



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20541

THIS IS THE END OF MUR # 903
MERGED INTO MUR 1035

Date Filmed 11/30/81 Camera No. --- 2

Cameraman JPC

93
92
91
90
89
88
87
86
85
84
83
82
81
80
79
78
77
76
75
74
73
72
71
70
69
68
67
66
65
64
63
62
61
60
59
58
57
56
55
54
53
52
51
50
49
48
47
46
45
44
43
42
41
40
39
38
37
36
35
34
33
32
31
30
29
28
27
26
25
24
23
22
21
20
19
18
17
16
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1

FEDERAL ELECTION COMMISSION

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

- | | | | |
|-------------------------------------|-----------------------------------------------------------|-------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> | (1) Classified Information | <input type="checkbox"/> | (6) Personal privacy |
| <input checked="" type="checkbox"/> | (2) Internal rules and practices - <i>routing slips</i> | <input type="checkbox"/> | (7) Investigatory files |
| <input type="checkbox"/> | (3) Exempted by other statute | <input checked="" type="checkbox"/> | (8) Banking Information |
| <input type="checkbox"/> | (4) Trade secrets and commercial or financial information | <input type="checkbox"/> | (9) Well Information (geographic or geophysical) |
| <input type="checkbox"/> | (5) Internal Documents | | |

Signed *Buxley E. Keenan*
date *10/6/81*

81810302194

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Retail Store Employees) MUR 903
Union Local 428 and)
its Active Ballot Club)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 24, 1979, the Commission decided by a vote of 4-0 to merge MUR 903 with and continue compliance of possible violations set forth therein through MUR 1035.

Voting for this determination were Commissioners Friedersdorf, Aikens, Harris, and McGarry.

Attest:

10/24/79
Date

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

General Counsel's Report dated: 10-19-79
Received in Office of the Commission Secretary: 10-22-79, 9:42
Circulated on 48 hour vote basis: 10-22-79, 4:00

81040302195

October 22, 1979

MEMORANDUM TO: Marge Emmons
FROM: Jane Colgrove
SUBJECT: MUR 903

Please have the attached General Counsel's Report on MUR 903 distributed to the Commission on a 48 hour tally basis.

Thank you.

81010302196

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
MANAGING SECRETARY

79 OCT 22 A 9: 42

In the Matter of)
)
Retail Store Employees) MUR 903
Union Local 428 and)
its Active Ballot Club)

GENERAL COUNSEL'S REPORT

BACKGROUND

On April 18, 1979 the Commission found reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club ("ABC") may have violated 2 U.S.C. §434(b)(1)(14) in connection with cash on hand discrepancies and 2 U.S.C. §435(b) by failing to include a §435(b) notice in solicitation material distributed. A letter of notification with questions attached was mailed to ABC on April 20, 1979. ABC President and Treasurer James P. McLoughlin responded on behalf of the committee. He adequately explained the cash discrepancies and stated that ABC solicitation material would contain a §435(b) notice in the future.

Based on additional information contained in Mr. McLoughlin's response and documents attached thereto, the Commission determined there was reason to believe that ABC may have violated 2 U.S.C. §§441b(a) and 441b(b)(4)(A)(ii) and 11 CFR 103.2. In a July 10, 1979 letter of notification, the Commission asked that ABC Treasurer

81040302197

McLoughlin address the following issues: (1) commingling of union treasury funds with voluntary funds held in a segregated account; (2) solicitation of non-union members; and (3) ABC's campaign depository. Mr. McLoughlin responded to the Commission's questions by letter, dated August 8, 1979.

On September 25, 1979, the Commission determined to generate MUR 1035 involving the Retail Store Employees International Union and its Active Ballot Clubs for violations of 2 U.S.C. §§ 441b(a) (commingling of funds), 441b(b) (4) (A) (ii) (solicitation of non-members), and 11 C.F.R. § 103.3(a) (ten day rule). As ABC Local #428 is also a respondent in MUR 1035 for similar violations addressed herein, the Office of General Counsel recommends that this matter be consolidated with and compliance continued through MUR 1035.

RECOMMENDATION

Merge MUR 903 with and continue compliance of possible violations set forth therein through MUR 1035.

10/19/79
Date

William C. Oldaker
William C. Oldaker
General Counsel

81040302198



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: OCTOBER 4, 1979
SUBJECT: MUR 903 - Interim Investigative Report
dated 9-28-79; Signed 10-2-79;
Received in OCS 10-3-79, 11:01

The above-named document was circulated to
the Commission on a 24-hour no-objection basis
at 4:00, October 3, 1979.

There were no objections to the Interim Investigative
Report at the time of the deadline.

81040302199

October 3, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR903

Please have the attached Interim Invest Report on
MUR 903 distributed to the Commission.

Thank you.

8104030200

BEFORE THE FEDERAL ELECTION COMMISSION
September 28, 1979

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 OCT 3 AM: 01

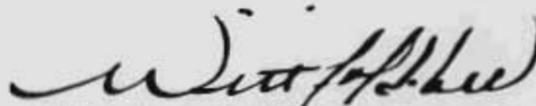
In the Matter of)
)
Retail Store Employees) MUR 903
Union Local 428 and)
its Active Ballot Club)

Interim Investigative Report

On July 9, 1979, the Commission determined there was reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club ("ABC") may have violated 2 U.S.C. §§ 441b(a) and 441b(b) (4) (A) (ii) and 11 C.F.R. § 103.2. In its letter of notification, the Commission asked that ABC President and Treasurer James P. McLoughlin respond to the following issues: (1) commingling of union treasury funds with voluntary funds held in a segregated account; (2) solicitation of non-union members; and (3) ABC's campaign depository. Mr. McLoughlin has responded to the Commission's questions.

The Office of General Counsel is presently reviewing the issues addressed in this matter in connection with the Commission's September 25, 1979, determination involving the Interim Audit Report on the Retail Clerks International Union and its Local Active Ballot Clubs. A full report will be submitted to the Commission shortly.

10/2/79
Date


William C. Oldaker
General Counsel

81040302201



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS
DATE: AUGUST 7, 1979
SUBJECT: MUR 903 - Interim Investigative Report
dated 8-1-79, signed by General Counsel
8-3-79, Received by OCS 8-6-79, 11:05

The above-named document was circulated to
the Commission on a 24-hour no-objection basis
at 4:00, August 6, 1979.

There were no objections to the Interim Investigative
Report at the time of the deadline.

81040302202

August 6, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 903

Please have the attached Interim InvestReport on
MUR 903 distributed to the Commission.

Thank you.

81040302203

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

August 1, 1979

In the Matter of)
)
Retail Store Employees)
Union Local 428 and)
its Active Ballot Club)

'9 AUG 6 11:05
MUR 903

INTERIM INVESTIGATIVE REPORT

The Commission found reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club may have violated 2 U.S.C. §§ 441b(a) and (b) (4) (A) (iii) and 11 CFR § 103.2. The respondent submitted a request for a 10 day extension of time in which to respond to questions attached to the Commission's letter of notification, as "Club" President and Treasurer James McLoughlin was on vacation. We will submit a report to the Commission upon receipt of Mr. McLoughlin's response.

81040302204

8/3/79

DATE

William C. Oldaker
General Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEFLE
FROM: MARJORIE W. EMMONS *MWE*
DATE: JUNE 19, 1979
SUBJECT: OBJECTION - MUR 903 - General Counsel's
Report dated 6-12-79; Signed 6-14-79;
Received in OCS 6-15-79, 1:40

The above-named document was circulated on a 48
hour vote basis at 11:00, Monday, June 18, 1979.

Commissioner Aikens submitted an objection at 4:05,
June 19, 1979, thereby placing MUR 903 on the Executive
Session Agenda for Tuesday, June 26, 1979.

81040302205

June 15, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 903

Please have the attached General Counsel's Report on MUR 903 distributed to the Commission on a 48 hour tally basis.

Thank you.

81040302205

BEFORE THE FEDERAL ELECTION COMMISSION

June 13, 1979

In the Matter of)
)
Retail Store Employees)
Union Local 428 and)
its Active Ballot Club)

MUR 903(79)

79 JUN 15 P 1:40

RECEIVED
GENERAL COUNSEL
FEDERAL ELECTION COMMISSION

General Counsel's Report

BACKGROUND

On April 18, 1979, the Commission found reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club violated 2 U.S.C. § 434(b)(1) and (14) by failing to adequately explain the discrepancy between cash on hand at the end of 1975 and at the beginning of 1976, and 2 U.S.C. § 435(b) by failing to include on political literature the notice required by this section of the Act.

A letter of notification with attached interrogatories was sent on April 26, 1979, and a response was received on May 14, 1979.

Analysis

According to Mr. James P. McLoughlin, President and Treasurer of Local 428, the notice required by 2 U.S.C. § 435(b) will be included in future solicitation material. Furthermore, an adequate response was received from Mr. McLoughlin regarding Local 428's cash on hand discrepancy during 1975-76. (Attachment I)

81040302207

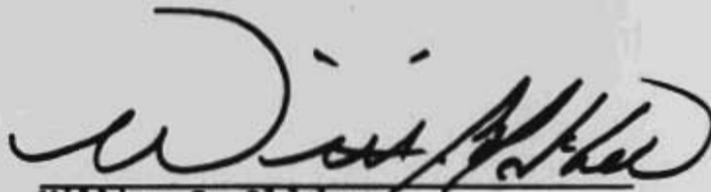
In view of this adequate response from the respondent we recommend that the Commission take no further action against Local 428 and its Active Ballot Club.

RECOMMENDATION

1. Take no further action against Retail Store Employees Union Local 428 and its Active Ballot Club for its violation of 2 U.S.C. §§ 434(b)(1) and (14) and 435(b).
2. Close the file;
3. Send the attached letter.

DATE

6/14/79


William C. Oldaker
General Counsel

Attachments

1. Letter from Respondent
2. Proposed letter to Respodent

81040302208



**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

RECEIVED
FEDERAL ELECTION
COMMISSION

10105-
'79 MAY 14 AM 9:49

May 10, 1979

Attachment I

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

902335

Re: MUR 903 (78 and 79)

Dear Mr. Oldaker:

Thank you for your calling to our attention the fact that we failed to include in our solicitation material the notice required by Section 2. U.S.C. §435(b) and we will do it in the future.

In reply to your letter of April 20, 1979, we submit the following:

Question I(A): Our definition of "soft" money would be: monies allocated by the Executive Board of the Union from the General Fund or Union treasury. "Hard" money would be defined as "voluntary contributions from our members"; only these funds can be used in federal election campaigns.

I(B): Yes, this is the account referred to in the last paragraph of Page 2 of our letter dated July 28, 1978.

I(C): No.

II: Yes.

II(A): No, retired members are not required to pay Union dues although some of them do. They pay the minimum, or non-working dues - the same as our other members who are not working. They currently pay \$24.00 per quarter.

II(B): Retired members who are dues-paying Union members do have voting privileges.

II(C): We have approximately 152 retired members who submitted ABC contributions for 1977 and approximately 193 retired members who submitted ABC contributions for 1978.

III: Enclosed please find copies of our passbooks for the "hard" account and the "soft" account. The difference in the amounts was that the "soft" account was added in the April 10, 1976 report. The person completing the report at that time interpreted the requirements of reporting as covering "all" the activity of the Active Ballot Club - including state and local transactions. The monies prior to that time were segregated and the figures were combined for the aforesaid report.

81040302209

IV(A): The "Retail Employees Local 428 Credit Union" is a State Chartered body and supervised by the State of California Department of Corporations. The Credit Union is federally insured by the National Credit Union Administration.

IV(B): The deposits in each account are insured up to \$40,000 by the National Credit Union Administration, a branch of the U. S. Government.

IV(C): Withdrawals from the Credit Union are made by check, drawn on the First National Bank, First and Santa Clara Streets, San Jose, California, a state chartered bank.

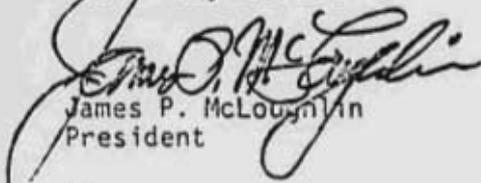
IV(D): Attached is a photocopy of the Credit Union charter.

IV(E): We have been developing a data programming system which will allow us to get a recap of counter receipts showing the amount collected for ABC - at least weekly - we hope to have it installed by July 1, 1979, at which time it is hoped we shall be able to transmit ABC contributions to the RCIU ABC on a weekly basis. This "on line" data processing system was supposed to be operational on January 1, 1979; there have been many delays due to equipment delivery to the data processing service bureau (Keystone Computer Service, San Jose) and installation problems at that point.

We trust this will answer your inquiry. Should you have any further questions, please get in touch with us and we will attempt to clear them up.

Sincerely,

RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO



James P. McLoughlin
President

jv

81040302210

ORIGINAL CHARTER

DEPARTMENT OF INVESTMENT
DIVISION OF CORPORATIONS
OF THE
STATE OF CALIFORNIA

File No. 506453ac

Receipt No. SAC-17225

RETAIL CLERKS LOCAL 428 CREDIT UNION

is hereby licensed

as a

CREDIT UNION

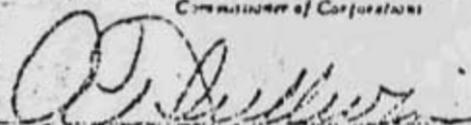
under the provisions of the Credit Union Law
of the State of California

and is authorized to carry on the business of a Credit Union in said
State, under the terms and conditions set forth in said Law

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my official seal this 18th
day of March 19 53.

EDWIN M. DAUGHERTY

Commissioner of Corporations

By 
A. T. SULLIVAN

Assistant Commissioner

This license is not transferable or assignable and is good until revoked by
Commissioner of Corporations

WAS:em

310403022



Cummings 500-1020 ✓
**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 988-0428

FEDERAL ELECTION
COMMISSION

'79 MAY 24 PM 1:09

May 22, 1979

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

90247S

Re: MUR 903 (78 and 79) our letter of May 10, 1979

Dear Mr. Oldaker we were informed by telephone by Ms Cummings that we had inadvertently omitted copies of our passbooks for the "hard" and "soft" accounts - please find them attached.

Sincerely,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 AFL-CIO

James P. McLoughlin
James P. McLoughlin
President

gj
Encl.

81040302212

79 MAY 24 P 3: 35

RECEIVED
OFFICE OF THE
GENERAL COUNSEL



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union
Local 428 and its Active Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903(79)

Dear Mr. McLoughlin:

This is in reference to your letter of May 10, 1979 regarding the above captioned matter.

The Commission has considered the materials you submitted and has determined that no further action will be taken against Retail Store Employees Union Local 428 and its Active Ballot Club. Accordingly, we are closing the file in this matter.

If you have any questions, please contact Marcie Cummings, the staff member assigned to this matter at (202) 523-4060.

Sincerely,

William C. Oldaker
General Counsel

81040302213



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: MAY 25, 1979
SUBJECT: MUR 903 (79) - Interim Investigative
Report dated 5-23-79;
Signed by GC 5-24-79;
Received in OCS 5-23-79, 5:20

The above-named document was circulated on a 24
hour no-objection basis at 4:40, May 24, 1979.

The Commission Secretary's Office has received
no objections to the Interim Investigative Report as
of 5:00 this date.

81040302214

May 23, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 903

Please have the attached Interim Invest Report
on MUR 903 distributed to the Commission.

Thank you.

81040302215

BEFORE THE FEDERAL ELECTION COMMISSION
May 23, 1979

In the Matter of)
)
Retail Store Employees) MUR 903(79
Union Local 428 and)
its Active Ballot Club)

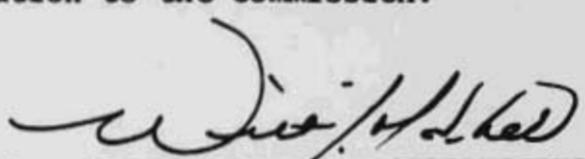
INTERIM INVESTIGATIVE REPORT

On April 18, 1979 the Commission found reason to believe that the above named respondent violated 2 U.S.C. § 434(b)(1) and(14)and 2 U.S.C. § 435(b). The letter of notification with attached interrogatories was sent on April 20, 1979 and a response was received on May 14, 1979. In this response certain materials pertaining to this matter were not included. Respondent has advised us, however, that these materials will be forthcoming.

Upon receipt of these materials we will make a full report and recommendation to the Commission.

Date

5/24/79



William C. Oldaker
General Counsel

81040302216



FEDERAL ELECTION COMMISSION

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

July 10, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union
Local 428; and Local 428 Active
Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903

Dear Mr. McLoughlin:

The Commission has received your letter dated May 10, 1979. Based on information in your letter and in other letters and reports on file, the Commission has found reason to believe that the Local Union and its Local Active Ballot Club may have violated certain additional provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that the Local Union and Local ABC:

(1) May have violated 2 U.S.C. §441b(a) when, on May 23, 1978, the Local ABC closed its treasury account and transferred the remaining balance of \$633.91 to its separate segregated account, on June 23, 1978. Since the \$633.91 was not separated from the other funds in this separate segregated account, commingling of dues monies with monies in the separate segregated account may have occurred.

(2) May have violated 2 U.S.C. §441b(b)(4)(A)(ii). This section of the Act states that it is unlawful for a labor organization, or a separate segregated fund established by a labor organization to solicit contributions to such a fund from any person other than its members and their families. Based on the answers in your May 10, 1979 letter, there is a question as to whether retirees who are not dues paying members are solicited for, and submit, contributions to the ABC's separate segregated fund. Other questions about the membership status of retired dues paying members who are solicited for, and submit, contributions to the ABC fund

7 2 2 3 0 3

are also raised. Accordingly, the Local may be soliciting persons not falling within the category of "members and their families" in violation of this section of the Act.

(3) May have violated 11 CFR §103.2 by maintaining its ABC account at a credit union. This section states that only national or state banks chartered by the United States or a state may be designated as campaign depositories.

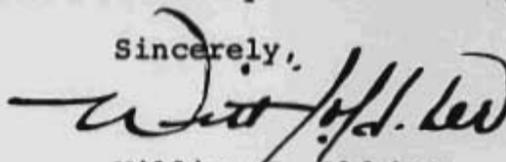
Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally, please submit answers to the enclosed questions. Where appropriate,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

If you have any questions, please contact Miriam Aguiar, the attorney now assigned to this matter, at 202-523-4057.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,



William C. Oldaker
General Counsel

302218

81040302219

Cummins Mail-9

PS Form 3811, Apr 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one).
- Show to whom and date delivered
 - Show to whom, date, and address of delivery
 - RESTRICTED DELIVERY 79
Show to whom and date delivered
 - RESTRICTED DELIVERY
Show to whom, date, and address of delivery
- (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 James P. McLaughlin, President + Treas.
 240 South Market Street
 San Jose, Cal. 95113 908

3. ARTICLE DESCRIPTION:
 REGISTERED NO. | CERTIFIED NO. | INSURED NO.

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY: 11/7/77
 POSTMARK: [Circular postmark]

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union
Local 428; and Local 428 Active
Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903

Dear Mr. McLoughlin:

The Commission has received your letter dated May 10, 1979. Based on information in your letter and in other letters and reports on file, the Commission has found reason to believe that the Local Union and its Local Active Ballot Club may have violated certain additional provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that the Local Union and Local ABC:

(1) May have violated 2 U.S.C. §441b(a) when, on May 23, 1978, the Local ABC closed its treasury account and transferred the remaining balance of \$633.91 to its separate segregated account, on June 23, 1978. Since the \$633.91 was not separated from the other funds in this separate segregated account, commingling of dues monies with monies in the separate segregated account may have occurred.

(2) May have violated 2 U.S.C. §441b(b)(4)(A)(ii). This section of the Act states that it is unlawful for a labor organization or a separate segregated fund established by a labor organization or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families. Based on the answers in your May 10, 1979 letter, there is a question as to whether retirees who are not dues paying members are solicited for, and submit, contributions to the ABC's separate segregated fund. Other questions about the membership status of retired dues paying members who are solicited for, and submit, contributions to the ABC fund

M.C.
7/10/79

FEDERAL ELECTION COMMISSION

TO: Mr. James P. McLoughlin
President
Retail Store Employees Union
Local 428; and Treasurer
Local 428 Active Ballot Club

MUR 903 (79)

QUESTIONS

I. The copies of the account records you provided the Commission showed that the Local ABC's Treasury Account (no. 51603) was closed on May 23, 1978 and that the same amount which was transferred out was deposited to the separate segregated account (no. 51602) on June 23, 1978. Why was there a month's delay during the time the \$633.91 was transferred?

II. In your May 10, 1979 letter to the Commission you state:

"We have approximately 152 retired members who submitted ABC contributions for 1977 and approximately 193 retired members who submitted ABC contributions for 1978."

- (A) Do you solicit non dues paying retirees for ABC contributions? If so, how?
- (B) Have any of the retired people from whom you have obtained contributions for the separate segregated fund been non-dues paying members? If so, how many were there in 1977 and how many in 1978?
- (C) Please provide us with a copy of your constitution and by-laws.

81040302222

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Retail Store Employees)	MUR 903 (79)
Union Local 428 and)	
its Active Ballot Club)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 9, 1979, the Commission determined by a vote of 4-0 to adopt the following recommendations, as set forth in the General Counsel's Report dated June 28, 1979, regarding the above-captioned matter:

1. Find reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club violated 2 U.S.C. §§441b(a) and (b) (4) (A) (ii), and 11 CFR §103.2 of the Regulations.
2. Send the letter, attached to the above-named report, to the Respondents.

Voting for this determination were Commissioners Friedersdorf, Harris, McGarry, and Thomson.

Attest:

7/9/79
Date

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

Received in Office of Commission Secretary: 7-3-79, 4:53
Circulated on 48 hour vote basis: 7-5-79, 11:00

8104030223

July 3, 1979

MEMORANDUM TO: Marge Emmons
FROM : Elissa T. Garr
SUBJECT: MUR 903

Please have the attached General Counsel's Report on MUR 903 distributed to the Commission on a 48 hour tally basis.

Thank you.

8104030224

BEFORE THE FEDERAL ELECTION COMMISSION
June 28, 1979

In the Matter of)
)
Retail Store Employees) MUR 903 (79)
Union Local 428 and)
its Active Ballot Club)

GENERAL COUNSEL'S REPORT

BACKGROUND

On April 18, 1979, the Commission found reason to believe that the Retail Store Employees Union Local 428 and its Active Ballot Club violated 2 U.S.C. §434(b)(1) and (14) by failing to adequately explain a discrepancy between cash on hand at the end of 1975 and at the beginning of 1976; and 2 U.S.C. §435(b) by failing to include on political literature the notice required by this section of the Act.

A letter of notification with attached interrogatories was sent on April 26, 1979, and a response was received on May 14, 1979. (Attachment 1).

ANALYSIS

I. 2 U.S.C. §§434(b)(1) and (14) and 435(b) Violations

An adequate response was received from Mr. McLoughlin, President and Treasurer of Local 428, regarding Local 428's cash on hand discrepancy during 1975-76. At the close of 1975, the Local Active Ballot Club reported having \$208.37 as cash on hand, and at the beginning of 1976 it reported having \$9,787.64 as cash on hand. The difference occurred because the balance of the Local ABC's treasury account,

81040302225

79 JUL 3 P 4: 53

RECEIVED
COMMUNICATIONS SECTION

\$9,579.27, was added to the ABC's separate segregated account in the April 10, 1976 report. This was a book-keeping error; commingling did not occur. (Attachment I)

Mr. McLoughlin also stated that the notice required by 2 U.S.C. §435(b) will be included in future solicitation material.

