agreements offered by the Commission in settlement of this matter.

To date, this Office has not received the signed agreements nor checks for the civil penalties. Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. The 30 day period for negotiations has expired. Unless we receive the signed agreements from you by Friday, April 8, 1994, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact me at (202) 219-3690.

Sincerely,

Richard M. Denholm II
Attorney

9403097399 83

LAW OFFICES

GUAZZO, PERELSON, RUSHFIELD & GUAZZO

207 EAST 31ST STREET NEW YORK, NEW YORK 10016

(212) 696-9500
TELECOPIER (212) 696-9505

CAESAR C. GUAZZO*
STEPHEN A. PERELSON*
MARK C. RUSHFIELD†
DELIA M. GUAZZO†
*ADMITTED NEW YORK
†ADMITTED NEW YORK AND NEW JERSEY

☐ PLEASE REPLY TO
658 RIDGEWOOD ROAD
MAPLEWOOD, NEW JERSEY 07040
(201) 378-9898
TELECOPIER (201) 378-8441

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COMMISSION
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APR 4 11 53 AM '94

March 30, 1994

Richard M. Denholm III
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: Joint Council No. 73 and Joint Council No. 73 PAC, MUR 3919

Dear Mr. Denholm:

Enclosed please find an executed conciliation agreement by Joint Council No. 73 and Joint Council No. 73 Political Action Committee and their checks for the agreed civil penalties of $800.00 and $3200 respectively.

Please advise of the approval of the agreements by the Commission.

Very truly yours,

Mark C. Rushfield

Mark C. Rushfield

MCR:cw
encls.
cc: Frank Carracino, Pres.
Donald Paolella, Chairman

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
94 APR -6 AM 9:45

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OGC 800

RECEIVED

94 MAR -5 AM 9:45

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1994

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks PB
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Joint Council No 73 & 73 Pac, check number 5348, dated _____, and in the amount of $ 800.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of $ 800.00, the MUR number is 3919 and in the name of Joint Council No. 73. The account into which it should be deposited is indicated below:

✓ Budget Clearing Account (OGC), 95F3875.16

__ Civil Penalties Account, 95-1099.160

__ Other: _____

Anita Alexander
Signature

4-6-94
Date

9403097398 5

9 4 0 3 0 9 7 3 9 8 6

5348

JOINT COUNCIL NO. 73
INTERNATIONAL BROTHERHOOD OF TEAMSTERS
2414 MORRIS AVENUE
UNION, NJ 07083

March 29 1994

55-305/312

PAY TO THE ORDER OF Federal Election Commission $800.00

* * * Eight hundred and 00/100 * * * DOLLARS

UNITED JERSEY BANK
CENTRAL, N.A. 945
1930 Morris Avenue, Union, NJ 07083

Frank Carrasino

Donald D

⑈005348⑈ ⑆031203054⑆ 301411360⑈

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OGC 799

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94 APR -6 AM 9:40

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1994

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks PB
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Teamsters Joint Council #73 PAC, check number 2125, dated March 30, 1994, and in the amount of $3,200.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket Byaa

In reference to the above check in the amount of $3,200.00, the MUR number is 3919 and in the name of Joint Council No. 73 PAC. The account into which it should be deposited is indicated below:

✓ Budget Clearing Account (OGC), 95F3875.16

__ Civil Penalties Account, 95-1099.160

__ Other: _____

Anita Alexander
Signature

4-6-94
Date

9403097398 7

TEAMSTERS
JOINT COUNCIL NO. 73 P.A.C.
2414 MORRIS AVE.
UNION, NJ 07083

55-305/312

March 30, 1994

PAY TO THE ORDER OF Federal Election Commission $ 3,200.00

Three Thousand Two Hundred Dollars ----------00/100 DOLLARS

TWO SIGNATURES REQUIRED

UNITED JERSEY BANK
CENTRAL, N.A. 945
1930 Morris Avenue, Union, NJ 07083

FOR

Donald Paolillo

⑈002128⑈ ⑆031203054⑆ 945705530⑈

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94 APR 15 AM 9:44

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer	)	MUR 3919
	)	
Joint Council No. 73	)	
	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

Attached are revised conciliation agreements submitted on behalf of the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, ("PAC") and the Joint Council No. 73 ("JC 73"). Attachments 1 and 2. The agreements have been signed by representatives of the PAC and JC 73, and checks for the civil penalties have been received.

II. **ANALYSIS**

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III. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer.