II. COMMINGLING

On May 23, 1978 the Local ABC closed its treasury account and transferred the remaining balance of \$633.91 to its separate segregated account on June 23, 1978. Since, according to Mr. McLoughlin, the \$633.91 was not segregated from the other funds in this separate segregated account, we recommend the Commission find reason to believe that respondents violated 2 U.S.C. §441b(a) by commingling monies from its dues account with monies in its separate segregated account.

III. DESIGNATED DEPOSITORY

The Local's Active Ballot Club maintains its account at the credit union of the local which is neither a national or state bank. Section 103.2 of the Regulations states that only national or state banks chartered by the United States or a state may be designated as campaign depositories. Therefore we recommend the Commission find reason to believe that respondents have violated 11 CFR §103.2 of the Regulations by maintaining their ABC account at a credit union.

IV. SOLICITATION OF RETIRED MEMBERS

According to Mr. McLoughlin "... approximately 152 retired members ... submitted ABC contributions for 1977 and approximately

81040302226

193 retired members ... submitted ABC contributions for 1978." While retired members may pay dues and thereby have voting privileges in the union, it is not clear from Mr. McLoughlin's answers whether only such dues paying retirees were solicited for contributions to the Local ABC. A possibility is raised that 2 U.S.C. §441b(b)(4)(A)(ii) is being violated by the solicitation of non-member pensioners for contributions to the ABC account. (Section 114.1(e) of the Regulations defines "members.") Therefore we recommend the Commission find reason to believe that respondents may have violated 2 U.S.C. §441b(b)(4)(A)(ii) in order to proceed with an investigation and obtain further information on this matter.

RECOMMENDATION

1. Find reason to believe that the Retail Store Employees - Union Local 428 and its Active Ballot Club violated 2 U.S.C. §§441b(a) and (b)(4)(A)(ii), and 11 CFR §103.2 of the Regulations.
2. Send attached letter to Respondents.

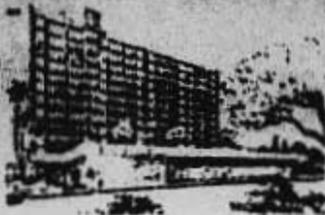
7/3/79
Date

William C. Oldaker
General Counsel

Attachments

1. Response from Respondent
2. Proposed letter with questions to Respondent

81040302227



**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

RECEIVED
FEDERAL ELECTION
COMMISSION

10/105
'79 MAY 14 AM 9:49

Attachment I

May 10, 1979

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

902335

Re: MUR 903 (78 and 79)

Dear Mr. Oldaker:

Thank you for your calling to our attention the fact that we failed to include in our solicitation material the notice required by Section 2. U.S.C. §435(b) and we will do it in the future.

In reply to your letter of April 20, 1979, we submit the following:

Question I(A): Our definition of "soft" money would be: monies allocated by the Executive Board of the Union from the General Fund or Union treasury. "Hard" money would be defined as "voluntary contributions from our members"; only these funds can be used in federal election campaigns.

I(B): Yes, this is the account referred to in the last paragraph of Page 2 of our letter dated July 28, 1978.

I(C): No.

II: Yes.

II(A): No, retired members are not required to pay Union dues although some of them do. They pay the minimum, or non-working dues - the same as our other members who are not working. They currently pay \$24.00 per quarter.

II(B): Retired members who are dues-paying Union members do have voting privileges.

II(C): We have approximately 152 retired members who submitted ABC contributions for 1977 and approximately 193 retired members who submitted ABC contributions for 1978.

III: Enclosed please find copies of our passbooks for the "hard" account and the "soft" account. The difference in the amounts was that the "soft" account was added in the April 10, 1976 report. The person completing the report at that time interpreted the requirements of reporting as covering "all" the activity of the Active Ballot Club - including state and local transactions. The monies prior to that time were segregated and the figures were combined for the aforesaid report.

8104030229

IV(A): The "Retail Employees Local 428 Credit Union" is a State Chartered body and supervised by the State of California Department of Corporations. The Credit Union is federally insured by the National Credit Union Administration.

IV(B): The deposits in each account are insured up to \$40,000 by the National Credit Union Administration, a branch of the U. S. Government.

IV(C): Withdrawals from the Credit Union are made by check, drawn on the First National Bank, First and Santa Clara Streets, San Jose, California, a state chartered bank.

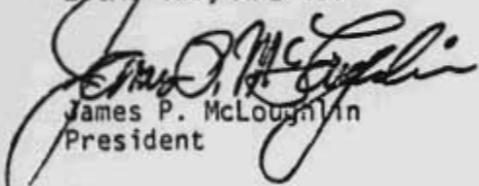
IV(D): Attached is a photocopy of the Credit Union charter.

IV(E): We have been developing a data programming system which will allow us to get a recap of counter receipts showing the amount collected for ABC - at least weekly - we hope to have it installed by July 1, 1979, at which time it is hoped we shall be able to transmit ABC contributions to the RCIU ABC on a weekly basis. This "on line" data processing system was supposed to be operational on January 1, 1979; there have been many delays due to equipment delivery to the data processing service bureau (Keystone Computer Service, San Jose) and installation problems at that point.

We trust this will answer your inquiry. Should you have any further questions, please get in touch with us and we will attempt to clear them up.

Sincerely,

RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO



James P. McLoughlin
President

jv

81040302229

DEPARTMENT OF INVESTMENT
DIVISION OF CORPORATIONS
OF THE
STATE OF CALIFORNIA

File No. 506459ac

Receipt No. Sac-17225

RETAIL CLERKS LOCAL 428 CREDIT UNION

is hereby licensed

as a

CREDIT UNION

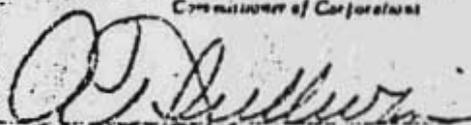
under the provisions of the Credit Union Law
of the State of California

and is authorized to carry on the business of a Credit Union in said
State, under the terms and conditions set forth in said Law

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my official seal this 18th
day of March 19 53.

EDWIN M. DAUGHERTY

Commissioner of Corporations



By A. T. SULLIVAN

Assistant Commissioner

Commissioner of Corporations

This license is not transferable or assignable and is good until revoked by

PWR:em



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union
Local 428; and Local 428 Active
Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903

Dear Mr. McLoughlin:

The Commission has received your letter dated May 10, 1979. Based on information in your letter and in other letters and reports on file, the Commission has found reason to believe that the Local Union and its Local Active Ballot Club may have violated certain additional provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that the Local Union and Local ABC:

(1) May have violated 2 U.S.C. §441b(a) when, on May 23, 1978, the Local ABC closed its treasury account and transferred the remaining balance of \$633.91 to its separate segregated account, on June 23, 1978. Since the \$633.91 was not separated from the other funds in this separate segregated account, commingling of dues monies with monies in the separate segregated account may have occurred.

(2) May have violated 2 U.S.C. §441b(b)(4)(A)(ii). This section of the Act states that it is unlawful for a labor organization, or a separate segregated fund established by a labor organization to solicit contributions to such a fund from any person other than its members and their families. Based on the answers in your May 10, 1979 letter, there is a question as to whether retirees who are not dues paying members are solicited for, and submit, contributions to the ABC's separate segregated fund. Other questions about the membership status of retired dues paying members who are solicited for, and submit, contributions to the ABC fund

are also raised. Accordingly, the Local may be soliciting persons not falling within the category of "members and their families" in violation of this section of the Act.

(3) May have violated 11 CFR §103.2 by maintaining its ABC account at a credit union. This section states that only national or state banks chartered by the United States or a state may be designated as campaign depositories.

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

If you have any questions, please contact Miriam Aguiar, the attorney now assigned to this matter, at 202-523-4057.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

30223?



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park
240 South Market Street • San Jose, California 95113 • (408) 988-0428

000
10859

MUR 903

August 8, 1979

'79 AUG 13 AM 9:49

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

903543

Dear Mr. Oldaker:

This is in response to your recent letter regarding Local 428's ABC affairs. We do not believe we have violated any of the Federal Election rules and our response is as follows:

81040302233

Question No. 1 on page 1: On June 22, 1978, we did close out a small ABC account No. 51603 in the amount of \$633.91 and deposited same in our other account No. 51602, however, we were careful to spend this amount on local or state candidates and not on Federal candidates. We don't understand how you can say that the \$633.91 was comingled with dues when it was only transferred from one Credit Union account to another and did not go through the local union's regular accounting system.

Question No. 2 on page 1: We did not and do not solicit funds from anyone other than our members. A member on withdrawal card is one who is temporarily not paying dues to the Union and such a person is not a stranger. All members, on withdrawal card or not, are expected to live up to the rules of the Union.

Question No. 3 on page 2: Such question is very bothersome to us, since we don't know any organization that keeps cleaner records than we do. Although we do use our Credit Union, all our expenditures are made through the "Bank of the West", which is a State Chartered Bank, and accordingly we think the intent of the law is being fully complied with. If you wish we will open a commercial account in this bank and make our expenditures through such an account in the future.

Needless to say, we don't think any action should be taken against us. We have spent hundreds of dollars of our time trying to answer your questions. Likewise, you have spent hundreds of dollars of taxpayers funds questioning our activities for a purpose which escapes us. Most of your concern appears to revolve around that \$633.91, which was only transferred from one account to another.

Question No. 1 on page 3: This concerns our account No. 51603 which we closed June 22, 1978. We are enclosing the original "Statement of Account" from the Credit Union for Accounts No. 51602 and 51603 dated June 30, 1978, which is the end of the second quarter, when each

member receives such a statement. You will note the \$633.91⁰⁰ was taken out of Account No. 51603 on June 22, 1978 and deposited in Account No. 51602 on June 22, 1978. How the mix-up on dates occurred we don't know, but this should conclude this question once and for all. Incidentally, when you are finished with the two statements we would like them returned for our permanent records.

Question No. II on page 3: First, we must say that some retirees take withdrawal cards from the Union in order not to pay the regular \$7:00 or \$8:00 per month dues. Other members continue paying dues for the purpose of getting the Death Benefit when they pass on. Second, all a withdrawal card does is stop the payment of the monthly dues but they are still Union members.

II-A: Do we solicit ABC Membership from retirees on withdrawal cards? Actually no; however, many of our retirees have contributed to ABC over the years and want to voluntarily continue making their annual contribution of \$2.00 in order to support favorable candidates and legislation for working people.

II-B: How many retirees who are on withdrawal cards submit their annual contribution of \$2.00? Our records indicate for the year of 1977 there were 135 and for the year of 1978 there were 176.

II-C: Enclosed herewith is a copy of our Bylaws.

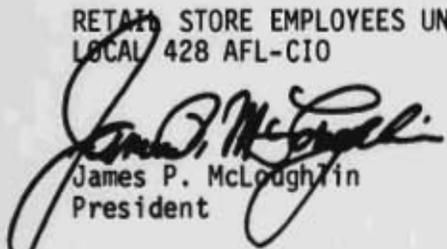
You should also know that we intend to comply with your request that we print the paragraph below in our future solicitations:

"A copy of our report is filed with the Federal Election Commission and is available from the Federal Election Commission, Washington, D.C."

Should you have any further questions please do not hesitate to get in touch with us.

Sincerely yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 AFL-CIO


James P. McLoughlin
President

ph

enc.

cc: William Wynn
Thomas Whaley
William Olwell
Edward Wendell
Miriam Aguiar

81040302234



8 100 10302235
RETAIL STORE EMPLOYEES UNION LOCAL 428
RCIU - AFL-CIO

Adopted April 1938 • As Amended through August 1978

240 SOUTH MARKET STREET • SAN JOSE, CALIFORNIA 95113

BYLAWS
RETAIL STORE EMPLOYEES UNION
LOCAL No. 428
RCIU
AFL - CIO



It is the duty of every member to read and understand these by-laws. They protect and strengthen our Union. They will be enforced.

PREAMBLE

(a) **WHEREAS:** The organization of workers into trade unions has been demonstrated to be, and is, essential to the economic, social and political freedom of society and to the successful functioning of a democracy of, for and by the people free from dictatorship, to the end that men and women shall live and work without discrimination or exploitation; and,

(b) **WHEREAS:** The history of the workers in our jurisdiction throughout the world has been but the record of constant struggle against oppression; and,

(c) **WHEREAS:** These troubles have arisen almost entirely from lack of unity and confidence in each other as workers and misunderstanding the true causes of oppression; and,

(d) **WHEREAS:** Unity guided by intelligence is a source of strength that can withstand all attacks, and that, without intelligent organization, we cannot acquire the discipline which enables us to act together, concentrate our strength and direct our efforts toward the desired end, and also acquire the patience which enables us to wait for the results; and,

(e) **WHEREAS:** Under prevailing economic conditions, developed with the aid of the governmental authority for owners of property to organize in the corporate and other forms of ownership associations the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment; **WHEREFORE,** it is necessary that he or she have full freedom of association, self organization, and designation of representatives of his or her own choosing, to negotiate the terms and conditions of his or her employment, and that he or she shall be free from interference, restraint, or coercion of employers or their agents in the designation of such representatives, or in other concerted activities for the purpose of collective bargaining or other aid or protection; and,

(f) **THEREFORE:** For the purpose of promoting such unity and sentiment of action among the workers in our jurisdiction, and joining them closer together for mutual protection, we have organized the Union.

ARTICLE I
Name

This organization shall be known as the **RETAIL STORE EMPLOYEES UNION, LOCAL 428**, chartered by the Retail Clerks International Union, AFL-CIO, and may for convenience be referred to herein as Union or Local 428.

ARTICLE II
Jurisdiction

Section 1. The geographical jurisdiction of this Union shall encompass the city of San Jose, Santa Clara County and Menlo Park, California, and such other areas as may be determined from time to time by the Retail Clerks International Union.

Section 2. The trade jurisdiction of this Local Union shall encompass employees and other persons, including professionals, technicians, managers, supervisors, administrators, clerical, and ancillary personnel, both public and private, performing work or services in connection with or related to the sale, distribution, provision or production of goods, merchandise, or services; and, anyone performing any work or services incidental or related to work within the jurisdiction of the International Union, including work performed for the International Union or its chartered bodies, or any other jurisdiction as may be determined from time to time by the Retail Clerks International Union.

Section 3. The sections of this Union shall be as follows; Southern, Western, Northern, and Central, which, however, shall have two divisions, Department Store-Soft and Hard Line Store division, and Food-Liquor-Drug division. Any other section may be officially divided by the Executive Board into two like divisions, at any time the Board shall find that each division of such section has 500 or more members resident in the section.

ARTICLE III
Objectives

The objectives of this Local Union shall be: To establish and conduct a Local Union of persons engaged in the performance of work or services within its trade and geographical jurisdiction; to organize, unite, and assist persons, irrespective of race, creed, color, sex or national origin, engaged in the performance of work or services within its jurisdiction for the purpose of improving wages, hours, benefits, and working conditions; to obtain the status of exclusive bargaining representative of persons employed within its jurisdiction and to process and resolve grievances and enforce all other rights arising out of such collective bargaining relationships; to engage in educational, legislative, political, civic, social, welfare, community, and other activities; to advance and safeguard the full employment, economic security, and social welfare of its members, and of workers generally; to protect and extend democratic institutions, civil rights and liberties, and the traditions of social and economic justice of the United States; to acquire, receive, hold, manage, lease, convey, invest, expend, or otherwise use the funds and property of this organization to carry out the duties and to achieve the objectives set forth in the International Constitution and the Local Union bylaws; to carry out the purposes of the Retail Clerks International Union as set forth in the Preamble and provisions of the International Constitution; to take all steps and actions which are reasonable and proper, to promote the welfare and interests of its members, of workers within its jurisdiction and of workers generally.

ARTICLE IV
Membership

Section 1. All persons engaged in work within the trade and geographical jurisdiction of this Local Union shall be eligible for membership subject to the provisions of these bylaws and the Constitution and laws of the International Union.

Section 2. There shall be four types of membership in the Union, all as defined in the Constitution of the RCIU. No member shall hold more than one classification of membership at any one time.

- (a) Active Members as hereinafter defined;
- (b) Associate Members as hereinafter defined;
- (c) Paid-up Life Members as hereinafter defined;
- (d) Non-active Members as hereinafter defined.

Section 3. An active member is a member who is employed within a collective bargaining unit represented by the International Union or the Local Union; or who is employed by an employer who is the subject of an active organizing effort by the International Union or the Local Union; or who is an employee or salaried officer of the International Union or the Local Union or of any organization approved by the International Executive Board with which the Retail Clerks International Union or the Local Union has affiliated; or who is a member of the International Union through the Local Union or a division of the Local Union, which was a professional or other association that has been chartered by or merged with the International Union or the Local Union.

Section 4. An associate member is defined as a former active member who is no longer eligible for active membership in this Local Union. Associate members may be privileged to attend membership meetings, may be appointed to serve on committees and, as determined by the Local Union President, may be privileged to report to the membership concerning the activities of such committees. Associate members, however, are not entitled to hold office or to a voice or vote in union affairs.

Section 5. The Local Union may issue paid-up life membership to any member who has accumulated fifteen or more years of active membership in the International Union and who is no longer eligible for active membership in the International Union. Proposals to grant paid-up life memberships shall be introduced at a regular meeting of the membership and acted upon at the next regular meeting. Between the first and second meetings referred to, the President shall obtain verification from the International Secretary-Treasurer establishing the membership status of such member. If paid-up life membership is approved for any member, the President shall immediately notify the International Secretary-Treasurer of such action. Paid-up life members may be privileged to attend membership meetings, may be appointed to serve on committees as determined by the Local Union President and may be privileged to report to the membership concerning the activities of such committees. Paid-up life members, however, are not entitled to hold office or to a voice or vote in union affairs.

If such member again becomes eligible for active membership in the International Union, the member shall deposit the paid-up life membership card in the same manner as provided for withdrawal cards in Article XXII of these bylaws.

Section 6. A nonactive member is defined as an owner-operator of an establishment within the jurisdiction of the Local Union. Nonactive members shall be allowed to attend and address union meetings at the discretion of the Local Union President. Such persons shall have no voice or vote in union affairs, nor shall they hold union office.

Section 7. All applications for membership, by either new members, reinstated members, or those entering the Local Union on withdrawal cards, shall be made on forms furnished or approved by the International Union. Copies of such applications shall be forwarded to the International Secretary-Treasurer. No person who has been expelled from the International Union shall be accepted to membership.

Section 8. Any active member who is otherwise entitled to resign from membership while remaining employed within the jurisdiction of this Local Union must give 30 days' notice by certified mail to the Local Union before such resignation may become effective.

Section 9. All members shall be subject to the bylaws of this Local Union and the Constitution and laws of the International Union.

Section 10. Upon initiation, each member shall recite the following obligation:

"I, _____, of my own free will and accord, pledge my word and honor to abide by the laws, rules and regulations of Local 428. I will guard the work of this Union from those not members. I will do all in my power to protect the interest and advance the welfare of the members of this Union. I further obligate myself to wrong no member, or see him wronged, if in my power to prevent it. I further promise, whenever possible to do so, to patronize union labor only. To all of this I pledge my word and honor."

ARTICLE V

Rights, Duties and Obligations of Members

Section 1. It shall be the duty of all members of the Union to support the aims and objects of the Union and to participate in Union affairs, to attend Union meetings regularly, to pay dues, to vote at Union elections, to adhere to the By-Laws, collective bargaining agreements and working rules of the Union, and to refrain from any act or conduct harmful to the Union or its members.

(a) Every member, by virtue of such membership, agrees that, in consideration of the rights and benefits conferred upon the member pursuant to the terms of these bylaws and the International Constitution, the member shall be subject to disciplinary action for any conduct which constitutes a violation of the member's duties and obligations as stated in this Article. Every member, by virtue of membership, agrees that termination of membership does not terminate liability for discipline for acts occurring during the period of membership.

(b) Any member may be disciplined for committing any one or more of the following offenses:

1. Violating any provisions of the Constitution or laws of the International Union, any collective bargaining agreement, the approved bylaws or established rules of this Local Union, or, in the case of an officer or representative of this Local Union, the Ethical Practices Codes duly adopted by the International Union;
2. Failing to pay dues, fines, assessments, fees, and other financial obligations in a timely manner;
3. Obtaining membership by misrepresentation;
4. Instituting action outside the Union against the International Union, Local Union, or any of their officers or representatives without first exhausting all remedies provided by the Local Union's bylaws and rules and the Constitution and laws of the International Union;
5. Advocating or attempting to bring about the withdrawal from the International Union of any Local Union or any member or group of members;
6. Maliciously publishing or circulating material misrepresentations about the International Union, a Local Union or any of their officers;
7. Working in the interest of or accepting membership in any organization dual to the International Union;
8. Unreasonably, unlawfully or improperly disturbing the peace or harmony of any meeting of the International Union or any chartered body or of any of their offices;
9. Embezzling, misappropriating, fraudulently receiving, wrongfully handling or failing to account for the funds of the International Union, a Local Union, or any employee benefit fund, or encouraging the diversion of the funds of the International Union or a Local Union;

10. Using the name of any Local Union or the International Union for soliciting funds or advertising or similar activities, except as provided in Section 24(B) of the International Constitution;
11. Furnishing a complete or partial list of the membership of the International Union or of any Local Union to any person other than those whose governmental position or International or Local Union office, or employee benefit fund position entitles them to have a list, without specific authorization in writing from the International President;
12. Deliberately interfering with any officer or representative of this Local Union or the International Union in the discharge of such person's duties;
13. Deliberately engaging in conduct in violation of the responsibility of members toward the Union as an institution;
14. Crossing or working behind a picket line duly sanctioned by the Union, by the Retail Clerks Bay Area Joint Council, or by the Central Labor Council of Santa Clara County or San Mateo County.
15. Crossing or working behind a sanctioned picket line established by a union other than the Retail Clerks, provided such picket line also has the sanction of the Union's Executive Board, and provided further, the Union has given notice to the membership affected by such picket line, either by notice published in the official union publication, or by mail, or by public announcement in the stores, or by other means reasonably designed to bring notice of such sanction;
16. Deliberately interfering with the performance of the legal or contractual rights or obligations of the International Union or any of its Local Unions;
17. In the case of any officer or representative of the International Union or of any Local Union, failing to faithfully perform the duties of such person's office or position or accepting dual compensation or expenses for the performance of duties related to such person's office or position.
18. Wrongfully or maliciously causing a Union member to lose his or her job.

(c) If any elected or appointed representative of this Union is convicted of any one or more of the above-named offenses, the representative may be penalized and removed from office or position.

Section 2. (a) All members have the right to have grievances with their Employers processed by the Union, as herein provided. The Union has the exclusive authority to enforce and to interpret collective bargaining agreements, and the exclusive authority to submit grievances to arbitration, withdraw grievances, settle and compromise grievances, or decline to invoke grievance procedures in such agreements.

(b) Any member dissatisfied with the disposition of his or her grievance has the right to appeal the disposition to the Executive Board. The appeal must be in writing, shall contain a brief statement of the grievance, its disposition and any other matter the members desires, and shall be filed at the Union Office within fifteen (15) days after the member receives notice of the disposition of the grievance.

(c) The Executive Board shall treat the appeal as either a request for review or for reconsideration, and shall consider the appeal at its next regular meeting after the appeal is filed. The member shall have the right to appear before the Executive Board to argue the appeal.

(d) The Executive Board must decide the appeal and notify the member of its decision within thirty (30) days after it commences to consider the appeal.

(e) The decision of the Executive Board on the appeal shall be final, conclusive and binding on the Union and on the member.

Section 3. In the event of a strike, organizing campaign, or lock-out affecting the Union, it shall be the duty of all members to picket and otherwise support the strike and the Unions' position at the direction of the Executive Board. Strike benefits may be paid during a strike or lockout as may be determined by the Executive Board.

ARTICLE VI Meetings

Section 1. The Union shall hold regular monthly membership meetings, and such special meetings as may be called as provided by these bylaws, at such times and places as the Union may designate. Eleven (11) active members in good standing shall constitute a quorum for all such meetings. All matters calling for a vote shall be determined as provided in Article XII, Section 4.

Section 2. The regular Union meeting shall be held as a series of meetings as follows:

Southern Section: At Gilroy.
Western Section: At Los Gatos.
Northern Section: At Palo Alto, at three times, Morning, Evening and Night.
Central Section: At San Jose, at three times, Morning, Evening and Night.

Adequate notice shall be given of all regular meetings so that all members involved have an opportunity to attend.

— D —

Section 3. The Union may hold trade division meetings of a portion of the membership on an occasional or periodic basis as it may determine. Such meetings of the Union membership may pass upon recommendations to be referred to a regular or special meeting of the Executive Board for its consideration. The Executive Board will refer any action thereon to a regular or special meeting of the membership with adequate notice for their consideration. Members who fail to present satisfactory excuse to the Executive Board for their failure to attend such meeting may be disciplined.

Section 4. It shall be the obligation of each Union member to attend one regular meeting per month. Unless excused, one dollar is charged for non-attendance of a regular meeting in accordance with the following rules:

- (a) Meetings shall be calculated on a quarterly basis, namely 1st quarter commencing January; 2nd quarter commencing April; 3rd quarter commencing July; 4th quarter commencing October of each year.
- (b) Members who fail to attend three regular meetings in a quarter shall pay the monthly fine for each month for a total of three dollars.
- (c) Members who fail to attend two meetings but who attend one meeting during a calendar quarter, shall have their fines waived and pay no fine for the two meetings missed during said calendar quarter.

Section 5. It shall be the particular duty of all active members to attend and vote at all meetings to which collective bargaining agreements are submitted for ratification, or at which strike votes or other economic action is to be taken. Members failing to attend and vote at meetings mentioned in this section, after notice thereof duly given, shall be fined not less than \$5 unless a valid excuse is presented.

Section 6. Special meetings of the membership shall be called whenever requested in writing by 100 members or 5 per cent of the membership, or when directed by the Executive Board or President. Special meetings shall be held as quickly as is practical and reasonably convenient provided that, where a regular membership meeting is scheduled within a 30 day period of such a membership request, the Local Union President may defer such requested meeting to the date of the regularly scheduled meeting. Notice specifying the business of the meeting must be mailed to all members affected not less than five (5) days in advance thereof. A quorum for such special meeting shall be ten per cent (10%) of the members to whom such special notice has been given. Such special meetings may be held at any place in the jurisdictional area of the Union selected by the Board.

Section 7. Admission to Union meetings shall be by membership card presented to the Sergeant-at-Arms.

Section 8. Whenever these bylaws prescribe voting by secret ballot, procedures shall be substantially as provided in Sections 8 and 9 of Article XIV. All ballots and other election results shall be kept and maintained for one (1) year, and may be disposed of thereafter.

Section 9. Matters calling for a vote at special meetings shall be determined in the manner provided by Article XII, Section 4.

ARTICLE VII Rules of Order

Section 1. Rules of order for all regular Union meetings shall govern proceedings at all Union meetings as follows:

1. Call to order
2. Reading of the minutes of the previous meeting
 - (a) Minutes of Special Meetings (if any)
3. Communications
4. Financial Report
 - (a) Monthly Report Posted
 - (b) Certified Public Accountant (each quarter)
5. Unfinished Business
6. Good and Welfare of Union and Members
7. Reports:
 - (a) Business Representatives' Reports
 - (b) Secretary-Treasurer's Report
 - (c) Committee Reports
8. New Business
 - (a) Executive Board Report
 - (b) Further New Business
9. Closing Ceremony

Section 2. The Chairperson of the meeting shall have the authority to take whatever reasonable measures are necessary to assure order.

Section 3. Except as otherwise provided herein or by the Constitution or laws of the International Union, proceedings shall be conducted in accordance with common parliamentary procedure designed for the conduct of orderly and democratic meetings.

ARTICLE VIII Income

Section 1. The income of the Union shall be from dues, initiation or reinstatement fees, and miscellaneous receipts. The term "dues" is defined to mean all charges and indebtedness arising from the obligations of membership. Dues shall be uniformly and periodically required of all members in like circumstances pursuant to the provisions of these By-Laws, and shall in such manner include assessments, fines, and other duly authorized charges.

— E —

Section 2. Dues shall be due and payable on or before the first day of the quarter for which they are due. An applicant for membership shall pay an initiation or reinstatement fee plus the current dues and assessments.

Dues shall be based upon ability to pay, in the light of the needs of the Union, and shall be fixed according to gross wages or earnings before deductions in accordance with Appendix "A" provided for herein.

Section 3. No partial payments of the total prescribed dues for any calendar quarter shall be accepted, unless otherwise provided in any Collective Bargaining Agreement. All such quarterly payments of the total prescribed dues shall be made on or before the first (1st) day of January, April, July and October of each year.

Section 4. If quarterly dues are not paid by the fifteenth of the first month in each calendar quarter when due, the quarterly dues for that calendar quarter shall be increased by the sum of \$2.00.

Section 5. Dues should be paid at the office of the Union, in person or by mail.

Section 6. Fines and assessments must be paid before dues can be credited.

Section 7. Any member two (2) calendar months in arrears for dues or other financial obligations to the Union shall stand suspended if same are not paid on or before the 1st day of the third month. The responsibility for maintaining membership in good standing rests with the member; suspension, therefore, when it occurs, is the voluntary act of the member involved.

After the expiration of such period, the Union shall not accept and receipt dues without a reinstatement application and fee.

Section 8. The reinstatement fee shall correspond to the initiation fee as applicable, plus all sums then due and payable. Reinstated members shall be on the same basis as new members, their membership dating from date of reinstatement.

Section 9. The dues schedule provided in Section 2 of this Article may be amended at any time by majority secret ballot vote of the active members present and voting. Not less than 15 days notice by mail must be given to all members of a proposed amendment to the dues schedule before the subject may be considered at any meeting.

Section 10. Any provisions in these bylaws for fines and assessments, may be amended at any time by majority secret ballot vote of the active members present and voting. Procedure for such amendment shall be had in the manner provided by Section 2 of Article XXIII of these bylaws.

Section 11. The Union shall fix reasonable initiation and reinstatement fees and dues, subject to the approval of the International President, and there shall be added thereto an amount of \$1.00 to be deposited in the Death Benefit Fund provided in Article XIX.

Section 12. Initiation and reinstatement fees fixed by the Union may be reduced or waived by the Executive Board during special organizing programs or otherwise.

Section 13. A fine of \$1.00 is imposed for failure to attend at least one regular membership meeting per month as provided by Section 4 of Article VI of these bylaws. Unless otherwise provided herein, a fine of \$2.50 is imposed for failure to attend a special membership meeting. A valid excuse may be presented to avoid any fine imposed by this section.

Section 14. The membership may levy special assessments as the interests of the Union may require. No assessment shall be levied except by majority secret ballot vote cast by the active members present and voting at a regular or special membership meeting, called and noticed as provided by these bylaws.

Section 15. Fines and assessments shall be charged as dues fifteen (15) days after due and payable.

Section 16. Dues of paid-up life members will be paid on their behalf out of the Union Treasury, pursuant to the provisions of these By-Laws and the Constitution of the RCU.

ARTICLE IX Elective Officers

Section 1. The constitutional officers of this Union shall be a President, Secretary-Treasurer, Recorder and twenty (20) Vice-Presidents. The Secretary-Treasurer, the Recorder and five (5) Vice-Presidents elected at large shall be full-time employees of the Union and, as such, shall be vested with all the powers of Business Representatives and perform all duties pertaining to that position. Vice Presidents shall be numerically designated for election purposes only.

Section 2. EXECUTIVE BOARD—The constitutional officers of the Union shall constitute the Executive Board.

Section 3. The constitutional officers shall be elected by the Union at large, except that the 15 Vice-Presidents who are not full time employees of the Union shall be elected by sections of the Union as follows:

Northern Section 3 Vice-Presidents
Southern Section 3 Vice-Presidents
Western Section 3 Vice-Presidents
Central Section,
Division 1 3 Vice-Presidents
Division 2 3 Vice-Presidents

Not more than one of the said Vice-Presidents shall be elected from any one store, and not more than three Vice-Presidents shall be elected from any multiple operation or chain of stores. If members exceed the limits of this restriction, those receiving the highest number of votes shall be elected, and others shall be declared ineligible.

— F —

Section 4. The salaried representatives of the Union shall not constitute more than 50 per cent of the membership of the Executive Board.

Section 5. An active member in the Union, who has been an active member in the Union, or who had been a member of another organization merged with the Union, for a continuous aggregate of at least one year immediately preceding January 1 of the year in which the election is held, or an active member in the Union who has been an active member in the Retail Clerks International Union continuously for at least two years immediately preceding January 1 of the year in which the election is held and who has attended not less than six (6) of the regular monthly membership meetings during the year next preceding such nominations and who is working at the trade at the time of nomination shall be eligible to hold office. No member shall be eligible for nomination or election to more than one elective office, but constitutional officers are eligible for election to the position of delegate as provided in Article X.

ARTICLE X

Elective Positions Other Than Officers

Section 1. There shall be elective positions other than officers of this Union as in this Article provided.

Section 2. Delegates to bodies to which the Union may be affiliated shall be elected from time to time as the membership may determine. Said delegates shall represent the Union in meetings of bodies to which they are sent, subject to any special instructions by the membership.

Section 3. Any Active Member in good standing in the Union who meets the qualifications of office as provided for in Article IX, Section 5, is eligible to be elected delegate.

ARTICLE XI

Duties of Officers

Section 1. The duties of Union officers and employees shall be those provided by the Constitution and laws of the International and such other duties as may be provided in these bylaws or by the Union from time to time.

Section 2. (a) The President shall be the chief executive officer and a full time employee of the Union and shall be responsible for enforcing the Constitution and laws of the International Union and the bylaws and rules of the Union. The President, or the President's designated representative, shall preside at all meetings of the Union and shall decide all questions of order subject to an appeal to the Union. The President, by virtue of office, shall be a delegate or representative to any convention or meeting to which the Union is entitled to and elects to send delegates or representatives. The President shall have general supervision over the affairs of the Union. The President shall appoint all committees as may be necessary, and shall perform such other duties as are required by the President's office. Where voting is conducted other than by secret ballot, the President shall vote only in case of a tie. The President may appoint Sergeants-at-Arms to assist in properly conducting meetings of the Union.

(b) The President shall authorize the disbursement of funds with the consent of the Executive Board.

(c) The President shall have authority to interpret the bylaws and rules of the Union. The President shall have authority to resolve any controversy, dispute or grievance that may arise between members of the Union for which a remedy is not otherwise provided in these bylaws. Any such interpretation or resolution may be appealed to the Executive Board within 30 days after the decision has been rendered. Decisions of the Executive Board on such appeals shall be reported at the next regular business meeting and, unless reversed by a majority vote of those present and voting, shall be final, subject to appeal as provided in these bylaws. Nothing contained herein shall be construed or applied in derogation of any rights or remedies provided by the International Constitution.

(d) The President may employ or retain such professional or other assistants and office personnel as may be necessary to conduct the affairs of the Union. The President may terminate the employment of such personnel in the best interest of the Union.

(e) The President may employ special representatives, who shall be members of the International Union, for the primary purpose of organizing unorganized workers within the Union's jurisdiction. The President may also employ temporary representatives, who shall be members of the International Union, for temporary projects. The President may terminate such special and temporary representatives at the end of an assignment or in the best interest of the Union.

(f) The President shall determine the compensation of special and temporary representatives, office personnel, and such professional or other assistants employed by the Union, subject to the approval of the Executive Board.

(g) The President shall be the custodian of the Union Store Cards and such other union shop identification cards as are issued by the International Union.

(h) The President shall receive and properly receipt all money collected.

(i) The President shall make an itemized statement at each regular meeting of the Executive Board of all moneys received and paid out by the President, the accuracy of which shall be certified by the Trustees of the Union, and shall make the Union financial records available to the Trustees at their request. The President shall make such itemized statement available for inspection by the members at regular meetings and at

the Union on a reasonable basis. The President shall also make a financial report at each regular meeting of the membership.

(j) The President shall be a member ex-officio of all committees, sign all checks together with the Secretary-Treasurer, may call special meetings, keep all books and records of the Union, direct the negotiation of collective bargaining agreements, purchase bonds for the Union's account, and at the Union's expense, bonding any Union officers or representatives who handle funds, purchase insurance policies for the Union's account, and at the Union's expense, insuring the Union against liability, manage the Union offices, has custody of Union funds and furnish a monthly financial report to the Union, and perform such other duties as shall pertain to the President's office.

Section 3. The Secretary-Treasurer shall assist the President in carrying out the President's duties and responsibilities and shall conduct the Secretary-Treasurer's office under the general supervision of the President. The Secretary-Treasurer shall perform such other duties as the Union may require. The Secretary-Treasurer shall co-sign all checks together with the President, shall be a member ex-officio of all committees. In addition, the Secretary-Treasurer shall be a full-time employee of the Union and, as such shall be vested with all the powers of a Business Representative and perform all duties pertaining to that position.

Section 4. The Recorder shall keep a correct record of the proceedings of membership and Executive Board meetings, and shall perform such other duties as may be designated by the President. In addition, the Recorder shall be a full-time employee of the Union and as such shall be vested with the powers of a Business Representative and perform all duties pertaining to that position.

Section 5. Board of Trustees. The President, Secretary-Treasurer, and three Vice-Presidents to be elected annually by the Union Executive Board shall, by virtue of their offices, constitute the Board of Trustees, who shall have the duties provided in this Section and shall perform all responsibilities as provided in the Constitution of the RCIU.

(a) The Trustees shall have the supervision of all funds and properties of the Union, subject to such instructions as they may receive from time to time from the Union.

(b) The Trustees shall examine all books and accounts of the President, shall report their findings to the Union and shall make recommendations relative to the payment of all bills or obligations presented to the Union. The Trustees shall approve all bonds procured by the President, shall inspect the monthly financial report of the President, and furnish a copy thereof to each regular membership meeting, shall cause a quarterly audit to be made of the Union's books by a Certified Public Accountant, and the accountant's report shall be submitted to the next regular membership meeting, and a copy of that report shall be mailed to each member of the Union promptly after its receipt from the accountant. They shall approve, together with the Executive Board, all payments of Union funds for any purpose other than for those current expenses which may be paid in the ordinary course of business by the President and Secretary-Treasurer, and shall receive all requests for donations from Union funds.

(c) The trustees shall have the authority to invest and reinvest the surplus funds of the Union, upon the approval of the Union membership, provided that such investments are made according to standards applicable to fiduciaries, and further provided that such investments are not inconsistent with any policies established by the International Executive Board.

(d) The Trustees shall be responsible for ensuring that all finances of the Union are in accordance with the Constitution and laws of the International Union and the approved bylaws of the Union.

(e) The signatures of the President and Secretary-Treasurer shall be required on all checks and all other financial documents, and the Trustees shall be responsible for ensuring that all banks and other financial institutions holding funds or property of the Union are so instructed, and shall make recommendations relative to all financial matters presented to the Union membership.

(f) The Trustees shall make a monthly financial report to the International Secretary-Treasurer on forms supplied or approved by the International Union, to be accompanied by copies of all certified public accountants audits or reports.

(g) The Trustees shall ensure that Union officers, representatives, and employees are bonded as directed by the International Secretary-Treasurer and in accordance with the International Constitution.

Section 6. The duties of the Trustees regarding Local 428 Building Headquarters are as follows:

(a) Retail Store Employees Union, Local 428, shall acquire appropriate real property and improvements for its own headquarters, offices and meeting halls.

(b) The Board of Trustees constitute a Board of Building Trustees which Trustees are hereby vested with authority to manage and control the headquarters building and property. Subject to approval of the Executive Board, the Building Trustees are hereby empowered to negotiate for and to purchase on behalf of Local 428, upon such terms and conditions as the Executive Board may approve, real property necessary and appropriate for the foregoing purposes.

(c) Title to all real property acquired or owned by the Union shall be vested in the Union's own name, or in the name of the Board of Trustees and their successors in office, in trust for the sole use and benefit of the local union, or in a separate building corporation organized for the purpose of holding title to such real property in trust for the Union.

If title is so vested in a separate building corporation, then the duties of the Building Trustees and Union officers prescribed by this section may be discharged indirectly through the said corporation.

(d) There is hereby created, upon the books and records of Local 428, a Building Headquarters Fund. All receipts and disbursements of money incident to the purchase, management, operation and sale of the said real property shall be recorded on the Building Headquarters fund.

(e) The Building Trustees shall make a monthly report to the Executive Board of Local 428 concerning the said real property, including an accounting of all receipts and disbursements for the preceding month. These reports shall be a permanent part of the records of Local 428, and shall be available for examination at all reasonable times by members.

(f) The Building Trustees shall at all times consist of the duly elected incumbent President, First Vice President and Secretary-Treasurer of Local 428.

(g) The Building Trustees shall have authority to manage, control, lease, rent or improve the said real property and headquarters building, on terms and conditions as it shall deem proper, subject to approval of the Executive Board, except that a sale or encumbrance of the said real property shall further be subject to the approval of the members of Local 428 at a regular or special meeting. The Building Trustees shall have authority with the concurrence of the Local Union Executive Board to delegate to one of its members, power to conduct day-to-day management and operation of the building, to hire a building manager should such employment be deemed necessary and desirable by the Building Trustees, and to employ necessary custodial employees. The Building Trustees shall have the further authority, subject to approval of the Executive Board, to employ such other personnel, including accountants and attorneys, as may be necessary or advisable in the management, operation and administration of the headquarters building and the said real property.

(h) No member of the Building Trustees shall receive any compensation or expenses for services as a Trustee other than compensation as an officer of Local 428. The Trustees shall have the same supervision over the accounts, receipts and disbursements of the Building Trustees as they have pursuant to the bylaws of Local 428, but shall have no voice or power over the control of the real property except to report their findings to the Executive Board.

(i) A resolution of the Building Trustees, concurred in by at least two members thereof, shall be conclusive evidence to strangers that the action of the Building Trustees is within its power, and has been approved by Local 428 pursuant to its bylaws, and no person dealing with the Building Trustees shall have any obligation to investigate its authority nor to determine that the Building Trustees have discharged their duties to Local 428.

(j) All instruments in writing necessary and desirable for the acquisition, management, encumbering or sale of the said real property shall be executed in the manner prescribed by the Corporations Code of California.

(k) All income received by reason of acquisition and ownership of the said real property, whether by rent, lease, interest or sale, or otherwise, shall be received by the President of Local 428 and shall become a part of the funds of Local 428. All transfers of funds and authorized expenditures in connection with the said real property and trustee account shall be executed by the President and Secretary-Treasurer of Local 428 pursuant to its bylaws.

ARTICLE XII

Executive Board Duties

Section 1. All power of the Union resides in the members. The Executive Board shall be the highest governing body of the Union in all matters of policy. Its decisions shall be subject to the approval of the membership. The duties of the Executive Board shall be those provided in the International Constitution and such other duties as may be provided in these bylaws or by the Union from time to time.

Section 2. The Executive Board shall meet at least once each month. Special meetings of the Board, when necessary, shall be held upon call of the President or upon request of a majority of the members of the Board. The President shall preside at Executive Board meetings. Fifty per cent (50%) of the members shall constitute a quorum at meetings of the Board. Members other than salaried employees of the Union shall receive expenses for attendance at Board meetings at such rates and in such amounts as may from time to time be fixed by resolution. Board members who fail to attend more than three (3) meetings without a valid excuse during their term of office shall be deemed to have resigned, and the position of such member on the Board shall be declared vacant by the Executive Board.

Section 3. The Executive Board shall conduct the affairs of the Union between regular membership meetings, shall approve expenditures other than current expenses together with the Trustees, shall act as a Trial Board in accordance with Section 35 of the International Constitution, shall examine and make recommendations to the membership concerning all applications for membership, and shall attend to all matters referred to it by the membership.

Section 4. All actions of the Executive Board shall be communicated to membership meetings in the form of minutes signed by the Recorder. These minutes shall be read at the next regular series of membership meetings and the recommendations of the Executive Board shall be discussed and voted upon seriatim. When a majority of the members present have voted concurrence in any action of the Executive Board, their vote shall be recorded and transmitted to the President, who will then record a vote of concurrence for each member in good standing. When a majority of the membership present and voting has been recorded, in this manner, as voting concurrence in any action of the Executive Board that action shall become binding upon all members of the Union.

Section 5. The Executive Board shall annually select from among its members a Board of Audit, consisting of three members, who shall not be members of the Board of Trustees. The Board of Audit shall annually examine the Trustees' and certified public accountant's reports and shall report their findings to the next regular business meeting of the Union.

Section 6. The Executive Board shall have the authority to restrict the number of officers who may attend a convention at the same time.

ARTICLE XIII

Business Representatives

Section 1. The Union shall determine from time to time the number of salaried Business Representatives necessary to properly serve the needs of the Union.

Section 2. The President may employ Business Representatives, who shall be members of the International Union, as may be necessary for the purpose of carrying out the duties and responsibilities of the Union. The President may terminate the employment of Business Representatives for reasonable cause subject to an appeal to the Executive Board within fifteen (15) days of termination.

Section 3. The duties of Business Representatives, subject to direction of the President, Executive Board and the membership, shall be:

(a) To visit regularly all stores in their respective territories for the purpose of observing working conditions of members, checking for unorganized workers, and to seek adjustment of complaints of members pursuant to the collective bargaining agreement in effect where members are employed.

(b) To organize all persons coming under the Union's jurisdiction not already organized.

(c) Assist the President in keeping all members in good standing.

(d) To keep records of their stores and the employees employed therein and to make reports on their activities in the field.

ARTICLE XIV

Nominations and Elections

Section 1. The term of office for all officers and elective positions shall be three (3) years.

Section 2. Nominations shall be made orally or in writing at any regular meeting during the month of October in each election year. Notice of opportunity to make such nominations shall be given by announcement at all membership meetings held the preceding August and September, and by publication at least once in the Union publication during the said month of September, such Union publication to be mailed to each member of the Union not less than 15 days prior to nominations. Nomination of any candidate shall be effective only if made in the presence of the candidate, or is accompanied by consent in writing of the candidate to run for the office for which he is nominated. Nominations of Vice-Presidents shall be numerically designated for election purposes only. Nominations shall be closed at the last meeting of the said October.