2. Accept the attached conciliation agreement with the Joint Council No. 73.

3. Approve the appropriate letters.

4. Close the file.

Lawrence M. Noble
General Counsel

Date 4/14/94

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Joint Council No. 73 PAC Conciliation Agreement.
2. Joint Council No. 73 Conciliation Agreement.
3. Response dated February 28, 1994.

Staff Assigned: Richard Denholm

9403097393

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer; Joint Council No. 73.	)	MUR 3919

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 19, 1994, the Commission decided by a vote of 6-0 to take the following actions in MUR 3919:

1. Accept the conciliation agreement with the Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer, as recommended in the General Counsel's Report dated April 14, 1994.

2. Accept the conciliation agreement with the Joint Council No. 73, as recommended in the General Counsel's Report dated April 14, 1994.

(continued)

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3. Approve the appropriate letters, as recommended in the General Counsel's Report dated April 14, 1994.

4. Close the file.

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

Attest:

4-20-94
Date

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

Received in the Secretariat: Fri., April 15, 1994 9:44 a.m.
Circulated to the Commission: Fri., April 15, 1994 12:00 p.m.
Deadline for vote: Wed., April 20, 1994 4:00 p.m.

bjr

9403097399 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APRIL 22, 1994

Mr. Mark C. Rushfield, Esq.
Guazzo, Perelson, Rushfield & Guazzo
658 Ridgewood Road
Maplewood, New Jersey 07040

RE: MUR 3919
Joint Council No. 73 and the
Joint Council No. 73
Political Action Committee
and Anthony N. Carracino, as
treasurer

Dear Mr. Rushfield:

On April 19, 1994, the Federal Election Commission accepted the signed conciliation agreements and civil penalties submitted on your clients' behalf in settlement of the violations of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

9403097399 6

Enclosed you will find copies of the fully executed conciliation agreements for your files. In addition, you will be receiving a $1,000 refund for the committee's overpayment. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Richard M. Denholm II
Attorney

Enclosure
Conciliation Agreements

9403097399 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Joint Council No. 73	)	MUR 3919
	)	
	)	

RECEIVED
FEDERAL ELECTION COMMISSION
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CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Joint Council No. 73 (the "Respondent") violated 2 U.S.C. § 441b(a).

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

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

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

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

9403097398

IV. The pertinent facts in this matter are as follows:

1. The Joint Council No. 73 Political Action Committee (the "PAC") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Anthony N. Carracino is the treasurer of the PAC.

3. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a labor union to make a contribution or expenditure in connection with a federal election and for a political committee to accept such a contribution.

4. Pursuant to 2 U.S.C. § 441b(b), the definition of a contribution includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value.

5. Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a committee is responsible for examining all contributions received for evidence of illegality. When a contribution presents a genuine question as to whether it was made by a labor organization, the treasurer shall, within thirty days of receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(1).

6. Pursuant to 2 U.S.C. § 431(7), the term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

7. The Joint Council No. 73, a labor union, is the connected organization of the PAC.

9403097399

8. Pursuant to 2 U.S.C. § 441b(b)(2), the definitions of "contribution or expenditure" exclude allocations for "the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a...labor organization."

9. Pursuant to 11 C.F.R. § 114.5(b)(3), if a separate segregated fund pays any administrative expenses from its own account, which could have been paid for as an administrative expense by its connected organization, the connected organization may reimburse the separate segregated fund no later than 30 calendar days after the expense was paid by the separate segregated fund.

10. The PAC's 1992 30 Day Post General Report disclosed that on October 15, 1992, the PAC received $11,000 from its connected organization, Joint Council No. 73, a labor union. This receipt was reported as a reimbursement for operating expenditures.

11. The PAC disbursed the $11,000 for operating expenditures on October 20, 1992.

12. The $11,000 receipt was a prepayment of an administrative expense, and the Commission's regulations provide only that a reimbursement may occur within 30 days after an expense is paid by a separate segregated fund. (See 11 C.F.R. § 114.5(b)(3)).