Section 3. Nominations for all officers, other elective positions, and for any delegates whose election is to coincide with the triennial election of officers, may be made in accordance with Section 2 of this Article. Nominations for sectional Vice-Presidents other than above, however, shall be made by section, each section nominating and electing Vice-Presidents from that section.

Section 4. Members shall be notified of the names of candidates for all offices and positions in the October Union Publication. At least fifteen (15) days' written notice by mail shall be given to each member of the Union of the time and place of elections for any office or position.

Section 5. Prior to nominations the President shall select a general chairperson to supervise the conduct of the nominations and elections, and not less than four members to act as election judges, one from each division to assist the general chairperson. The election judges shall be known as the Election Board. The general chairperson

and the members of the Election Board shall not be candidates for Local Union office. The Election Board shall supervise the conduct of the election in accordance with Section 27 of the International Constitution, and shall be responsible for the care, custody and counting of the ballots at the conclusion of the election. The Election Board shall have power to obtain such assistance as it may deem necessary.

Section 6. All active members in good standing shall be entitled to one vote, and shall be obligated to vote, at the triennial election. A fine of \$2.50 will be levied against any member who fails to cast a ballot without a valid excuse. Polls shall be open at all regular meetings held during the said November, shall remain open at one of the meeting places for a period of at least ten (10) consecutive hours on election day, and shall remain open such further periods as the Executive Board may determine to be in the interests of the members. The Election Board shall judge the qualifications of members to vote.

Section 7. The Election Board, with the assistance of the President; shall prepare uniform printed or mimeographed ballots, with the name of the Union, and names of all candidates in alphabetical order and the office or position for which they are contending, clearly designated thereon. Names shall be printed first name first, and the word "incumbent" shall be printed following the names of incumbent candidates. Ballots shall contain no provision for write-in candidates and shall be declared invalid if names of candidates other than those regularly nominated as provided by these bylaws are written in.

Section 8. Election shall be by secret ballot. Each voter shall be furnished with one ballot by the Election Board, and shall be furnished an opportunity to mark the same in privacy. The Board shall fully instruct all voters. The voter shall then fold his ballot, and deposit it in a metal container to be furnished by the Union, to be inspected by the Election Board before and after the election, and to be maintained in full view of the membership during the entire time balloting is in progress. The Union and the Election Board shall furnish a separate metal container for each polling location. The said container or containers shall be securely fitted with adequate locks to insure that ballots are not tampered with, mutilated or destroyed, and are not examined by any person prior to the time they are officially counted.

Section 9. The metal container or containers shall be locked by the Election Board after all ballots have been cast, keys to remain in the custody of the Election Board, and shall not be reopened until they are opened for the count of the ballots after the polls are closed following the last meeting at which the election is held.

Section 10. A tally sheet shall be kept and maintained by the Election Board to record the number of ballots lawfully cast. A register of voters shall also be maintained by the Board.

Section 11. A valid ballot must contain votes for as many offices or positions as are to be filled in all cases when two or more offices or positions are to be filled. That portion of any ballot which fails to meet the requirements of this section shall be invalid and shall not be counted. Ballots containing erasures, or otherwise defaced or mutilated ballots, shall be invalid and shall not be counted.

Section 12. The Election Board shall announce at each meeting at which the election is held the time and place when the Board will open and count the ballots. Any member may be present at the opening and counting of the ballots. No ballot shall be examined by any person before all ballots cast are opened and counted by the Election Board. The Election Board shall count the ballots, compare the total vote cast with its tally sheet, and shall certify the results of the election to the President and Secretary-Treasurer. The results of the election shall be reported to the Union at its next regular membership meetings following the election.

Section 13. A majority of all votes cast shall be required to elect to office or elective position where but one office or position is to be filled. In the event no candidate receives a majority of valid votes cast in cases where a majority is required, or in case of a tie vote, the Election Board shall conduct a runoff.

Section 14. When two or more positions are to be filled, those candidates receiving the most votes shall be declared elected. In the event of a tie vote for the last such position to be filled, the Election Board shall conduct a runoff between the candidates thus receiving the tie vote.

Section 15. Successful candidates for office and elective positions shall take office January 1, and installation shall be held at the first Union meeting in such January, provided, however, that no officer shall be deemed to be in office unless bonded where required by the Constitution and laws of the International Union. Those elected to office and other positions shall recite the following obligation upon installation:

"I, do solemnly promise, in addition to the pledge of honor already given, that I will to the best of my ability perform the duties of the position to which I have been elected until my successor has been duly elected and installed; that I will faithfully attend meetings and safely guard all property of the Union committed to my charge and that I will support the by-laws of the Union."

Section 16. When nominations for any office or position have been made, and there are unopposed candidates, the membership shall instruct the President of the Union to cast a unanimous ballot for such unopposed candidates, and such candidates shall be declared elected.

Section 17. The ballots and all other records pertaining to the election shall be preserved by the President for a period of one (1) year, and shall be open to inspection by any member of the Local in good standing. The report of election, signed by all members of the election board shall be made a permanent record of the Union.

Section 18. A copy of the results of the election shall be immediately mailed to the International President.

Section 19. Not more than 15 days subsequent to the elections, all challenges to the election shall be submitted to the general chairperson of the election and the election board to render a decision for the Local Union. Not more than 15 days subsequent to such decision, a challenging party may appeal the decision to the International President. Where the general chairperson of the election and the election board fail to render a decision within 30 days of the Local Union election, the challenging party may appeal to the International President not later than 15 days thereafter.

(a) The decision of the International President may be appealed to the International Executive Board not later than 30 days after such decision has been rendered.

(b) Any challenge or appeal which could have been presented in compliance with these filing requirements, but was not, shall be deemed to have been waived.

ARTICLE XV

Vacancies

Section 1. Where vacancies occur in any of the elected offices or positions of the Union the Executive Board at its regular meeting shall fill the vacancy for the balance of the term. However, a vacancy in the office of President shall be filled no earlier than 30 days nor later than 60 days after the office is declared vacant.

Section 2. In the case of a vacancy in the office of President, the Secretary-Treasurer of the Union shall perform the President's duties until his successor is selected.

Section 3. All persons elected to an office at a time other than the regular election for officers shall hold office for the unexpired term of the office to which they are elected.

ARTICLE XVI

Union Funds

Section 1. The general funds or property of this Union shall be used only for such purposes as are specified in these bylaws or the Constitution and laws of the International Union and as may be required to transact and properly conduct its business.

Section 2. Disbursements of Union funds shall be made by the President only upon authorization by the Executive Board and approval of the membership except for those required for current expenses including salaries which may be made by said officers in the ordinary course of business or by the constitution or laws of the International Union or these bylaws.

Section 3. Union officers, Business Representatives, or special Project Representatives, shall be paid such amounts, or pursuant to such formula, as may be recommended by the Executive Board and approved by the membership. The said officers or Representatives shall also be paid mileage and other necessary expenses while on Union business, in amounts or schedules recommended by the Executive Board and approved by the membership.

Section 4. Delegates to conventions, labor council and other meetings, shall be paid traveling, hotel and reasonable living expenses while necessarily in attendance at such conventions or meetings, and in addition, shall be paid wages lost when such delegates are not paid Union officers or Representatives.

Section 5. All Union officers who are entrusted with any books or records of the Union shall maintain and keep such books or records in good order and shall at all times have them available for authorized audit, examination or inspection.

Section 6. All officers at the expiration of their respective terms of office, or when removed or when their offices are declared vacant, shall deliver to their duly elected and qualified successors, and if there is no such successor, then to the duly elected Trustees of the Union, all books, papers, moneys, and other property in their possession belonging to the Union or International Union, and they shall not be relieved from their bonds or obligations until they have complied with this requirement.

ARTICLE XVII

Disciplinary Proceedings

Section 1. A member shall be charged and tried in the Local Union if the person is a member of the Local Union at the time the charges are filed, except as otherwise provided in the International Constitution. Any person no longer a member may be charged and tried in the Local Union if the actions were committed while such person was a member of the Local Union.

Section 2. Charges may be preferred by an active member of the Local Union, or by a representative of the International Union.

Section 3. More than one charging party may join in the same set of charges, but the charges must name one of the charging parties as the representative of the others to be responsible for filing papers, receiving papers, and trying the case. Where the charges fail to designate such representative, then the first charging member named in the charge shall be considered the representative of the others.

Section 4. Charges and other formal documents sent by mail shall be considered filed as of the date of the postmark. Charges and other formal documents delivered in person shall be considered filed as of the date of delivery.

Section 5. Charges shall be filed with the Local Union Executive Board within six months after the basis for the alleged violation has been discovered or should have been discovered.

Section 6. The charges shall specify the section or sections of the International Constitution, laws, or codes, the Local Union bylaws, or codes allegedly violated and shall also set forth a short and plain factual statement of the act or acts considered to be in violation, including available information as to dates and places, in such manner as to fairly inform the accused of the specific acts which are alleged to constitute violations of the International Constitution, laws, or codes, the Local Union bylaws, or rules. Either upon motion by the charged parties or the Local Union Executive Board, charges failing to comply with this requirement shall be dismissed by the Local Union Executive Board, without prejudice to the refiling of charges within ten days which do comply with this requirement. Dismissal of refilled charges shall constitute final action, subject to appeal as provided in Section 35(C) of the International Constitution.

Section 7. A true and correct copy of the charges and a copy of the International Constitution and Local Union bylaws shall, without delay, be served upon the accused party by the Local Union Executive Board by certified mail, return receipt requested, or in person. The accused shall be afforded a reasonable opportunity to reply in writing to the charges, if he or she so desires.

Section 8. On motion of the accused before trial, or upon its own motion, the Local Union Executive Board may dismiss without trial any charges which, after assuming the charging party's facts are true, fail to allege actions which would constitute violations of the International Constitution, laws, or codes, the Local Union bylaws, or rules. Such dismissal shall be subject to appeal as provided in Section 35(C) of the International Constitution.

Section 9. On motion of the accused before trial, or upon its own motion, the Local Union Executive Board may dismiss without trial any charges it finds are of such trivial nature that the interest of the Local Union does not justify the expenditure of time, money, or other resources necessary for the conduct of a disciplinary proceeding. Such dismissal shall be subject to appeal as provided in Section 35(C) of the International Constitution.

Section 10. Except for charges processed pursuant to Section 35(A)16 of the International Constitution, the trial on the charges shall be held as soon as practicable, but no later than 60 days following the date on which the charges are filed. However, upon request of either party, for good cause shown, an adjournment to a later date, not to exceed 120 days from the date the charges are filed, may be granted by the Local Union Executive Board. The Local Union Executive Board shall have the power, upon its own motion, to postpone any scheduled trial, provided such postponement shall not be beyond 120 days from the date charges are filed. Any such Executive Board decision to postpone the trial beyond the scheduled date or to set a trial for 60 days beyond the date of the charge being filed must be served upon all parties immediately. Every effort shall be made to schedule the trial so that it does not conflict with the working schedule of the parties, and at least 14 days' notice of the trial date shall be given in writing. Any request for the postponement of the trial date must be received by the Executive Board at least 3 days before the scheduled trial date unless a satisfactory showing is made of inability to comply with this requirement. The request must include good cause for such a postponement. In the event the accused fails to appear for a duly noticed trial, it shall nevertheless proceed.

Section 11. The trial shall take place before the Local Union Executive Board, which for purposes of this Article shall mean those members of the Local Union Executive Board serving for purposes of trial. The President of the Local Union shall be chairperson of the Executive Board for purposes of the trial proceeding. No charging party or accused member or a witness may serve on the Executive Board in the conduct of disciplinary proceedings. Where the chairperson is unable to serve for any reason, the remaining members of the Local Union Executive Board shall designate one of their number to act as chairperson. On motion filed with the Local Union Executive Board, prior to trial, either party may ask that a particular Board member be excused from participating in the proceeding if he or she thinks that he or she cannot receive a fair trial before that Board member. The Executive Board shall give precedence to consideration of such motion. For purposes of trial, a quorum of the Executive Board shall consist of 3 of its members and a quorum is necessary throughout the trial. If an Execu-

tive Board member is absent during any portion of the trial, he or she may not participate further in the proceeding. All questions of order, procedure, and admissibility of evidence shall be decided by the chairperson, subject to being overruled by a majority vote of the Board upon motion by a member of the Board.

Section 12. The accused and charging parties shall have a fair and impartial trial and shall have the right to present witnesses and other evidence in their behalf and to examine any witnesses. The accused shall have the right to refuse to testify. A charging or accused member may be assisted, advised, or represented by another member of the Local Union. At the commencement of the trial, the chairperson of the Board shall advise the parties of their rights as set forth above in this section and shall read the charges to the accused. The accused shall then plead guilty or not guilty to each charge. In the event the accused elects not to appear or respond, he or she shall be deemed to have entered a plea of not guilty and the trial shall proceed. Throughout the trial, there shall be a presumption of innocence in favor of the accused. The charging party shall present his or her case first and shall have the burden of proving the allegations contained in the charge. At the close of the charging party's case, either the accused or a member of the Executive Board shall have the right to move to dismiss the charges because the charging party has failed to present record evidence that establishes a violation of the International Constitution, laws, or codes, Local Union bylaws, or rules.

Section 13. A detailed written record of the trial proceedings shall be made and preserved and shall constitute the trial record, provided that no fine, nor loss of membership rights or union office shall be imposed unless a stenographic record and transcript are kept of the trial proceedings.

Section 14. Upon the completion of the trial proceedings, the Executive Board shall, without undue delay, determine the innocence or guilt of the accused, based solely on the record evidence. The parties shall be advised of the decision in person or by certified mail. A verdict of guilty shall require a two-thirds majority vote of the Executive Board. If the decision is that of guilty, the Executive Board shall affix appropriate penalties in accordance with the provisions of the International Constitution. Any member found guilty of any one or more of the charges against him or her may be censured, fined, suspended, and/or expelled, provided that such discipline shall be reasonable and fair and, provided further, that no discipline shall be imposed without stating with detailed specificity what the discipline is being imposed for.

Section 15. The decision of the Executive Board shall become immediately operative unless stayed by the Local Union Executive Board or unless a stay is directed by the International President following an appeal as set forth in Section 35(C) of the International Constitution.

Section 16. Appeals may be taken to the International President and then to the International Executive Board as set forth in Section 35(C) of the International Constitution. The appeal to the International President shall be filed no later than 15 days from the date of the adverse ruling from which the appeal is taken; however, the International President, for good cause shown, may extend the time within which the appeal may be filed. Either party may appeal from the decision of the International President to the International Executive Board by filing with the International Secretary-Treasurer within 30 days after the decision has been rendered, a written notice of such appeal, stating briefly why the party believes the International President's decision should be reversed.

Section 17. Substantial performance of the procedures set forth in this Article and judgment resulting therefrom shall be exclusive and shall be final and binding on all parties.

ARTICLE XVIII Authority

Section 1. No officer, representative, agent or member of the Union shall have power to act for or bind the Union in any manner or for any purpose unless expressly authorized by the Executive Board.

Section 2. The officers and employees of this Union shall be entitled to rely in good faith upon the decisions of the Union. If any officer or employee is sued on account of action taken in such reliance, he/she shall be indemnified by the Union to the full extent allowed by law for attorney's fees, costs of suit, and damages, if any, assessed against him/her.

Section 3. In the event of serious disputes between members and their Employers, immediate notice shall be given the office of the Union. The officer or officers failing to settle the matter amicably shall so report and seek the guidance of the Executive Board.

Section 4. Without a written grant of authority by the Executive Board, no officer, representative, or individual member of the Union shall have the right in the name of the Union or on its behalf to engage in or to induce or encourage a stoppage of work or a boycott against any person, firm or corporation or against any goods, articles, materials or commodities; nor shall any officer, representative or individual member of the Union or on its behalf establish or maintain a picket line or otherwise authorize or encourage concerted activity against any person, firm or corporation unless under written grant of authority from the Executive Board of the Union. It is hereby declared that no officer, representative or individual member of the

Union is authorized to act as the actual or ostensible agent of the Union except in the manner and to the extent expressly provided for in these bylaws.

ARTICLE XIX Death Benefits

Section 1. There is hereby established a death benefit fund in the Union.

Section 2. It shall be the duty of the President to maintain a balance of not less than \$900 in the death benefit fund, and shall report to the Executive Board at any time the said balance is below \$900.

Section 3. The death benefit fund shall be created, and replenished from time to time, by automatic assessments against Active, Non-Active and Associate Members, not exceeding \$1 per member.

Section 4. Upon the death of any Active, Non-Active and Associate Member as defined in Article IV, Section 2, who has been a member in good standing in every respect in the Union for not less than six (6) months immediately prior to death, the sum of \$300 shall be paid from the death benefit fund to the beneficiary named by the decedent in his or her lifetime in writing to the Union office, and if none, then to the surviving wife or husband of the decedent, and if none, then to the children of the decedent in equal shares, and if none, then to the heirs at law of the decedent, and if none, then to the executor named in the decedent's will, if any. In the event of conflicting claims for the said death benefit, the Trustees are empowered conclusively to determine which claimant or claimants may be entitled to the benefit.

Section 5. Beneficiaries and heirs of Active, Non-Active and Associate Members are further entitled to receive such benefits, in the event of the death of a member, as may be due them under the provisions of the Constitution of RCUI.

ARTICLE XX Employment Office

Section 1. The President shall maintain a list of members of the Union who desire employment. Preference shall be given Union members in filling vacancies.

Section 2. Members accepting positions shall give prompt notice thereof to the Union office.

Section 3. No fee of any kind shall be charged either employer or employee.

Section 4. No member shall accept any position in which the working agreement or working rules of the Union are violated.

ARTICLE XXI Stewards and Committees

Section 1. Each store shall elect from its ranks a Steward. The Steward is the representative of the Union on the job. The duties of such Stewards shall be to determine that none but Union members and authorized persons are working, that all members are paid up in their dues and attend their meetings and that all members wear their Union dues buttons on the job. They shall endeavor at all times to create better working conditions. They shall see to it that no member of the Union breaks working rules, hourly rules, or wage rules on their job. They shall be responsible in their store to see that members comply with and carry out the policies of the Union as voted upon by the Executive Board and the membership.

Section 2. It is the duty of all members to serve on committees when appointed from time to time by the President.

ARTICLE XXII Withdrawal and Military Leave Courtesy Cards

Section 1. The following members whose current dues and fees have been paid shall be entitled to withdrawal cards without charge therefor:

- Members who become employers;
- Members no longer employed with a collective bargaining unit represented by and within the jurisdiction of the Local Union;
- Members whose positions are excluded from coverage by a collective bargaining agreement;
- Members who are employed by the International Union or any of its chartered bodies who are represented by another labor organization for purposes of collective bargaining with the International Union or any of its chartered bodies; and
- Members no longer employed by an employer who is subject of an active organizing effort by the International Union or any of its chartered bodies and who is not a party to a collective bargaining agreement with the International Union or any of its chartered bodies.

Section 2. Withdrawal cards shall be dated as of the first of the month following the member's eligibility to receive such card.

Section 3. Persons holding withdrawal cards may maintain continuous membership:

(a) By depositing the withdrawal card with the International Union no later than the first day of the month following the date of issuance, along with one month's dues with the International Union and becoming a general member as provided in Section 4(F) of the International Constitution, or

(b) If eligible for active membership, by depositing the withdrawal card with the Local Union within the jurisdiction he or she is employed or last held membership within one calendar month from the date of its issuance, together with the payment of the current dues.

Section 4. Any person possessing a withdrawal card and making application for membership in a Local Union shall be accepted as a reinstated member, without the payment of a fee, except the current dues, provided the card is deposited with the Local Union within whose jurisdiction such person is employed within 30 days from the date of employment within a collective bargaining unit represented by the International Union or such Local Union, or within 30 days from date of employment by the International Union or any of its chartered bodies, unless a longer period of time is duly established by such Local Union. Any person who is employed within a collective bargaining unit represented by the International Union or any of its chartered bodies and fails to deposit his or her withdrawal card as prescribed in this section shall have his or her withdrawal card declared void and shall not be reinstated to membership without the payment of the applicable reinstatement fee.

Section 5. In the event any member enters the military service of the United States or Canada, whether voluntarily or by draft, such member shall be entitled to, upon request, a military leave courtesy card with the privilege of depositing it with any Local Union within whose jurisdiction he or she is working, within six months after discharge from military service, provided such member's current dues and fees have been paid, and, further provided that, when such person resumes employment within a collective bargaining unit represented by and within the jurisdiction of the Local Union, he or she makes application for membership in the required manner, presents evidence of his or her discharge, and pays his or her current dues.

Section 6. During such military leave, the benefits as provided in these bylaws shall be inoperative; however, any such person readmitted under the above provisions shall immediately be restored to membership status in all respects as of the time of the issuance of the military leave courtesy card.

Section 7. Military leave courtesy cards presented for membership after the aforementioned six months' period shall be honored as regular withdrawal cards as set forth by Article XXII, Section 4 of these bylaws.

Section 8. Recipients of withdrawal, military leave courtesy cards or holders of paid-up life or honorary membership cards receive such cards and privileges incident thereto in recognition of past membership or service or as a conferred honor. Continued possession of such cards and privileges incident thereto presumes that the holders of these cards will continue to uphold the aims, objectives, and principles of the Retail Clerks International Union. Should any such person engage in any act which, if engaged in by a member, would constitute a disciplinary offense under Section 34 of the International Constitution, the International Executive Board, after the issuance of a direction to show cause and consideration of any response from such person, may cancel or suspend any of the foregoing cards, memberships, or privileges.

**ARTICLE XXIII
Amendments**

Section 1. These bylaws may be amended only in the manner provided in this Article, unless otherwise provided herein.

Section 2. Proposals to amend these bylaws shall either (1) be proposed by the Executive Board or (2) be signed and submitted in writing by 100 members or 5% of the membership whichever is less to the Executive Board for study and action thereon. The Executive Board, after due consideration, not to exceed sixty (60) days, shall make its recommendation thereon known to the President. Upon receipt of said recommendation from the Executive Board, the President shall mail notice of said recommendation to each member of the Union advising that the proposed amendment will be read, discussed and acted upon at the next regular meeting of the membership, or at a special meeting. Such notice

shall be mailed to each member at least fifteen days prior to the date of such meeting together with a copy of the proposed amendment.

Section 3. At the said meeting, the proposed amendment shall be made a special order of business, shall be submitted to vote by secret ballot after full debate, and shall be approved only by a two-thirds vote of members present and voting in the manner provided by Sections 8 and 9 of Article XIV.

**ARTICLE XXIV
Agreements, Bylaws, and Constitution**

Section 1. Every member shall be given a current copy of the collective bargaining agreement negotiated by the Union with their Employer and a copy of these bylaws and it shall be the responsibility of the members to familiarize themselves with the provisions of both documents.

Section 2. Every members should keep a copy of the International Union's Constitution which is published periodically in the Retail Clerks ADVOCATE, and it shall be the responsibility of the members to familiarize themselves with its provisions.

**ARTICLE XXV
Effective**

Section 1. The Constitution of the International Union, and the laws of the International Union which shall be made in pursuance thereof, shall be the supreme law of the International Union. The International Union and all members shall be bound thereby; nothing in the bylaws or rules to the contrary shall be an exception. Nothing in these bylaws shall be interpreted or applied in any manner which is inconsistent with the Constitution or laws of the International Union.

Section 2. If any provision of these bylaws shall be held invalid, the remainder of these bylaws shall not be affected.

— P —

— Q —

— R —

**APPENDIX "A"
DUES SCHEDULE**

Dues are based according to gross earnings, before deductions.
(Equivalent figures given for information only.)

Effective January 1, 1978

Bracket	Weekly Earnings	Monthly Earnings	Weekly Equivalent	Monthly Dues	Quarterly Dues
1	Less than \$ 59.99	Less than \$259.99	\$1.62	\$7.00	\$21.00
2	\$ 60.00 to 84.99	\$260.00 to 368.32	1.85	8.00	24.00
3	85.00 to 109.99	368.33 to 476.66	2.08	9.00	27.00
4	110.00 to 134.99	476.67 to 584.99	2.31	10.00	30.00
5	135.00 to 159.99	585.00 to 693.32	2.54	11.00	33.00
6	160.00 to 184.99	693.33 to 801.66	2.77	12.00	36.00
7	185.00 to 224.99	801.67 to 974.99	3.00	13.00	39.00
8	225.00 to 264.99	975.00 to 1,148.32	3.23	14.00	42.00
9	265.00 — Up	1,148.33 — Up	3.46	15.00	45.00

Effective July 1, 1978

Bracket	Weekly Earnings	Monthly Earnings	Weekly Equivalent	Monthly Dues	Quarterly Dues
1	Less than \$ 59.99	Less than \$259.99	\$1.62	\$7.00	\$21.00
2	\$ 60.00 to 84.99	\$260.00 to 368.32	1.85	8.00	24.00
3	85.00 to 109.99	368.33 to 476.66	2.08	9.00	27.00
4	110.00 to 134.99	476.67 to 584.99	2.31	10.00	30.00
5	135.00 to 159.99	585.00 to 693.32	2.54	11.00	33.00
6	160.00 to 184.99	693.33 to 801.66	2.77	12.00	36.00
7	185.00 to 224.99	801.67 to 974.99	3.00	13.00	39.00
8	225.00 to 264.99	975.00 to 1,148.32	3.23	14.00	42.00
9	265.00 to 304.99	1,148.33 to 1,321.66	3.46	15.00	45.00
10	305.00 — Up	1,321.67 — Up	3.70	16.00	48.00

Effective January 1, 1979

Bracket	Weekly Earnings	Monthly Earnings	Weekly Equivalent	Monthly Dues	Quarterly Dues
1	Less than \$ 59.99	Less than \$259.99	\$1.85	\$8.00	\$24.00
2	\$ 60.00 to 84.99	\$260.00 to 368.32	2.08	9.00	27.00
3	85.00 to 109.99	368.33 to 476.66	2.31	10.00	30.00
4	110.00 to 134.99	476.67 to 584.99	2.54	11.00	33.00
5	135.00 to 159.99	585.00 to 693.32	2.77	12.00	36.00
6	160.00 to 184.99	693.33 to 801.66	3.00	13.00	39.00
7	185.00 to 224.99	801.67 to 974.99	3.23	14.00	42.00
8	225.00 to 264.99	975.00 to 1,148.32	3.46	15.00	45.00
9	265.00 to 304.99	1,148.33 to 1,321.66	3.70	16.00	48.00
10	305.00 — Up	1,321.67 — Up	3.93	17.00	51.00

Retail Store Employees Union
Local 428
240 South Market Street
of Santa Clara County &
Merito Park AFL-CIO
San Jose, California 95113



79 AUG 13 AM 9 : 49

RECEIVED
FEDERAL ELECTION
COMMISSION



ALWAYS
SHOP AT
THE
UNION
STORE



Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

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

August 6, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Gayle A. Jackson
Office Manager
Retail Store Employees Union
Local 428 AFL-CIO
240 South Market Street
San Jose, CA 95113

Re: MUR 903

Dear Ms. Jackson:

This is to advise you that your request for an extension of time in which to respond to the Commission's letter of July 10, 1979 has been granted. Please submit your formal response within ten (10) days after your receipt of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "William C. Oldaker".

William C. Oldaker
General Counsel

(Not to be filed)

AGC 703

PS Form 3811, Apr 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

1. The following service is requested (check one):
 Show to whom and date delivered
 Show to whom, date, and address of delivery
 RESTRICTED DELIVERY Show to whom and date delivered
 RESTRICTED DELIVERY Show to whom, date, and address of delivery
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 Ms. Gayle Jackson
 RETAIL STORE EMPLOYEES UNION, Local 928
 240 So. Market St.
 San Jose, CA 95113

3. ARTICLE DESCRIPTION:
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 943405

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY 2/9/79 POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

Microfilm

AGUIAR

☆GPO 1977-0-248-600

81040302243



**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

FEDERAL ELECTION
COMMISSION

10715

'79 JUL 30 PM 1:50

July 25, 1979

00000

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Re: MUR 903 (79)

Dear Mr. Oldaker:

Regarding your letter of July 10, 1979 which was received in our office July 17, 1979 which requested a response within ten (10) days - Mr. McLoughlin is on vacation and should return within a week unless he extends the time. We would therefore request, if possible, for additional time in which to respond. An additional ten days or two weeks should be sufficient. Please advise.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO

Gayle A. Jackson
Office Manager

19 JUL 30 PM 4:52

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

81040302244

Retail Store Employees Union
of Santa Clara County &
Menlo Park AFL-CIO
San Jose, California 95113



Local 428
240 South Market Street

19 JUL 30 PM 1:50

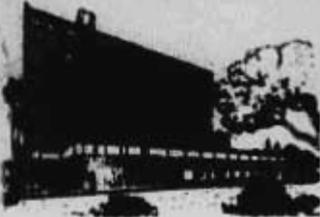
FEDERAL ELECTION
COMMISSION



ALWAYS
SHOP AT
THE
UNION
STORE



Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

'79 MAY 24 PM 1:08

800
1020 ✓

RECEIVED
FEDERAL ELECTION
COMMISSION

May 22, 1979

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

902479

Re: MUR 903 (78 and 79) our letter of May 10, 1979

Dear Mr. Oldaker we were informed by telephone by Ms Cummings that we had inadvertently omitted copies of our passbooks for the "hard" and "soft" accounts - please find them attached.

Sincerely,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 AFL-CIO

James P. McLoughlin
James P. McLoughlin
President

gj
Encl.

81040302246

79 MAY 24 P 3: 35

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

Retail Store Employees Union
Local 428
240 South Market Street
of Santa Clara County &
Merito Park AFL-CIO
San Jose, California 95112



79 MAY 24 PM 1:08

RECEIVED
FEDERAL ELECTION
COMMISSION



ALWAYS
SHOP AT
THE
UNION
STORE



Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463



**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

RECEIVED
FEDERAL ELECTION
COMMISSION

78 MAY 14 AM 9:49

Clearance CLE at 10105

May 10, 1979

Mr. William Oldaker
General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

902335

Re: MUR 903 (78 and 79)

Dear Mr. Oldaker:

Thank you for your calling to our attention the fact that we failed to include in our solicitation material the notice required by Section 2. U.S.C. §435(b) and we will do it in the future.

In reply to your letter of April 20, 1979, we submit the following:

Question I(A): Our definition of "soft" money would be: monies allocated by the Executive Board of the Union from the General Fund or Union treasury. "Hard" money would be defined as "voluntary contributions from our members"; only these funds can be used in federal election campaigns.

I(B): Yes, this is the account referred to in the last paragraph of Page 2 of our letter dated July 28, 1978.

I(C): No.

II: Yes.

II(A): No, retired members are not required to pay Union dues although some of them do. They pay the minimum, or non-working dues - the same as our other members who are not working. They currently pay \$24.00 per quarter.

II(B): Retired members who are dues-paying Union members do have voting privileges.

II(C): We have approximately 152 retired members who submitted ABC contributions for 1977 and approximately 193 retired members who submitted ABC contributions for 1978.

III: Enclosed please find copies of our passbooks for the "hard" account and the "soft" account. The difference in the amounts was that the "soft" account was added in the April 10, 1976 report. The person completing the report at that time interpreted the requirements of reporting as covering "all" the activity of the Active Ballot Club - including state and local transactions. The monies prior to that time were segregated and the figures were combined for the aforesaid report.

8104030224A

IV(A): The "Retail Employees Local 428 Credit Union" is a State Chartered body and supervised by the State of California Department of Corporations. The Credit Union is federally insured by the National Credit Union Administration.

IV(B): The deposits in each account are insured up to \$40,000 by The National Credit Union Administration, a branch of the U. S. Government.

IV(C): Withdrawals from the Credit Union are made by check, drawn on the First National Bank, First and Santa Clara Streets, San Jose, California, a state chartered bank.

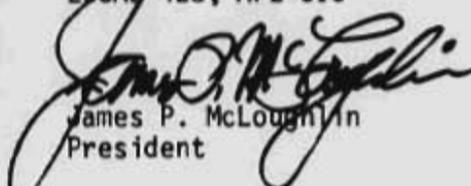
IV(D): Attached is a photocopy of the Credit Union charter.

IV(E): We have been developing a data programming system which will allow us to get a recap of counter receipts showing the amount collected for ABC - at least weekly - we hope to have it installed by July 1, 1979, at which time it is hoped we shall be able to transmit ABC contributions to the RCIU ABC on a weekly basis. This "on line" data processing system was supposed to be operational on January 1, 1979; there have been many delays due to equipment delivery to the data processing service bureau (Keystone Computer Service, San Jose) and installation problems at that point.

We trust this will answer your inquiry. Should you have any further questions, please get in touch with us and we will attempt to clear them up.

Sincerely,

RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO


James P. McLoughlin
President

jv

81010302249

ORIGINAL CHARTER

DEPARTMENT OF INVESTMENT
DIVISION OF CORPORATIONS
OF THE
STATE OF CALIFORNIA

File No. 506 Sac

Receipt No. Sac-17225

RETAIL CLERKS LOCAL 428 CREDIT UNION

is hereby licensed

as a

CREDIT UNION

under the provisions of the Credit Union Law
of the State of California

and is authorized to carry on the business of a Credit Union in said
State, under the terms and conditions set forth in said Law

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my official seal this 18th
day of March 1953.

EDWIN M. DAUGHERTY

Commissioner of Corporations

By

A. T. Sullivan
A. T. SULLIVAN

Assistant Commissioner

Commissioner of Corporations

This license is not transferable or assignable and is good until revoked by

RWR:em

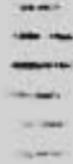
Retail Store Employees Union
Local 428

240 South Market Street



of Santa Clara County &
IWWED Party Affiliated
FEDERAL ELECTION COMMISSION

MAY 14 AM 9:29



Mr. William Oldaker
General Counsel
FEDERAL ELECTION COMMISSION
1325 K Street, N. W.
Washington, D. C. 20463



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Retail Stores Employees)
Union Local 428 and)
its Active Ballot Club)

MUR 903 (79)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on May 1, 1979, the Commission approved by a vote 4-0 the discussion, as set forth in the General Counsel's Memorandum dated April 27, 1979, to extend the time the respondent has to answer the interrogatories approved by the Commission on April 18, 1979.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, and McGarry.

Attest:

5/1/79

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 4-27-79, 12:50
Circulated on 48 hour vote basis: 4-27-79, 2:00

81040302252

April 27, 1979

MEMORANDUM TO: Marge Emmons
FROM: Jane Colgrove
SUBJECT: MUR 903

Please have the attached Memo to the Commission
on MUR 903 distributed to the Commission on a ²⁴24 hour
tally basis.

Thank you.

81040302253



FEDERAL ELECTION COMMISSION

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

'9 APR 27 P12: 50

April 27, 1979

MEMORANDUM

TO: The Commission
FROM: William C. Oldaker
RE: MUR 903 (79)

On December 21, 1979 the Reports Analysis Division referred this matter to the Office of the General Counsel citing four possible violations of the Act by Retail Store Employees Union Local 428 and its Active Ballot Club.

On April 18, 1979 the Commission found reason to believe that the respondent had violated 2 U.S.C. §434(b) (1), (14); and §435(b), and authorized the sending of interrogatories. Those interrogatories are currently due on May 3, 1979.

However on April 20, 1979 the Audit Division advised this office that it was commencing an audit of the respondent.

Because of the burden entailed in an audit the General Counsel's office has agreed to extend the time the respondent has to answer.

81040302254



FEDERAL ELECTION COMMISSION

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

April 20, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union Local 428;
and Local 428 Active Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903(78)

Dear Mr. McLoughlin:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your Local Union and its Local Active Ballot Club (Local ABC) violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the Act). Specifically, it appears that the Local Union and Local ABC:

- (1) Violated 2 U.S.C. §434(b)(1) and (14) by failing to adequately explain the discrepancy between cash on hand at the end of 1975 (\$208.37) and at the beginning of 1976 (\$9,787.64).
- (2) Violated 2 U.S.C. §435(b) by failing to include on political literature the notice required by this section of the Act.

We also take this opportunity to inform you that Section 103.2 of the Regulations states that only national or state banks chartered by the United States or a state may be designated as campaign depositories. Your use of the local's credit union as the Local ABC's depository may not meet the requirement of the regulations.

61010302255

We have numbered this matter MUR 903(79).

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. In this connection, we have already reviewed the communications between your Local ABC and the Commission's staff. Based on these communications, and the information in your reports on file with the Commission, we request that you provide answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Marcie Cummings, the staff member in the General Counsel's Office now assigned to this matter, at 202-523-4060.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

95220110

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one):
 Show to whom and date delivered
 Show to whom, date, and address of delivery
 RESTRICTED DELIVERY
 RESTRICTED DELIVERY
 Show to whom, date, and address of delivery
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
 James B. McLaughlin, President
 Treasurer

3. ARTICLE DESCRIPTION:
 REGISTERED NO. 943423
 CERTIFIED NO. _____
 INSURED NO. _____
 (Always detach signature of addressee or agent)

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

4. DATE OF DELIVERY
 APR 23 1979

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

RECEIVED
 FEDERAL BUREAU OF INVESTIGATION
 APR 27 1979

Cummings MUR 903

FEDERAL ELECTION COMMISSION

TO: Mr. James P. McLoughlin
President
Retail Store Employees Union
Local 428; and
Treasurer
Local 428 Active Ballot Club

MUR 903 (79)

QUESTIONS

I. In paragraph 2(a) on page 2 of your letter of July 28, 1978, you stated

"Prior to July 1, 1978 we maintained two ABC savings accounts, one for "hard money," Account No. 51602, and another for "soft money," Account No. 51603. (This account had a small balance of \$633.91 and it was transferred to the former "hard money" account leaving us with only one ABC account.)"

- 8
1
0
4
0
3
0
3
0
2
2
5
7
- (A) To insure our understanding of your terminology, supply your definition of "hard" and "soft" accounts.
- (B) Is the "soft" account you referred to in the above statement the same account you referred to in the last paragraph of page 2 of your letter? (In this paragraph you described a transmittal of funds system from the union treasury to the International ABC. You stated that rebates on these transmittals were put into a "soft" account and used for nonfederal candidates.) If not, describe how the accounts differed.
- (C) Was the \$633.91 you transferred to the "hard" account in any way segregated from the other funds in the "hard" account? If so, provide documentation.

II. Do you solicit and receive ABC voluntary dues from retired union members? If so

(A) Are retired members required to pay union dues?

At the same or different rate than working union members?

State such rates.

- (B) Do retired members have voting privileges in the union?
- (C) If the answers to II, A) or B) is "yes", state for 1978 and 1977 how many retired members submitted ABC contributions.

8
1
0
4
Q
3
0
2
2
5
8

III. In our letter to you of October 2, 1978, page 2, we reminded you of a discrepancy in the cash on hand you reported in the Local ABC account in 1975-76. Your 1975 year end report disclosed \$208.37 as cash on hand while your April 10, 1976 quarterly report disclosed \$9,787.64 as cash on hand. Your letter of October 17, 1978 did not clear up this discrepancy other than to state:

"...one individual made out the 1975 reports and another the 1976. In 1975 the "hard" money account was reported and in 1976 both the 'hard money' and 'soft' money accounts were reported."

Please supply a description of all the transactions and/or bookkeeping entries between and among accounts showing how the cash on hand came to differ in the above described amounts in these two reporting periods. Where appropriate, supply dates and documentation.

IV. In your 7/28/78 letter, you stated that the 50% rebate from the International PAC is deposited into the ABC account in Local 428's credit union. Disbursements are made to "candidates, etc." from this account.

With regard to Local 428's credit union:

- (A) Which governmental agencies, state and federal, have any supervisory authority over the credit union?
- (B) Who insures the deposits?
- (C) Are withdrawals from the credit union made by share draft? Check? Cash?

If by share draft does the credit union have any arrangement with any other financial institutions (i.e., bank, etc.) whereby such share drafts are paid or processed

through these institutions? If so give the name(s) and address(es) of the financial institutions involved, and state whether it is a state or national bank.

- (D) Is the credit union chartered? If so, please provide us with a copy of its charter.
- (E) Since July 28, 1978, has Local 428's ABC developed any arrangement with any national or state bank whereby expenditures of the ABC, including contributions to candidates, are paid through such bank? If so, describe. In this connection, describe the steps by which funds from the credit union account flow into and out of the credit union.

81040302259



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union Local 428;
and Local 428 Active Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903(78)

Dear Mr. McLoughlin:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your Local Union and its Local Active Ballot Club (Local ABC) violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the Act). Specifically, it appears that the Local Union and Local ABC:

- (1) Violated 2 U.S.C. §434(b)(1) and (14) by failing to adequately explain the discrepancy between cash on hand at the end of 1975 (\$208.37) and at the beginning of 1976 (\$9,787.64).
- (2) Violated 2 U.S.C. §435(b) by failing to include on political literature the notice required by this section of the Act.

We also take this opportunity to inform you that Section 103.2 of the Regulations states that only national or state banks chartered by the United States or a state may be designated as campaign depositories. Your use of the local's credit union as the Local ABC's depository may not meet the requirement of the regulations.

M.C.
4/19/79

We have numbered this matter MUR 903(79).

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. In this connection, we have already reviewed the communications between your Local ABC and the Commission's staff. Based on these communications, and the information in your reports on file with the Commission, we request that you provide answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Marcie Cummings, the staff member in the General Counsel's Office now assigned to this matter, at 202-523-4060.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION

TO: Mr. James P. McLoughlin
President
Retail Store Employees Union
Local 428; and
Treasurer
Local 428 Active Ballot Club

MUR 903 (79)

QUESTIONS

I. In paragraph 2(a) on page 2 of your letter of July 28, 1978, you stated

"Prior to July 1, 1978 we maintained two ABC savings accounts, one for "hard money," Account No. 51602, and another for "soft money," Account No. 51603. (This account had a small balance of \$633.91 and it was transferred to the former "hard money" account leaving us with only one ABC account.)"

- (A) To insure our understanding of your terminology, supply your definition of "hard" and "soft" accounts.
- (B) Is the "soft" account you referred to in the above statement the same account you referred to in the last paragraph of page 2 of your letter? (In this paragraph you described a transmittal of funds system from the union treasury to the International ABC. You stated that rebates on these transmittals were put into a "soft" account and used for nonfederal candidates.) If not, describe how the accounts differed.
- (C) Was the \$633.91 you transferred to the "hard" account in any way segregated from the other funds in the "hard" account? If so, provide documentation.

II. Do you solicit and receive ABC voluntary dues from retired union members? If so

- (A) Are retired members required to pay union dues?

At the same or different rate than working union members?

State such rates.

81040302262

- (B) Do retired members have voting privileges in the union?
- (C) If the answers to II, A) or B) is "yes", state for 1978 and 1977 how many retired members submitted ABC contributions.

III. In our letter to you of October 2, 1978, page 2, we reminded you of a discrepancy in the cash on hand you reported in the Local ABC account in 1975-76. Your 1975 year end report disclosed \$208.37 as cash on hand while your April 10, 1976 quarterly report disclosed \$9,787.64 as cash on hand. Your letter of October 17, 1978 did not clear up this discrepancy other than to state:

"...one individual made out the 1975 reports and another the 1976. In 1975 the "hard" money account was reported and in 1976 both the 'hard money' and 'soft' money accounts were reported."

Please supply a description of all the transactions and/or bookkeeping entries between and among accounts showing how the cash on hand came to differ in the above described amounts in these two reporting periods. Where appropriate, supply dates and documentation.

IV. In your 7/28/78 letter, you stated that the 50% rebate from the International PAC is deposited into the ABC account in Local 428's credit union. Disbursements are made to "candidates, etc." from this account.

With regard to Local 428's credit union:

- (A) Which governmental agencies, state and federal, have any supervisory authority over the credit union?
- (B) Who insures the deposits?
- (C) Are withdrawals from the credit union made by share draft?
Check? Cash?

If by share draft does the credit union have any arrangement with any other financial institutions (i.e., bank, etc.) whereby such share drafts are paid or processed

81040302263

through these institutions? If so give the name(s) and address(es) of the financial institutions involved, and state whether it is a state or national bank.

- (D) Is the credit union chartered? If so, please provide us with a copy of its charter.
- (E) Since July 28, 1978, has Local 428's ABC developed any arrangement with any national or state bank whereby expenditures of the ABC, including contributions to candidates, are paid through such bank? If so, describe. In this connection, describe the steps by which funds from the credit union account flow into and out of the credit union.

81040302264

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Retail Store Employees Union) MUR 903
Local 428 and its Active)
Ballot Club)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on April 18, 1979, the Commission determined by a vote of 5-0 to adopt the following recommendations, as set forth in the First General Counsel's Report dated April 16, 1979, regarding the above-captioned matter:

1. Find reason to believe that the Retail Store Employees Union Local 428 and the Local 428 Active Ballot Club violated 2 U.S.C. §434(b)(1), (14); and §435(b).
2. Send the letter, with questions, (Attachment 4 to the above-named report) to Respondents.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, McGarry, and Thomson.

Attest:

4/18/79
Date

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

Received in Office of Commission Secretary: 4-16-79, 10:12
Circulated on 48 hour vote basis: 4-16-79, 4:30

81040302265

April 16, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 903

Please have the attached First General Counsel's Report on MUR 903 distributed to the Commission on a 48 hour tally basis.

Thank you.

81040302266

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 APR 16 A10: 12

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL APR 16 1979
BY OGC TO THE COMMISSION

MUR NO. 903
DATE COMPLAINT RECEIVED
BY OGC
STAFF
MEMBER Cummings

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

RESPONDENT'S NAME: Retail Store Employees Union Local 428 and
its Active Ballot Club

RELEVANT STATUTE: 2 U.S.C. §441b(a); 434(b)(1), 434(b)(1), (14);
435(b), 11 CFR §103.3

INTERNAL REPORTS CHECKED: Disclosure, MUR 543

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated from an RFAI sent to the Retail Clerks International Association Active Ballot Club (the International PAC) in MUR 543. That MUR involved discrepancies between the transfers from 1975 to 1978 of the International PAC, and the pacs of eight local unions.