13. The PAC has demonstrated that it refunded $11,000 to the Joint Council No. 73.

9403097400

V. Respondent made a contribution in the form of an $11,000 prepayment of administrative expenses to the Joint Council No. 73 Political Action Committee in violation of 2 U.S.C. § 441b(a).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Eight Hundred dollars ($800), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

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

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

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: _____ Date 4/22/94
Lois G. Lerner
Associate General Counsel

FOR THE RESPONDENTS:

_____
J.C. No. 73 President
(Name)
(Position)

March 29 1994
Date

9403097400 2

FEDERAL ELECTION COMMISSION
RECEIVED
94 APR -6 AM 9:46

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Joint Council No. 73 Political Action Committee and Anthony N. Carracino, as treasurer	)	MUR 3919
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Joint Council No. 73 Political Action Committee (the "Committee") and Anthony N. Carracino, as treasurer, ("Respondents") violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

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

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

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

9403097400 3

IV. The pertinent facts in this matter are as follows:

1. The Joint Council No. 73 Political Action Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Anthony N. Carracino is the treasurer of the Committee.

3. The Committee's 1992 July Quarterly Report disclosed the receipt of $6,705.36 from the Joint Council No. 73 Political Education Fund (the "Education Fund") on April 20, 1992.

4. Organizations that qualify as political committees under the Act and that finance political activity in connection with both federal and non-federal elections must follow one of two options. They may establish a separate federal account in a depository that can receive only funds subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(i). Or, they may establish a political committee that can receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether the contributions are used for federal or non-federal elections. 11 C.F.R. § 102.5(a)(1)(ii).

5. Organizations that do not qualify as political committees under the Act must follow one of two options. They may establish a separate account that receives only funds subject to the Act's limitations and prohibitions. 11 C.F.R. § 102.5(b)(1)(i). Or, they may demonstrate through a reasonable accounting method that they had sufficient funds subject to the

9403097400 4

limitations and prohibitions of the Act at the time of making a contribution. 11 C.F.R. § 102.5(b)(1)(ii).

6. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for a labor union or a corporation to make a contribution or expenditure in connection with a federal election and for a political committee to accept such a contribution.

7. Pursuant to 11 C.F.R. § 103.3(b), the treasurer of a committee is responsible for examining all contributions received for evidence of illegality. When any contribution presents a genuine question as to whether it was made by a labor organization, among other prohibited organizations, the treasurer shall, within thirty days of receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(1).

8. On April 20, 1992, Respondents received a $6,705.36 transfer to their federal account from the Education Fund, a non-federal account.

9. In 1992, New Jersey state election law permitted labor union and corporate contributions to the Education Fund for state election activity.

10. In a letter dated August 21, 1992, Respondents' treasurer stated that the $6,705.36 was transferred from the Education Fund, a non-federal committee that had since terminated.

11. The non-federal Education Fund presumably contained funds which would be impermissible federal contributions under 2 U.S.C. § 441b(a).

9403097400 5

12. Respondents reported that on August 18, 1992, they transferred $6,705.36 to the Joint Council No. 73, a labor union.

13. Pursuant to 2 U.S.C. § 441b(b), the definition of a contribution includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value.

14. Pursuant to 2 U.S.C. § 441b(b)(2), the definitions of "contribution or expenditure" exclude allocations for "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a...labor organization."

15. Pursuant to 2 U.S.C. § 431(7), the term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

16. Pursuant to 11 C.F.R. § 114.5(b)(3), if a separate segregated fund pays any administrative expenses from its own account, which could have been paid for as an administrative expense by its connected organization, the connected organization may reimburse the separate segregated fund no later than 30 calendar days after the expense was paid by the separate segregated fund.

17. The Joint Council No. 73, a labor union, is the connected organization of the Respondents.

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18. Respondents' 1992 30 Day Post General Report disclosed that on October 15, 1992, the Committee received $11,000 from the Joint Council No. 73. This receipt was reported as a reimbursement for operating expenditures.

19. Respondents disbursed the $11,000 for operating expenditures on October 20, 1992.

20. The $11,000 receipt was a prepayment of an administrative expense, and the Commission's regulations provide only that a reimbursement may occur within 30 days after an expense is paid by a separate segregated fund. (See 11 C.F.R. § 114.5(b)(3)).

21. Respondents have demonstrated that they refunded $11,000 to the Joint Council No. 73.

V. 1. Respondents received a transfer from the Joint Council Political Education Fund, a non-federal account, totaling $6,705.36, in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

2. Respondents accepted an $11,000 prepayment of administrative expenses from the Joint Council No. 73, a labor union, in violation of 2 U.S.C. § 441b(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand Two Hundred dollars ($2,200), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or

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any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

4-22-94
Date

FOR THE RESPONDENTS:

J.C. No. 72 PAC
Chairman
(Name)
(Position)

March 29 1994
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3919

DATE FILMED 5-11-94 CAMERA NO. 2

CAMERAMAN JMH

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