An October 17, 1978 response from the Local PAC to an RFAI was considered inadequate. (See Attachment 1) On December 21, 1978, RAD referred this matter to the General Counsel's Office citing three possible violations of the Act by the Local PAC: 1) The failure to remit individual contributions into a PAC account within ten days after receipt, in violation of 11 CFR §103.3; 2) The failure to provide a satisfactory explanation for a cash on hand discrepancy between 1975 and 1976, in violation of 2 U.S.C. §434; and 3) The failure to include the notice required by 2 U.S.C. §435 on its political literature, in violation of that section. RAD recommended that an audit for cause be conducted of the Local PAC. (See Attachment 2)

II. EVIDENCE AND ANALYSIS

1. Failure to Remit Individual Contributions

Union members are solicited by the local for PAC contributions in the second quarter of the year along with their dues. All receipts are transmitted daily to the local's data processing center to be deposited in

11040302257

the local's treasury account. Each member is credited on the 25th of each month.

Section 103.3(a) of the Commission's Regulations requires that all contributions received by political committees be deposited in a checking account in the appropriate campaign depository within ten days of receipt. The Commission, in two recent Advisory Opinions, AO 1978-42 and 1978-98, further clarified what does and does not constitute commingling of funds, pursuant to 11 CFR §103.3(a).

Since Local 428's processing of members' checks takes place only once each month, with some members' checks being held in the treasury account for more than ten days, the local's procedure may not be in conformance with 103.3(a) of the Regulations. Therefore commingling of treasury funds and political contributions may have occurred in violation of 44lb. However, in view of the type of violations involved the Office of General Counsel feels no recommendation is warranted.

Commingling may also have occurred in July, 1978 when the Local PAC transferred a balance of \$633.61 from its dues account to its separate segregated account. Considering this was a one time occurrence, and that the amount transferred was low, we think questions to the respondents on this transaction are more appropriate than a reason to believe finding.

2. Cash on Hand Discrepancy

At the close of 1975, the Local PAC reported having \$208.37 as cash on hand, and at the beginning of 1976 it reported having \$9,787.64 as cash on hand. This discrepancy has not been adequately explained. The Commission, therefore, has reason to request an explanation.

3. Absence of the §435(b) Notice

In his letters to RAD, the Local's President included copies of three pages of solicitation literature sent by the Local PAC to members of the local. This literature does not contain the notice required by §435(b). (Attachment III)

The Local PAC maintains its funds in the credit union of the local which is not a national or state bank as required by §103.2 of the Regulations. We do not think this issue warrants a finding of reason to believe the Act has been violated but we are including questions on this issue, and we will advise respondents of the requirements of this section.

III. RECOMMENDATION

1. Find reason to believe that the Retail Store Employees Union Local 428 and the Local 428 Active Ballot Club violated 2 U.S.C. §434(b)(1), (14); and 435(b).

2. Send attached letter, with questions, to Respondents.

ATTACHMENTS

1. RFAI dated 10/2/78
2. Referral from RAD
3. Solicitation Literature
4. Proposed letter and questions to Respondent

81010302269

Attachment II



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

Mr. James P. McLaughlin, Treasurer
RETAIL STORE EMPLOYEES UNION LOCAL 429
ACTIVE BALLOT CLUB
240 South Market Street
San Jose, CA 95113

2 OCT 1978

Dear

This letter is prompted by our interest in assisting committees who wish to comply with the Federal Election Campaign Act.

During review of the 1975 & 1976 Report of Receipts and Expenditures, we noted that you omitted certain information or made apparent mathematical errors in certain entries. Attached is an itemization of the information requested.

While we recognize the difficulties you may have experienced in filling out the reporting forms, we must ask that you supply the Commission with the missing information within fifteen (15) days from the date of this letter. If you have any questions, please do not hesitate to contact Beverly Brown in our Reports Analysis Division on the toll free number (800)424-9530. Our local number is (202)523-4048.

Sincerely,

Orlando B. Potter

Orlando B. Potter
Staff Director

Attachment
FEC Form 12



Page 1 of 4

8 1 0 0 0 0 0 2 7 5 3

REQUEST FOR ADDITIONAL INFORMATION FOR THE 1975 & 1976 REPORT OF RECEIPTS AND EXPENDITURES COVERING THE PERIOD THROUGH _____ PURSUANT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED.

A review of the report indicates that additional information is needed in order to be considered complete. Please return a copy of this form with your amended submission(s).

Please provide the required data, as indicated (x):

- Coverage Dates — omitted or — incorrect
- Signature — omitted or — incorrect
- Summary Page Line(s) — Column(s) — Totals — omitted or — incorrect
- Detailed Summary (Page 2) Line(s) — Column(s) — Totals — omitted or — incorrect
- Schedule Totals — disagree with Detailed Summary (Page 2) or — omitted
- Date(s) — omitted or — inadequate for Schedule(s) — Line(s) —
- Full Name(s) Omitted for Schedule(s) — Line(s) —
- Mailing Address(es) — omitted or — inadequate for Schedule(s) — Line(s) —
- Occupational Descriptions — omitted or — inadequate for Schedule(s) — Line(s) —
- Principal Place(s) of Business — omitted or — inadequate for Schedule(s) — Line(s) —
- Aggregate Year-to-date Totals — omitted or — inadequate for Schedule(s) — Line(s) —
- Nature or Purpose of Expenditure — omitted or — inadequate for Schedule(s) — Line(s) —
- Nature or Purpose of Receipt — omitted or — inadequate for Schedule(s) — Line(s) —
- Inadequate Description of — proceeds — dates — events — location of Schedule —
- Other: Please see the attached pages.

Your initial submission(s), together with this request for additional information, has been made available for public inspection. The Commission urges you to file the additional submission(s) promptly to the above address. If you have any questions regarding this request, please call the Disclosure Division toll free at (800) 424-9530. The local Washington, D.C. telephone number is (202) 523-4048.

Senate filers should file their submission(s) with the Secretary of the Senate, Office of Public Records, 119 D St., N.E., Washington, D.C. 20510. House filers should file their submission(s) with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515.

Page 2 of 4

REQUEST FOR ADDITIONAL INFORMATION
PAGE 2

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

In your 1975 Year End report of receipts and expenditures you disclose \$208.37 as the cash on hand at the close of the period. In your 1976 April 10 Quarterly report you disclose \$9787.64 as the cash on hand at the beginning of the reporting period or 1/1/76. Please explain the discrepancy noted here.

Throughout 1976 your committee reports unitemized expenditures on line 22 of the detailed summary page (FEC Form 3 - revised 1976). Line 22 applied to a 20% exemption for presidential campaigns receiving federal funds. In a discussion with Gayle Jackson on 6/29/78 it was revealed that these unitemized expenditures were actually transfers out to state and local candidates and candidate committees. Please be advised that Section 104.2(b)(4) of the Commission's regulations requires the identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period. Please amend the following reports to adequately disclose the unitemized expenditures reported on Line 22 of the Detailed Summary Page (FEC Form 3 -revised 1976):

<u>REPORT TYPE</u>	<u>UNITEMIZED EXPENDITURES</u>
10 Day Primary '76.....	\$860
July 10 Quarterly '76	\$270
October 10 Quarterly '76.....	\$675
30 Day General '76.....	\$100

The following are receipts reported by the ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION as transfers in from your committee. Your committee does not disclose these expenditures as "Transfers Out". Please explain the discrepancies noted here.

<u>TO</u>	<u>DATE RECEIVED</u>	<u>AMOUNT</u>
ACTIVE BALLOT CLUB, A DEPARTMENT	1/21/75	\$190
OF RETAIL CLERKS INTERNATIONAL	3/17/75	\$140
UNION	4/28/76	\$40
	6/30/76	\$1244
	7/30/76	\$680
	9/30/76	\$460
	11/23/76	\$408
	1/31/77	\$266

Page 3 of 4

8 7 9 0 1 2 3 4 5

RETAIL STORE EMPLOYEES LOCAL 428 ACTIVE BALLOT CLUB

In phone conversations with your office manager, Gayle Jackson, the following question was asked:

May the Retail Store employees Union Local 428 deposit into their general treasury account cash or checks from their members in payment of the dues statements; portions of these checks or cash amounts may represent contributions to the Retail Store Employees Union Local 428 Active Ballot Club, and such portion would then be transferred to the separate segregated fund of the Active Ballot Club (Local 428) by separate check?

On 9/14/78 the Commission addressed this question in response to an advisory opinion (AO 1978-42) from the Dental Society of New York. Please read the enclosed copy of the Commission's response. Be advised that your current methods of bookkeeping should meet the criteria of the Commission's procedures set forth in AO 1978-42. Please inform the Commission as to how you will revise your current procedures, as disclosed in your letter to the Commission dated 7/28/78, to meet the criteria of the Commission's procedures set forth in AO 1978-42.

*A copy of AO 1978-42 was attached to the
RFAT sent to Local 428*

6
4
2
8
8
8
8
8
8
8
8

REPORTS ANALYSIS REFERRAL SHEET

D# _____

DATE December 21, 1978

ANALYST Beverly Brown BB

TO: William Oldaker

TEAM CHIEF Steve Hims SM

THROUGH: STAFF DIRECTOR AP

COMPLIANCE REVIEW Carroll Bowen CB

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS PH

CANDIDATE/COMMITTEE: RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

TREASURER: James P. McLoughlin

ADDRESS: 240 South Market Street
San Jose, CA 95113

AFFILIATE(S): ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION

ALLEGATION(S): CITE: ATTACHMENT(S)

SEE THE ATTACHED SUBSTITUTE SHEET

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

MUR 543 - ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS
INTERNATIONAL UNION

ATTACHMENT

VOLUNTARY COMPLIANCE - Disclosure by phone

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 1975 TO 1978

TOTAL RECEIPTS \$ _____ TOTAL EXPENDITURES \$ _____

CASH ON HAND \$ _____ DEBTS \$ _____

HISTORY:

RESULTS OF REVIEW:

	ATTACHMENT
Response to telephone inquiry.....Dated 8/7/78	#3
RFAI for 1975 & 1976Sent 10/2/78	#3
Response to RFAI.....Received 10/19/78	#3 & #4

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

	ATTACHMENT
See Telecons for: 6/23/78, 6/27/78, 6/29/78, 7/6/78 7/7/78 & 7/21/78	#2

REASON(S) FOR REFERRAL:

	ATTACHMENT
See attached allegations	

OTHER PENDING ACTIONS INITIATED BY RAD:

	ATTACHMENT
Mr. McLoughlin's October 17th letter to the Commission indicates that the committee is now revising it's procedures to meet the criteria set forth in AO 1978 -42 Empire Dental Society of New York	#3

OTHER RELEVANT INFORMATION:

None

RAD Form 1
August 1978

Page 2 of 3

ALLEGATIONS

CITE

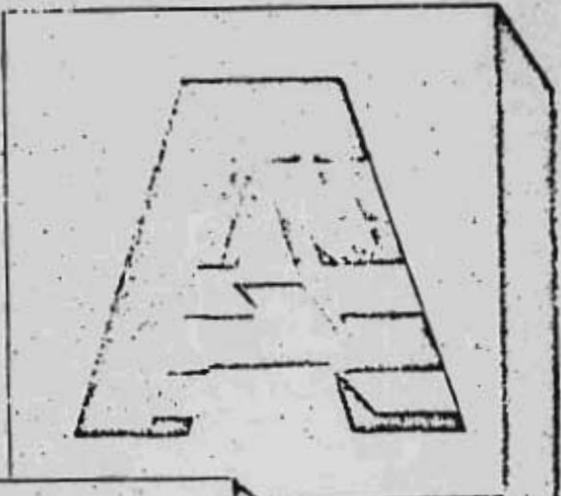
ATTACHMENTS

- 1) Commingling of hard and soft money accounts.....2 U.S.C. 441b #2 & #3
- 2) Failure to remit individual contributions into PAC account within 10 Days after receipt.....11 CFR 103.3 #3
- 3) Failure to provide a satisfactory explanation for a cash on hand discrepancy between 1975 & 1976.2 U.S.C.434 #1, #2. & #3
- 4) Failure to state on their campaign advertisement:
 "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission , Washington, D.C." 2 U.S.C. 435 #4

81040302277



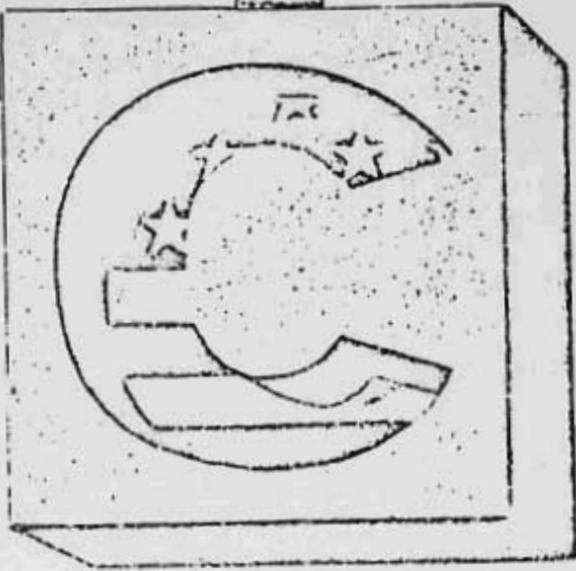
: the building blocks of the future



Do you want to make America a better place to live in?



Let us be certain Congress will enact laws for full employment, tax justice, fighting inflation, national health security, and abolition of lie detector tests.



Do your part: join the Active Ballot Club today!

Give your \$2 or more

81040302278

page 1 of 5

ACTIVE
BALLOT
CLUB

MEMBERSHIP
CONTRIBUTION
\$2.00
DUES BILLING
APRIL, MAY, JUNE



Action Needed **NOW!**

It's as easy as ABC

This is it: packed into this Congressional year is a massive bundle of vital questions that bear on the living standards and jobs of every working man and woman, on the quality of their lives and on the future of their children.

How do you answer these questions? How can Local 428 members have a say in how they are answered?

THE ANSWER is as easy as ABC. Active Ballot Club.

Your annual voluntary membership contribution is \$2. You should want to do your share and pick up your part of the load. You'll be billed for the \$2 membership contribution as part of your dues billing for the second quarter (April, May, June).

The idea behind the Retail Clerks Active Ballot Club is to enlist every member in a united effort to improve the quality of government and to insure a more understanding response by government to the needs and aspirations of working men and women and their families.

ABC works at this job in several ways:

One: It keeps RCIU members alerted to important bills in Congress and in the State Legislature, urging them, whenever possible, to tell their members of Congress and Legislator's how they feel as individuals about the pending legislation.

Two: It urges—and Local 428 works—to insure that every member and their eligible dependents are registered to vote:

Three: It keeps APC members informed about the candidates and the issues.

And four: It works to encourage every registered voter to use his and her votes.

ABC will be faced, this year as in the past, with serious obstacles to a really widespread use of the right to vote. Less than 40 per

cent of those Americans eligible to vote will register to vote and cast a ballot.

In part this is due to obstacles which inhibit registration and voting. This we must remedy. In part it is due to apathy and alienation. This, too, we must combat.

Our union is dedicated to preserving a government of, by, and for the people.

We want a government which is aware of and responsive to its citizens' needs and interests.

The only way these interests can be known is that we, as union members and as citizens, express our will by participating fully in the democratic process.

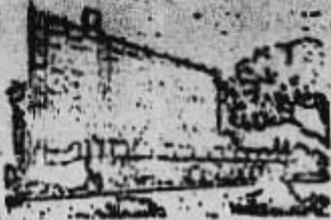
This means that to be really politically effective every RCIU member should be registered and should vote.

It is equally important that RCIU members be informed voters who understand the different issues and know where the various candidates stand.

TO THESE ENDS the RCIU and its Active Ballot Club are committed.

Page 2 of 3

8 1 0 4 0 5 2 2 7 9 OVER



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 938-0428

March 1, 1978

ABC TIME -- 1978

Dear Member:

Your next (2nd quarter) dues billing will reflect your annual \$2.00 voluntary dues for membership in Local 428's Active Ballot Club. Everyone will benefit. Your voluntary contribution, along with similar contributions by fellow members, can be most helpful in promoting better legislation for our great nation.

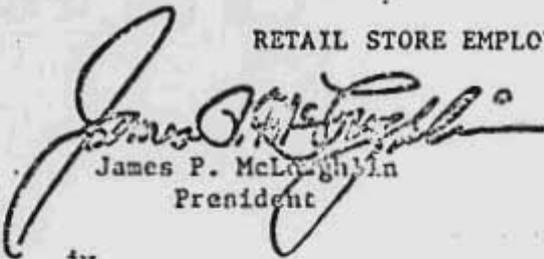
You are, no doubt, familiar with the goals of the Active Ballot Club, basically these are also the aims of the AFL-CIO; such as Labor Law Reform, get America back to work, provide for full employment with decent wages, protect consumer rights, improve social and economic justice, provide fair tax laws, fight for the Equal Rights Amendment (ERA) and a variety of similar purposes.

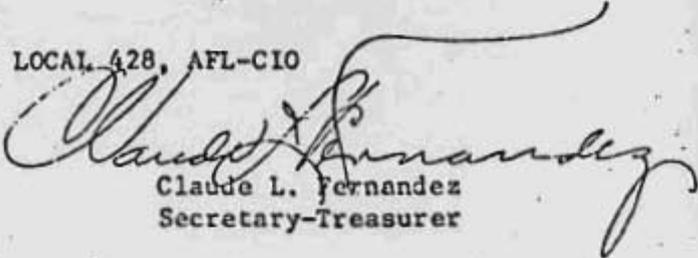
Your 1978 ABC membership card will be mailed to you along with your second quarter dues receipt after your payment. Of course, if you have already purchased your 1978 membership in the ABC, just draw a line through the \$2.00 and pay the balance due on your statement.

Enclosed please find a pamphlet which will further explain the ABC.

In unity,

RETAIL STORE EMPLOYEES UNION, LOCAL 428, AFL-CIO


James P. McLaughlin
President


Claude L. Fernandez
Secretary-Treasurer

jv

Enclosure

78103003322200



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James P. McLoughlin, President
and Treasurer
Retail Store Employees Union Local 428;
and Local 428 Active Ballot Club
240 South Market Street
San Jose, California 95113

Re: MUR 903(78)

Dear Mr. McLoughlin:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that your Local Union and its Local Active Ballot Club (Local ABC) violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the Act). Specifically, it appears that the Local Union and Local ABC:

- (1) Violated 2 U.S.C. §434(b)(1) and (14) by failing to adequately explain the discrepancy between cash on hand at the end of 1975 (\$208.37) and at the beginning of 1976 (\$9,787.64).
- (2) Violated 2 U.S.C. §435(b) by failing to include on political literature the notice required by this section of the Act.

We also take this opportunity to inform you that Section 103.2 of the Regulations states that only national or state banks chartered by the United States or a state may be designated as campaign depositories. Your use of the local's credit union as the Local ABC's depository may not meet the requirement of the regulations.

Attachment IV

10302291

We have numbered this matter MUR 903(79).

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. In this connection, we have already reviewed the communications between your Local ABC and the Commission's staff. Based on these communications, and the information in your reports on file with the Commission, we request that you provide answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Marcie Cummings, the staff member in the General Counsel's Office now assigned to this matter, at 202-523-4060.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

8116
302282

FEDERAL ELECTION COMMISSION

TO: Mr. James P. McLoughlin
President
Retail Store Employees Union
Local 428; and
Treasurer
Local 428 Active Ballot Club

MUR 903 (79)

QUESTIONS

I. In paragraph 2(a) on page 2 of your letter of July 28, 1978, you stated

"Prior to July 1, 1978 we maintained two ABC savings accounts, one for "hard money," Account No. 51602, and another for "soft money," Account No. 51603. (This account had a small balance of \$633.91 and it was transferred to the former "hard money" account leaving us with only one ABC account.)"

- 8
1
0
4
0
3
0
2
2
9
3
- (A) To insure our understanding of your terminology, supply your definition of "hard" and "soft" accounts.
 - (B) Is the "soft" account you referred to in the above statement the same account you referred to in the last paragraph of page 2 of your letter? (In this paragraph you described a transmittal of funds system from the union treasury to the International ABC. You stated that rebates on these transmittals were put into a "soft" account and used for nonfederal candidates.) If not, describe how the accounts differed.
 - (C) Was the \$633.91 you transferred to the "hard" account in any way segregated from the other funds in the "hard" account? If so, provide documentation.

II. Do you solicit and receive ABC voluntary dues from retired union members? If so

(A) Are retired members required to pay union dues?

At the same or different rate than working union members?

State such rates.

(B) Do retired members have voting privileges in the union?

(C) If the answers to II, A) or B) is "yes", state for 1978 and 1977 how many retired members submitted ABC contributions.

III. In our letter to you of October 2, 1978, page 2, we reminded you of a discrepancy in the cash on hand you reported in the Local ABC account in 1975-76. Your 1975 year end report disclosed \$208.37 as cash on hand while your April 10, 1976 quarterly report disclosed \$9,787.64 as cash on hand. Your letter of October 17, 1978 did not clear up this discrepancy other than to state:

"...one individual made out the 1975 reports and another the 1976. In 1975 the "hard" money account was reported and in 1976 both the 'hard money' and 'soft' money accounts were reported."

Please supply a description of all the transactions and/or bookkeeping entries between and among accounts showing how the cash on hand came to differ in the above described amounts in these two reporting periods. Where appropriate, supply dates and documentation.

IV. In your 7/28/78 letter, you stated that the 50% rebate from the International PAC is deposited into the ABC account in Local 428's credit union. Disbursements are made to "candidates, etc." from this account.

With regard to Local 428's credit union:

(A) Which governmental agencies, state and federal, have any supervisory authority over the credit union?

(B) Who insures the deposits?

(C) Are withdrawals from the credit union made by share draft? Check? Cash?

If by share draft does the credit union have any arrangement with any other financial institutions (i.e., bank, etc.) whereby such share drafts are paid or processed

91010302294

through these institutions? If so give the name(s) and address(es) of the financial institutions involved, and state whether it is a state or national bank.

- (D) Is the credit union chartered? If so, please provide us with a copy of its charter.
- (E) Since July 28, 1978, has Local 428's ABC developed any arrangement with any national or state bank whereby expenditures of the ABC, including contributions to candidates, are paid through such bank? If so, describe. In this connection, describe the steps by which funds from the credit union account flow into and out of the credit union.

81040302285



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARELES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: FEBRUARY 13, 1979
SUBJECT: MUR 903 - First General Counsel's Report
dated 2-9-79; Received in OCS Friday,
2-9-79, 12:34

The above-named document was circulated on a 48
hour vote basis at 11:30, Monday, February 12, 1979.

Commissioner Thomson submitted an objection at
2:09, February 13, 1979 thereby placing MUR 903 on the
Executive Session Agenda for February 22, 1979.

B 1 0 4 0 3 0 2 2 9 5

February 9, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 903

Please have the attached First General Counsel's Report on MUR 903 distributed to the Commission on a 48 hour tally basis.

Thank you.

81010302287

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 FEB 9 PI2: 34

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL FEB 9 1979
BY OGC TO THE COMMISSION

MUR NO. 903
DATE COMPLAINT RECEIVED _____
BY OGC _____
STAFF _____
MEMBER Cummings

SOURCE: Internally Generated

RESPONDENT'S NAME: Retail Store Employees Union Local 428
Active Ballot Club

RELEVANT STATUTE: 2 U.S.C. §441b(a); 434(b)(1); 435(b)
11 CFR §§103.3, 103.2

INTERNAL REPORTS CHECKED: Disclosure; MUR 543

FEDERAL AGENCIES CHECKED: None

GENERATION OF MATTER

The information in this matter was uncovered by the Reports Analysis Division (RAD) as a result of an RFAI sent to the Retail Clerks International Association Active Ballot Club (the International PAC) in MUR 543. That MUR involved discrepancies between the transfers from 1975 to 1978 of the International PAC, which is the political action committee of the International union, and the pacs of eight locals of that union. One of the local pacs, Retail Store Employees Union Local 428 Active Ballot Club, (the Local PAC) is the Respondent in this matter.

Possible violations of the Act by the Local PAC became apparent through the International PAC's July 31, 1978 response in MUR 543 1/ and a series of phone calls between the staff of RAD and Gayle Jackson, the office manager and pac bookkeeper of Local 428. 2/

1/ On December 21, 1978 the Commission closed that MUR on RAD's recommendation. RAD had determined that the International PAC, on July 31, 1978, had adequately responded to the Commission's request for it to report all transfers in from affiliated committees for the years 1975 through 1978.

2/ Ms. Jackson initially phoned RAD on June 23, 1978 after she had been contacted by the International PAC which was attempting to respond to the RFAI sent them. In addition to this phone call there were four other phone calls between Ms. Jackson and RAD. (See attachment 1)

8109030299

On October 2, 1978, an RFAI was sent to the Local PAC requesting an explanation of some of the matters in connection with MUR 543. (See Attachment 2) 3/ It also requested an explanation of a discrepancy of cash on hand in 1975-76 and advised the PAC that its current bookkeeping methods should meet the criteria set out in AO 1978-42. On October 17, 1978, the Local PAC responded, advising that the cash on hand discrepancy arose because in 1975 only one PAC account was being reported, while in 1976 two PAC accounts were being reported. (See discussion in Evidence section below.) The Local PAC also advised that they were revising their procedures to comply with Commission requirements and would let the Commission know when the procedures were worked out. (See attachment 3)

The information received was considered inadequate and on December 21, 1978, RAD referred this matter to the Office of the General Counsel citing four possible violations of the Act by the Local PAC: 1) The commingling of union dues money and funds contributed by members to a separate segregated fund, in violation of 2 U.S.C. §441b; 2) The failure to remit individual contributions into a PAC account within ten days after receipt, in violation of 11 CFR §103.3; 3) The failure to provide a satisfactory explanation for a cash on hand discrepancy between 1975 and 1976, in violation of 2 U.S.C. §434; and 4) The failure to include the notice required by 2 U.S.C. §435 on its political literature, in violation of that section. RAD recommended that an audit for cause be conducted of the Local PAC. (see attachment 4)

II. EVIDENCE

The 1978 reports of the Local PAC on file with the Commission indicate that, up through the ten day pre-general election report of 1978, the PAC had \$43,740 in receipts and \$45,004 in expenditures.

A. Commingling of Dues and Voluntary Funds

Prior to 1976 the local maintained two PAC accounts, one containing "soft money" or dues, and the other containing "hard money" or voluntary contributions. The funds in the "soft money" account were obtained thusly: From its treasury account, the local contributed to the International PAC one dollar for each member, and the International PAC rebated 50% of these contributions. These funds, placed in the "soft" PAC account, supported only non-federal candidates. The "hard money" account contained funds raised through sale of PAC voluntary memberships in the office and through field representatives. After July 1, 1978, the "soft" account was closed and its balance of \$633.91 was transferred to the "hard" account.

PAC voluntary memberships are now either sent in or brought in by union members, who are billed directly for it by the local in the second quarter of the year along with their dues and other obligations. Individual checks may include voluntary PAC contributions, which are two dollars per member annually, as well as payments for dues, initiation/reinstatement fees, fines and assessments. All receipts are transmitted

3/ In this regard, the RFAI requested the Local PAC to disclose the unreported transfers-out to the International PAC. It also requested information on the Local PAC's unreported transfers-out to state and local candidates. Both questions were considered by RAD as adequately answered in the Local PAC's response.

daily to the local's data processing center to be deposited in the local's commercial checking, or treasury account. Each member's file is updated on the 25th of each month, which process takes a week to ten days. When the bookkeeper receives the data processing printout, she then disburses a check to the International PAC for all the voluntary contributions received that month. The International PAC rebates 50% of these contributions to the Local PAC in about ten days and these funds are deposited in the Local PAC's separate segregated account in the local's credit union from which campaign contributions are made. 4/

B. Cash on Hand Discrepancy

A review of the Local PAC's reports for 1975 and 1976 revealed a cash on hand discrepancy of \$9,579.37. At the close of 1975, the Local PAC reported having \$208.37 as cash on hand, and at the beginning of 1976 it reported having \$9,787.64 as cash on hand.5/

C. Absence of the §435(b) Notice

In his letters to RAD, the Local's President included copies of three pages of literature sent by the Local PAC to members of the local. (See attachment 5). One page contained the phrase "Give your \$2 or more"; another contained the statements: "Your annual voluntary membership contribution is \$2. You should want to do your share and pick up your part of the load." The third page was a March 1, 1978 letter to members advising that the next dues billing would include the annual voluntary dues. None of these pages contained the statement required by §435(b) of the Act.

III. LEGAL ANALYSIS

A. The Commingling Issue

Section 441b(a) of the Act prohibits unions from making contributions in connection with federal elections. Section 441b(b)(2) - (4) permits unions to establish separate segregated funds and to solicit voluntary contributions from union members to these funds for the purpose of making political contributions. In Pipefitters Local Union No. 562 v. United States, 407 U.S. 385 (1972), the Supreme Court held that such funds must be kept totally separate and segregated from the union's general treasury funds.

Section 103.3(a) of the Commission's Regulations requires that all contributions received by political committees shall be deposited in a

4/ The description of the Local PAC's procedures was obtained from the July 27, 1978 letter of Local President James McLoughlin (see attachment 6). We also note that in California, where the local is situated, the State Department of Corporations supervises credit unions.

5/ When this discrepancy was first noticed in 1976, an RFAI was sent to the Local PAC to explain it. Its explanation did not correct the figures but stated that in February, 1976 it had a change in bookkeeping staff.

checking account in the appropriate campaign depository by the [redacted] of the Committee or his or her agent, within ten days of the treasurer's receipt thereof. In connection with this §103.3(a) requirement, the Commission, in two recent Advisory Opinions, further clarified what does and does not constitute commingling of funds.

In AO 1978-42, issued on September 14, 1978, the Commission addressed the question of how a non-profit corporate society may deal with contributions to its separate segregated fund when members include in the same checks dues money along with their political contributions. The Commission concluded that, pursuant to §103.3(a) of the Regulations, the political contribution portion of each member's check must be remitted into the fund's checking account within ten days after receipt by the society.^{6/}

Here, Local 428 mails dues statements and receives combined dues and contribution checks directly. It also deposits these combined checks in its local, or treasury account, and from that account remits the voluntary contribution portions of the check to the International PAC. However, since processing of members' checks takes place only once each month, with some members' checks being held in the treasury account for more than ten days, the local's procedure is not in conformance with §103.3(a) of the Regulations and AO 1978-42. This account therefore contains commingled treasury and political contributions money in violation of §441b. Commingling in violation of this section also occurred in 1978 when respondents' "soft money" PAC account was closed and its balance of \$633.91 was transferred to the "hard money" or remaining PAC account.^{7/}

B. The Cash on Hand Discrepancy

Section 434(b)(1) of the Act requires that reports filed by political committees disclose the amount of cash on hand at the beginning of the reporting period. Section 434(b)(14) requires that reports shall disclose

^{6/} The second advisory opinion, AO 1978-98, issued on January 16, 1979, deals with an employer check-off system for transmitting combined checks of dues and political contributions to a union. While the conclusion with regard to the applicability of §103.3(a), and the ten day period for deposit, is similar to that of AO 1978-42, the situation in this MUR is more closely related to AO 1978-42.

^{7/} The Local PAC's depository itself raises a question under the Regulations. Section 103.2 of the Regulations states that only national or State banks chartered by the United States or a State may be designated as campaign depositories. The Local PAC maintains its account at the credit union of the local which is neither a national or State bank. While this may indicate a violation of the Regulations, more information about the nature of the credit union account should first be obtained. For example, withdrawals from credit unions are usually made by share drafts which are payable through banks and, depending on the relationship of these institutions, the Regulation may thus be satisfied.

such other information as shall be required by the Commission. Given the discrepancy between the cash on hand listed by the Local PAC at the close of 1975 and that listed as cash on hand at the beginning of 1976, the Commission has reason to request the Local PAC to explain this.

C. The §435(b) Notice

Section 435(b) requires that each political committee include on the face or front page of all literature and advertisements soliciting contributions a notice which reads "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C." The Local PAC literature submitted to the Commission solicited contributions and did not contain the required statement in violation of §435(b).

IV. DISCUSSION

2
9
2
2
0
3
0
4
0
1
0
3
The RFAI sent to the Local PAC advised them of the need to change their bookkeeping procedures in conformity with AO 1978-42 and the Local PAC responded that it is working on such revisions and would advise the Commission as soon as they are worked out. While past responses from the Local PAC may indicate that its records nevertheless require the thorough inspection of an audit, we think an audit for cause at this time of this local PAC in California with receipt and expenditure activity at the level of approximately \$45,000 each, would not be the best allocation of Commission resources. Furthermore, given the status of the bookkeeping problem, we do not think a compliance action through the Office of General Counsel is warranted now, especially when combined with the §435(b) issue towards which the Commission has a policy of voluntary compliance. Given RAD's already extensive communication with the Local PAC on the commingling and cash on hand discrepancy issues, we think the matter should be returned to it, to follow up on the promised bookkeeping revisions and additional questions, as appropriate, on the cash on hand issue. At this time RAD can advise the Local PAC of the §435(b) omission and request information on the designated depository.^{8/}

V. RECOMMENDATION

8
Refer the matter to Reports Analysis Division for follow up on respondent's bookkeeping and commingling problems, cash on hand discrepancy in 1975-76, §435(b) statement omission and designated depository.

^{8/} Should such referral not solve the matter, we point out that additional information about this Local PAC may yet be obtainable through the Audit Division without an audit for cause. The Audit Division has scheduled an audit of the International PAC in Washington for some time in the future. At that time the Audit Division may be able to learn about the Local PAC's procedures through its examination of the International PAC.

ATTACHMENTS

1. RFAI sent by RAD to Local PAC
2. Mr. Loughlin's letter dated 10/17/78
3. Referral from RAD
4. Mr. McLoughlin's letter dated 8/7/78
5. Local pac literature
6. Telecons

8 1 0 4 0 3 0 2 2 9 3

separate accounting i...t for a portion of the check...ch is union dues (example \$5) the remaining \$1 is transferred to the International union PAC The international PAC reimburses the \$50 of the locals transfer (example .50 out of the dollar transferred to the international union) The \$50 reimbursement is held in the separate segregated account.

Regardless of this explanation, there is still no explanation as to where this money ,transferred out to the international PAC, came from. I told Ms. Jackson that I would review her 1975,1976 reports to see if there had been a mathematical error which might explain the situation.

I will be calling Ms. Jackson sometime next week.

81040302295

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson
(committee contact)

DATE/TIME: 4:30 6/29/78

IN REFERENCE TO: Discussion of compliance matters (re: 1975-1976 reports)

REMARKS:

Background: I spoke with Craig Crooks (special analyst to the reports analysis division) about the multiple compliance matters evolving out of Ms. Jackson's voluntary compliance information. In the end it was decided that the committee be responsible for submitting comprehensive amendments for the years 1975 and 1976. These amendments are to include mathematical and functional explanations for the various discrepancies noted in the committee's reports. In addition I will be sending RFAI's for public disclosure and legal documentation.

I later called Ms. Jackson to discuss my findings and the Commission's requirements regarding comprehensive amendments. While discussing my findings on the committee's unitemized expenditures discovered in their 1976 reports, Ms. Jackson pulled out her files and discovered that these unitemized expenditures were not transfers out to their international PAC. The unitemized expenditures were instead transfers out to state and local candidates and candidate committees. I explained that these too would have to be itemized in their comprehensive amendments. Then, turning our attentions back to the original compliance matter, an explanation as to where the transfers out to the international PAC might have been disclosed, we concluded that neither the transfers in nor transfers out to the international PAC were ever disclosed in the committee's reports. The committee would therefore be held responsible for finding out the source of funds transferred out to the international PAC as well as the dates and amounts of all transfers out to the international PAC. At the close of conversation we discussed the \$9000 cash on hand difference between the years 1975 and 1976. Ms Jackson agreed to provide a comprehensive amendment for the year 1975 in order to account for all discrepancies.

Minutes later Ms. Jackson called to discuss a possible explanation for the discrepancy in the committee's cash on hand differences between the years 1975 and 1976. She explained that before 1976 the committee held two accounts. 1) a hard money account or separate segregated account and 2) a soft money account or union treasury account. A combined check or a lump sum of cash for union dues and PAC money was deposited into the hard money account and later dues money was transferred to the soft money account. When Ms. Jackson took over the bookkeeping in 1976 she apparently reported the lump sums deposited into the committee's hard money account but never showed the transfer of dues money into the union treasury account.

81040302296

RETAIL STORE EMPLOYEES UNION 428 ACTIVE BALLOT CLUB C00023895

(full name of committee)

(identification number)

Beverly Brown

(name of analyst)

Gayle Jackson

(committee contact)

DATE/TIME: 2:00 7/6/78

IN REFERENCE TO: Compliance 1975, 1976, 1977, 1988 Reports

REMARKS:

81040302298

Ms. Jackson called to discuss efficient accounting methods and pending compliance regarding her 1975, 1976, 1977, and 1978 reports. I introduced the idea of setting up a transmittal account. By the end of conversation it appeared that Ms. Jackson was pleased with the suggestion and would discuss it with others involved in with the committee.

Later we discussed the necessity of sending in comprehensive amendments to clear up all discrepancies noted in the committee's reporting. Ms. Jackson had done some research and discovered that the committee had been reporting the total cash on hand etc from both the separate segregated account and PAC account beginning 1976 when she took over the bookkeeping for the political action committee. I informed Ms. Jackson that in light of our conversations I would be sending requests for additional information. I suggested that she begin to prepare comprehensive amendments. She agreed that comprehensive amendments were the only possible means the committee had of clearing up all discrepancies. She will begin with 1975 and prepare comprehensive amendments through the year 1977. In addition she will amend all reports for 1978. The next reports due (10-day and 30-day reports) will be incorrect. She will, however, amend them at the same time that she amends her other reports.

After our conversation I sent a packet of FEC Form 3's, FEC Form 1's and FEC Form 3a's so that the committee may begin preparing comprehensive amendments.

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson
(committee contact)

DATE/TIME: 3:00 7/7/78

IN REFERENCE TO: _____

REMARKS:

Ms. Jackson called to discuss questions pertaining to setting up a transmittal account. She explained that on the 25th of each month the committee receives a contributor printout from their data processing unit. Upon receipt of their computerprintout, the committee sends all designated PAC money to their international PAC. Later, the international PAC transfers to the local PAC a \$50 rebate of all local PAC money received. The \$50 rebate is immediately deposited into the Local PAC account. For some reason Ms. Jackson felt that the transmittal account added to their data processing system would make it impossible for the committee to pay all their operating expenditures. I suggested to Ms. Jackson at that point that she describe in writing the committee's data processing system and flow of money through their various accounts. I recalled that during the course of other conversations she had all but stated that the committee had been comingling funds.

Ms. Jackson said that she would follow my advice to report in writing their committee's accounting procedures. At the same time she began to expound on the committee's activity over the phone. The following explanation of comingling was revealed:

The committee apparently has two accounts. 1) a union treasury which functions as a transmittal account for dividing contributor checks which are designated for union dues and PAC contributions. and 2) a separate segregated account for rebate money received from the international PAC. Money leaving this account is transferred to state, local, and federal candidates and candidate committees.

I explained to Ms. Jackson that it appeared to me that the committee was comingling funds. She asked what other methods the commission might suggest to avoid this situation. Before suggesting anything, I told her that I would speak with my supervisors and get back to her.

Later I spoke with Steve Mims and Joanne McSorely of the Audit Division. We came up with the following to suggest to the local PAC:

SEE THE ATTACHED DIAGRAM

The Local Union should set up three accounts.....

- 1) A local union treasury account
- 2) A local transmittal account
- 3) A local state PAC Account

Single checks from union members and contributors will be deposited into the Local's transmittal account. The checks will be divided as designated by the contributor. Data processing will keep records of all contributors (amounts, dates, mailing addresses, occupations, etc.). Union money will be transferred out to the union treasury. PAC money will be transferred out to the international PAC account. The international will return a portion of this money to the pac for purposes of supporting State and local candidates. This money will be deposited into the Local State PAC account. The international PAC will transfer contribution money to Federal Candidates, keeping records of all money received from the local union and transferred out to federal candidates. The Local PAC will terminate its registration with the FEC . It will be responsible for reporting to the State all money deposited or withdrawn from their Local PAC account.

This is a suggestion to avoid unnecessary paperwork etc.. It is quite possible that the PAC might reject this suggestion due to the fact that it appears the Local union will have little control over or power to decide which candidates will receive their contributions.

81040302300

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson
(committee contact)

DATE/TIME: 4:30 p 7-21-78

IN REFERENCE TO: _____

REMARKS:

81049302301

I called Ms. Jackson to inform her that the Commission is still looking into her situation and to ask her to send in a letter explaining the committee's operating procedures, accounts established etc. I also wanted to find out what progress she had made in amending her 1975, 1976, 1977 and 1978 reports, if any. Ms. Jackson informed me that she had not begun to work on the amending of her reports, however, she had discussed our conversations with the committee's treasurer, Mr. McLaughlin. I told Ms. Jackson to set aside the amending of her reports until the Commission has had time to analyze her Committee's operating procedures. I asked instead that she send in a letter as soon as possible which would thoroughly explain her committee's operating procedures. I added that she should include in her letter any problems the committee may have in complying with the Act. At that time she explained that the State's requirements seemed to conflict with the Commission's requirements. With the establishment of two accounts the committee had had difficulty keeping their records and reports straight. Conversation led to a discussion of the comingling of funds. Ms. Jackson confirmed my speculation that the committee has been comingling funds unintentionally. Their Union treasury is in fact set up as a transmittal account. Once contributors checks are divided the committee transfers all PAC contributions to their international PAC. The international PAC in turn transfers a \$50 rebate to the Local Committee. The Local committee immediately transfers the rebate money into their separate segregated account. I told Ms. Jackson to explain this to the commission in her letter. Upon receipt of her letter the commission will analyze her committee's situation in order to advise her as to the proper way to set up her committee's accounts. I also informed her that at some point it appears most likely that the Commission will require her to send in comprehensive amendments in order to explain the discrepancies noted in her reports.

Page 8 of 8



FEDERAL ELECTION COMMISSION

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

Richard II

Mr. James P. McLaughlin, Treasurer
RETAIL STORE EMPLOYEES UNION LOCAL 429
ACTIVE BALLOT CLUB
240 South Market Street
San Jose, CA 95113

2 OCT 1978

Dear

This letter is prompted by our interest in assisting committees who wish to comply with the Federal Election Campaign Act.

During review of the 1975 & 1976 Report of Receipts and Expenditures, we noted that you omitted certain information or made apparent mathematical errors in certain entries. Attached is an itemization of the information requested.

While we recognize the difficulties you may have experienced in filling out the reporting forms, we must ask that you supply the Commission with the missing information within fifteen (15) days from the date of this letter. If you have any questions, please do not hesitate to contact Beverly Brown in our Reports Analysis Division on the toll free number (800) 424-9530. Our local number is (202) 523-4048.

Sincerely,

Orlando B. Potter

Orlando B. Potter
Staff Director

Attachment
FEC Form 12



Page 1 of 4

87 18 03 06 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

REQUEST FOR ADDITIONAL INFORMATION FOR THE 1975 & 1976 REPORT OF RECEIPTS AND EXPENDITURES COVERING THE PERIOD THROUGH PURSUANT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED.

A review of the report indicates that additional information is needed in order to be considered complete. Please return a copy of this form with your amended submission(s).

Please provide the required data, as indicated (x):

Coverage Dates omitted or incorrect

Signature omitted or incorrect

Summary Page Line(s) Column(s) Totals omitted or incorrect

Detailed Summary (Page 2) Line(s) Column(s) Totals omitted or incorrect

Schedule Totals disagree with Detailed Summary (Page 2) or omitted

Date(s) omitted or inadequate for Schedule(s) Line(s)

Full Name(s) Omitted for Schedule(s) Line(s)

Mailing Address(es) omitted or inadequate for Schedule(s) Line(s)

Occupational Descriptions omitted or inadequate for Schedule(s) Line(s)

Principal Place(s) of Business omitted or inadequate for Schedule(s) Line(s)

Aggregate Year-to-date Totals omitted or inadequate for Schedule(s) Line(s)

Nature or Purpose of Expenditure omitted or inadequate for Schedule(s) Line(s)

Nature or Purpose of Receipt omitted or inadequate for Schedule(s) Line(s)

Inadequate Description of proceeds dates events location of Schedule

X Other: Please see the attached pages.

Your initial submission(s), together with this request for additional information, has been made available for public inspection. The Commission urges you to file the additional submission(s) promptly to the above address. If you have any questions regarding this request, please call the Disclosure Division toll free at (800) 424-9530. The local Washington, D.C. telephone number is (202) 523-4048.

Senate filers should file their submission(s) with the Secretary of the Senate, Office of Public Records, 119 D St., N.E., Washington, D.C. 20510. House filers should file their submission(s) with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515.

Page 2 of 4

REQUEST FOR ADDITIONAL INFORMATION
PAGE 2

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

In your 1975 Year End report of receipts and expenditures you disclose \$208.37 as the cash on hand at the close of the period. In your 1976 April 10 Quarterly report you disclose \$9787.64 as the cash on hand at the beginning of the reporting period or 1/1/76. Please explain the discrepancy noted here.

Throughout 1976 your committee reports unitemized expenditures on line 22 of the detailed summary page (FEC Form 3 - revised 1976). Line 22 applied to a 20% exemption for presidential campaigns receiving federal funds. In a discussion with Gayle Jackson on 6/29/78 it was revealed that these unitemized expenditures were actually transfers out to state and local candidates and candidate committees. Please be advised that Section 104.2(b)(4) of the Commission's regulations requires the identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period. Please amend the following reports to adequately disclose the unitemized expenditures reported on Line 22 of the Detailed Summary Page (FEC Form 3 -revised 1976):

<u>REPORT TYPE</u>	<u>UNITEMIZED EXPENDITURES</u>
10 Day Primary '76.....	\$860
July 10 Quarterly '76	\$270
October 10 Quarterly '76.....	\$675
30 Day General '76.....	\$100

The following are receipts reported by the ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION as transfers in from your committee. Your committee does not disclose these expenditures as "Transfers Out". Please explain the discrepancies noted here.

<u>TO</u>	<u>DATE RECEIVED</u>	<u>AMOUNT</u>
ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION	1/21/75	\$190
	3/17/75	\$140
	4/28/76	\$40
	6/30/76	\$1244
	7/30/76	\$680
	9/30/76	\$460
	11/23/76	\$408
	1/31/77	\$266

Page 3 of 4

RETAIL STORE EMPLOYEES LOCAL 428 ACTIVE BALLOT CLUB

In phone conversations with your office manager, Gayle Jackson, the following question was asked:

May the Retail Store employees Union Local 428 deposit into their general treasury account cash or checks from their members in payment of the dues statements; portions of these checks or cash amounts may represent contributions to the Retail Store Employees Union Local 428 Active Ballot Club, and such portion would then be transferred to the separate segregated fund of the Active Ballot Club (Local 428) by separate check?

On 9/14/78 the Commission addressed this question in response to an advisory opinion (AO 1978-42) from the Dental Society of New York. Please read the enclosed copy of the Commission's response. Be advised that your current methods of bookkeeping should meet the criteria of the Commission's procedures set forth in AO 1978-42. Please inform the Commission as to how you will revise your current procedures, as disclosed in your letter to the Commission dated 7/28/78, to meet the criteria of the Commission's procedures set forth in AO 1978-42.

*A copy of AO 1978-42 was attached to the
RFAT sent to Local 428*

81009063036



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park
240 South Market Street • San Jose, California 95113 (408) 998-0428 : 00

Attachment III

October 17, 1978

807056

Mr. Orlando B. Potter
Staff Director
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Re: C00023895

Dear Sir:

In reply to your letter of October 2, 1978 - requesting additional information in answer to your inquiry:

Item 1. (first paragraph Page 2.) as we wrote you previously, one individual made out the 1975 reports and another the 1976. In 1975 the "hard" money account was reported and in 1976 both the "hard" money and "soft" money accounts were reported. At that time there was a great deal of confusion over the requirements of the report and any violation was unintentional.

Item 2. (second paragraph Page 2.) at some point in 1976 when we had requested help from your office, we were told we should report only Federal contributions - we were later told we had to report everything to make our books balance, and from that time on we did. Attached are the amended reports you requested.

Item 3. (third and fourth paragraph Page 2.) regarding the "transfers out" to our affiliated committee, the oversight was due to a misunderstanding arising from the State and Federal requirements for reporting. The State requested we only report the "net" amount from our affiliated committee - we send them 100% of contributions collected and they remit 50% which is then used for distributions to candidates and ballot measures. We later corrected this procedure.

We are now revising our procedures, to comply with your requirements - we will let you know as soon as it's worked out.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB

James P. McLoughlin
James P. McLoughlin
Treasurer

REPORTS ANALYSIS REFERRAL UPDATE

RAD 12-15, 12-17

MUR 903

*ORIGIN: RAD

DATE 12/21/78

ANALYST Beverly Brown *BB*

TO: OGC
ATTENTION:

TEAM CHIEF Steve Mims *SM*

THROUGH: STAFF DIRECTOR *ABP*

COMPLIANCE REVIEW Carroll Bowen *CB*

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS *DJH*

MUR No. 543

DATE OF ORIGINAL REFERRAL 2/28/78

COMMITTEE: Active Ballot Club, A Department of Retail Clerks International Association

**PURPOSE: RESULTS OF RAD ACTION

7
3
0
7
3
0
3
0
3
0
4
0
3
0
7
8
1
0
4
0
3
0
7

Amended reports for the years 1975, 1976, 1977 and 1978 were received on 7/31/78. Through a cross-check method of review, the Reports Analysis Division determined that the Active Ballot Club of the Retail Clerks International Association had adequately responded to the Commission's request for the committee to report all transfers in from affiliated committees for the years 1975 through 1978. Though the committee's response did spark investigation into the reporting of one of the international's affiliated committee's, the Reports Analysis Division recommends at this time that MUR 543 be closed and that separate action be taken to bring the international's local affiliated committee (Retail Store Employees Union Local 428 Active Ballot Club) into compliance. (See attached Referral RAD #8L-202)

COMMITTEE: Retail Store Employees Union Local 428 Active Ballot Club

RAD ACTION: On October 2, 1978, the Reports Analysis Division sent a request for additional information to the Retail Store Employees Union Local 428 Active Ballot Club. The RFAI requested the committee to disclose 1) unreported transfers out to their international political Action Committee, 2) unreported transfers out to state and local candidates, and, 3) a \$9000 cash on hand discrepancy between 1975 and 1976. In addition, the committee was requested to meet the criteria of the Commission procedures set forth in AO 1978-42 (Empire Dental Society Of New York).

OUTCOME: On 10/20/78 the Reports Analysis Division received a response from the Retail Store Employees Union Local 428 Active Ballot Club. The committee's response reveals the commingling of hard and soft money in their accounts at various times and a failure in the past to meet the criteria of the Commission's procedures set forth in AO 1978-42 (Empire Dental Society of New York). The Reports Analysis Division is now prepared to forward to the Office of General Counsel a recommendation that an audit for cause be undertaken.

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).
**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

REPORTS ANALYSIS REFERRAL SHEET

D# _____

DATE December 21, 1978

ANALYST Beverly Brown BB

TO: William Oldaker

TEAM CHIEF Steve Mims SM

THROUGH: STAFF DIRECTOR ASP

COMPLIANCE REVIEW Carroll Bowen CB

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS TH

CANDIDATE/COMMITTEE: RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

TREASURER: James P. McLoughlin

ADDRESS: 240 South Market Street
San Jose, CA 95113

AFFILIATE(S): ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION

ALLEGATION(S): CITE: ATTACHMENT(S)

SEE THE ATTACHED SUBSTITUTE SHEET

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

MUR 543 - ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS
INTERNATIONAL UNION

ATTACHMENT

VOLUNTARY COMPLIANCE - Disclosure by phone

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 1975 TO 1978

TOTAL RECEIPTS \$ _____ TOTAL EXPENDITURES \$ _____

CASH ON HAND \$ _____ DEBTS \$ _____

HISTORY:

RESULTS OF REVIEW:

Response to telephone inquiry.....Dated 8/7/78
RFAI for 1975 & 1976Sent 10/2/78
Response to RFAI.....Received 10/19/78

ATTACHMENT

#3
#3
#3 & #4

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

See Telecons for: 6/23/78, 6/27/78, 6/29/78, 7/6/78
7/7/78 & 7/21/78

ATTACHMENT

#2

REASON(S) FOR REFERRAL:

C

See attached allegations

ATTACHMENT

OTHER PENDING ACTIONS INITIATED BY RAD:

Mr. McLoughlin's October 17th letter to the Commission indicates that the committee is now revising it's procedures to meet the criteria set forth in AO 1978 -42 Empire Dental Society of New York

ATTACHMENT

#3

OTHER RELEVANT INFORMATION:

0

None

RAD Form 1
August 1978

Page 2 of 3

ALLEGATIONS

CITE

ATTACHMENTS

- 1) Commingling of hard and soft money accounts.....2 U.S.C. 441b #2 & #3
- 2) Failure to remit individual contributions into PAC account within 10 Days after receipt.....11 CFR 103.3 #3
- 3) Failure to provide a satisfactory explanation for a cash on hand discrepancy between 1975 & 1976.2 U.S.C.434 #1, #2. & #3
- 4) Failure to state on their campaign advertisement:
 "A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission , Washington, D.C." 2 U.S.C. 435 #4

81040302310

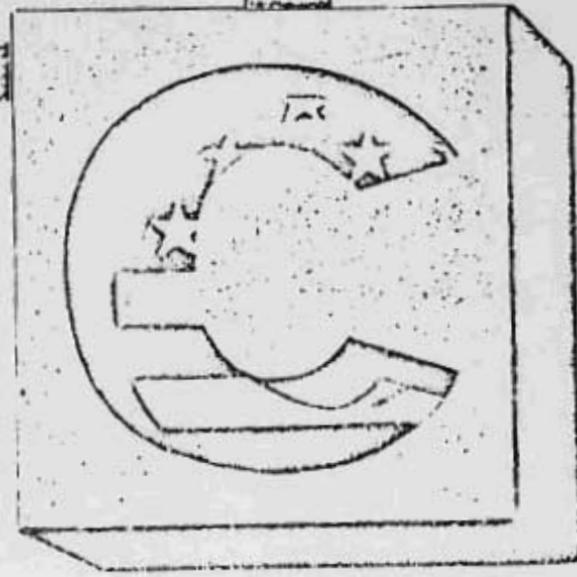
ABC: the building blocks of the future



Do you want to make America
a better place to live in?



Let us be certain Congress will
enact laws for full employment,
tax justice, fighting inflation,
national health security, and
abolition of lie detector tests.



Do your part: join the Active
Ballot Club today!

Give your \$2 or more

81040372311

ACTIVE
BALLOT
CLUB

MEMBERSHIP
1956
1400 N. W. 10th St.
Miami, Fla. 33136
Phone 521-1111



REMEMBER: Ballot collection is illegal by local laws. We do not vote.

Action Needed NOW!

It's as easy as ABC

This is it: packed into this Congressional year is a massive bundle of vital questions that bear on the living standards and jobs of every working man and woman, on the quality of their lives and on the future of their children.

How do you answer these questions? How can Local 428 members have a say in how they are answered?

THE ANSWER is as easy as ABC. Active Ballot Club.

Your annual voluntary membership contribution is \$2. You should want to do your share and pick up your part of the load. You'll be billed for the \$2 membership contribution as part of your dues billing for the second quarter (April, May, June).

The idea behind the Retail Clerks Active Ballot Club is to enlist every member in a united effort to improve the quality of government and to insure a more understanding response by government to the needs and aspirations of working men and women and their families.

ABC works at this job in several ways:

One: It keeps RCIU members alerted to important bills in Congress and in the State Legislature, urging them, whenever possible, to tell their members of Congress and Legislator's how they feel as individuals about the pending legislation.

Two: It urges—and Local 428 works—to insure that every member and their eligible dependents are registered to vote:

Three: It keeps ABC members informed about the candidates and the issues.

And four: It works to encourage every registered voter to use his and her votes.

ABC will be faced, this year as in the past, with serious obstacles to a really widespread use of the right to vote. Less than 40 per

cent of those Americans eligible to vote will register to vote and cast a ballot.

In part this is due to obstacles which inhibit registration and voting. This we must remedy. In part it is due to apathy and alienation. This, too, we must combat.

Our union is dedicated to preserving a government of, by, and for the people.

We want a government which is aware of and responsive to its citizens' needs and interests.

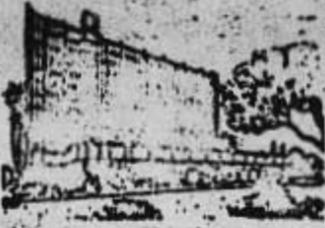
The only way these interests can be known is that we, as union members and as citizens, express our will by participating fully in the democratic process.

This means that to be really politically effective every RCIU member should be registered and should vote.

It is equally important that RCIU members be informed voters who understand the different issues and know where the various candidates stand.

TO THESE ENDS the RCIU and its Active Ballot Club are committed.

58704



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park
240 South Market Street • San Jose, California 95113 • (408) 988-0428

March 1, 1978

ABC TIME -- 1978

Dear Member:

Your next (2nd quarter) dues billing will reflect your annual \$2.00 voluntary dues for membership in Local 428's Active Ballot Club. Everyone will benefit. Your voluntary contribution, along with similar contributions by fellow members, can be most helpful in promoting better legislation for our great nation.

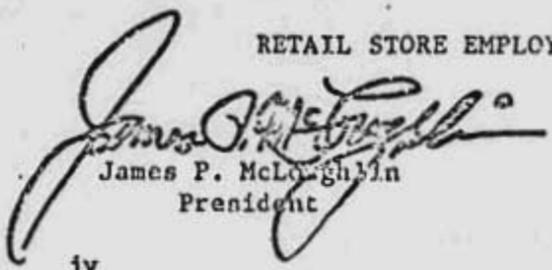
You are, no doubt, familiar with the goals of the Active Ballot Club, basically these are also the aims of the AFL-CIO; such as Labor Law Reform, get America back to work, provide for full employment with decent wages, protect consumer rights, improve social and economic justice, provide fair tax laws, fight for the Equal Rights Amendment (ERA) and a variety of similar purposes.

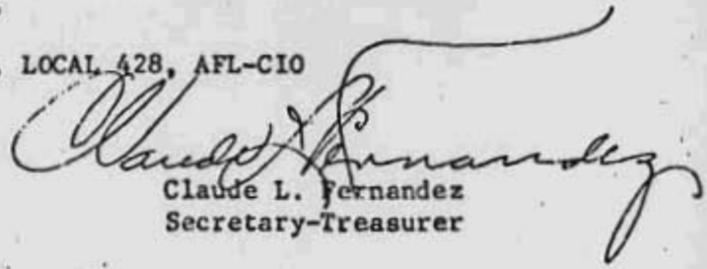
Your 1978 ABC membership card will be mailed to you along with your second quarter dues receipt after your payment. Of course, if you have already purchased your 1978 membership in the ABC, just draw a line through the \$2.00 and pay the balance due on your statement.

Enclosed please find a pamphlet which will further explain the ABC.

In unity,

RETAIL STORE EMPLOYEES UNION, LOCAL 428, AFL-CIO


James P. McLoughlin
President


Claude L. Fernandez
Secretary-Treasurer

jv

Enclosure

6983893343

**RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO**

FEDERAL ELECTION
COMMISSION

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

10 AUG 10 AM 9:01

August 7, 1978

Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

805206

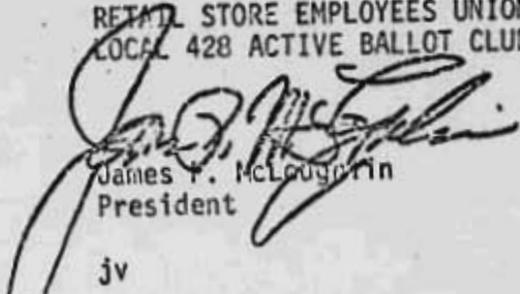
Attention: Beverly Brown

Dear Ms. Brown:

Enclosed is another copy of our letter of July 28, 1978 along with the material returned to us because it was separated from our letter.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB


James F. McLoughlin
President

jv

Enclosures

781040302314

Page 1 of 4



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

FEDERAL ELECTION COMMISSION
CALIFORNIA

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-8428

July 28, 1978

Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Attention: Beverly Brown

Dear Ms. Brown:

This letter is in response to your request on the telephone last week to our Office Manager, Gayle Jackson. We understand you wanted an explanation of how we get our ABC money, how our bookkeeping is done as it relates to our Active Ballot Club; our explanation is as follows:

1. Checks and cash payments for union dues, initiation/reinstatement fees, fines, assessment and voluntary ABC contributions come into the union offices by mail or over the counter. All members make their own payments; we do not have a payroll deduction arrangement with our Employers.

We use a data processing center and pre-bill our members on a quarterly basis, the results are as follows:

- (a) Statements of members' accounts and cash when received is batched and balanced. The recorded amounts go to our data processing service center by a daily pickup - the money in each batch is deposited daily in the Union's commercial checking account.
- (b) The statement of each members' accounts (with a breakdown of Union dues, initiation/reinstatement fees, fines, assessments and the Active Ballot Club contribution) are keypunched by the data processing service center. On the 25th of each month, the data processing center updates each members' master file. They give us a recap of said receipts by name, social security number, receipt number, total paid and credited to dues, types of fees, fines, assessments, ABC contributions, etc. This process takes approximately a week to ten days depending on the workload in the data processing center.
- (c) When our bookkeeper receives the data processing printout of the various accounts at the end of the month, he disburses a check for the ABC contributions as indicated in the recap and it is sent to the Retail Clerks Active Ballot Club of the Retail Clerks International Union, our "affiliated committee".

878 COPY 157

page 2 of 4

July 28, 1978

(d) A name and address label is run for each voluntary ABC contribution in the recap so we can mail the member his ABC membership card and prepare a listing for our permanent records. At the same time, a name and address label is affixed to each ABC membership card stub. These stubs are mailed to the International ABC office in Washington, D. C. for their records so they in turn can reconcile the cards with our remittance.

2. In about ten days, the International ABC office sends us fifty percent of the contributions, or one dollar of each two dollar contribution we send them.

(a) This fifty percent "rebate" is deposited in the Retail Store Employees Union, Local 428 "Active Ballot Club" account in the Retail Employees Local 428 Credit Union. It is from this credit union account that disbursements are made to candidates, etc. The only other monies going into credit union account are the quarterly dividend earned by the account itself.

Prior to July 1, 1978 we maintained two ABC savings accounts, one for "hard money", Account No. 51602, and another for "soft money", Account No. 51603. (This account had a small balance of \$633.91 and it was transferred to the former "hard money" account leaving us with only one ABC account.)

The Retail Store Employees Union, Local 428 Active Ballot Club records are maintained in the Union office and the reports also go out from here. The separate account of ABC contributions and expenditures is audited by our CPA on a monthly basis the same time he audits the Union accounts. Our payroll checks, accounts payable and all other checks for the Union are drawn against our regular commercial account throughout the month. The ABC transmittal check sent to the International ABC is one of the several month end transactions which have been established for years in the routine of closing the books of the Union as of the 25th of each month.

The above is our current bookkeeping procedure.

Prior to 1976 ABC membership cards were sold to our members if they were in the office and by our representatives in the field on an individual basis and put in our "hard money" account.

In addition, we also contributed from the Union treasury one dollar for each member and sent this into the International ABC and they returned fifty percent or fifty cents to us for each member. This money was put in a "soft money" account in the credit union from which disbursements were made to City, County and State candidates and various ballot measures. It was requested by the State of California Auditors not to report the one hundred percent collections on their forms; they only wanted the fifty percent "rebate" we received from the International ABC office on their reports.

810302316

Due to the confusion that exists between the State and Federal reporting requirements, the logical thing to do was to report all the activity on both the "hard money" and "soft money" accounts to both the Federal and State and perhaps we could avoid any violations of the rules. However, we had two personnel changes, bookkeeping procedure changes and a difference in ABC card sales methods, all of which created some of the confusion.

As a result, it has become practical to report only the "hard money" account activity along with the transmittals to our International ADC. This will involve correcting our reports back to 1975. However, we will continue to report as we have in the past until we hear further from you.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB

James P. McLoughlin
President

Jv
cc: Gayle Jackson

P.S. Enclosed for your further information is a copy of some of our forms:

1. A copy of the letter and leaflet we use to solicit our ABC contributions.
2. A copy of our data processing billing statement.
3. A copy of our ABC card.
4. A recent copy of our credit union accounts, No. 51602 and No. 51603.

81019302317

REFER TO INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

8L-202

REPORTS ANALYSIS REFERRAL SHEET

D#

DATE December 21, 1978

ANALYST Beverly Brown BB

TO: William Oldaker

TEAM CHIEF Steve Mims SM

THROUGH: STAFF DIRECTOR *AP*

COMPLIANCE REVIEW Carroll Bowen CB

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS *TH*

CANDIDATE/COMMITTEE: RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

TREASURER: James P. McLoughlin

ADDRESS: 240 South Market Street
San Jose, CA 95113

AFFILIATE(S): ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION

ALLEGATION(S): CITE: ATTACHMENT(S)

SEE THE ATTACHED SUBSTITUTE SHEET

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

MUR 543 - ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS
INTERNATIONAL UNION

ATTACHMENT

VOLUNTARY COMPLIANCE - Disclosure by phone

#2

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM 1975 TO 1978

TOTAL RECEIPTS \$ _____ TOTAL EXPENDITURES \$ _____

CASH ON HAND \$ _____ DEBTS \$ _____

HISTORY:

RESULTS OF REVIEW:

	<i>ATTACHMENT</i>
Response to telephone inquiry.....Dated 8/7/78	#3
RFAI for 1975 & 1976Sent 10/2/78	#3
Response to RFAI.....Received 10/19/78	#3 & #4

COMMUNICATIONS WITH CANDIDATE/COMMITTEE:

	<i>ATTACHMENT</i>
See Telecons for: 6/23/78, 6/27/78, 6/29/78, 7/6/78 7/7/78 & 7/21/78	#2

REASON(S) FOR REFERRAL:

See attached allegations

OTHER PENDING ACTIONS INITIATED BY RAD:

	<i>ATTACHMENT</i>
Mr. McLoughlin's October 17th letter to the Commission indicates that the committee is now revising it's procedures to meet the criteria set forth in AO 1978 -42 Empire Dental Society of New York	#3

OTHER RELEVANT INFORMATION:

None

ALLEGATIONS

CITE

ATTACHMENTS

- 1) Commingling of hard and soft money accounts.....2 U.S.C. 441b #2 & #3
- 2) Failure to remit individual contributions into PAC account within 10 Days after receipt.....11 CFR 103.3 #3
- 3) Failure to provide a satisfactory explanation for a cash on hand discrepancy between 1975 & 1976.2 U.S.C.434 #1, #2. & #3
- 4) Failure to state on their campaign advertisement:
"A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission , Washington, D.C." 2 U.S.C. 435 #4

81040302321

81040302322

ATTACHMENT #1

8 1 0 1 0 3 0 3 3 2 3
 FEDERAL ELECTION COMMISSION
 COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C) (76)

DATE 21NOV78
 PAGE

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB								ID# C00023895
CONNECTED ORGANIZATION: RETAIL CLERKS INT'L ASSOCIATION								
1975	STATEMENT OF ORGANIZATION					14OCT75	2	76FEC/013/1294
	REQUEST FOR ADDITIONAL INFORMATION					20NOV75	1	76FEC/013/1297
	STATEMENT OF ORGANIZATION- AMENDMENT					4DEC75	1	76FEC/013/1299
1976	STATEMENT OF ORGANIZATION- AMENDMENT					18OCT76	7	76FEC/030/2119
	STATEMENT OF ORGANIZATION- AMENDMENT					1DEC76	1	76FEC/042/2888
1975	OCTOBER 10 QUARTERLY		163		180	1JUL75 -30SEP75	8	76FEC/013/1300
	YEAR END REPORT	327		154		1OCT75 -31DEC75	8	76FEC/013/1308
	REQUEST FOR ADDITIONAL INFORMATION					1OCT75 -31DEC75	1	76FEC/013/1316
	YEAR END REPORT - AMENDMENT					1OCT75 -31DEC75	5	76FEC/013/1318
1976	APRIL 10 QUARTERLY - AMENDMENT					1OCT75 -31DEC75	4	76FEC/013/1341
	APRIL 10 QUARTERLY	204		750		1JAN76 -31MAR76	8	76FEC/013/1323
	REQUEST FOR ADDITIONAL INFORMATION					1JAN76 -31MAR76	2	76FEC/013/1331
	JULY 10 QUARTERLY	4,196		998		25MAY76 -30JUN76	8	76FEC/019/4603
	JULY 10 QUARTERLY - AMENDMENT	6,120		2,922		25MAY76 -30JUN76	6	78FEC/090/3397
	OCTOBER 10 QUARTERLY		2,144		1,611	1JUL76 -30SEP76	7	76FEC/033/1060
	OCTOBER 10 QUARTERLY - AMENDMENT	2,144		1,611		1JUL76 -30SEP76	7	78FEC/090/3403
	10 DAY PRE-ELECTION	8,614		8,998		1APR76 -24MAY76	7	76FEC/013/1334
	REQUEST FOR ADDITIONAL INFORMATION					1APR76 -24MAY76	1	76FEC/024/1636
	10 DAY PRE-ELECTION		232		495	1OCT76 -18OCT76	7	76FEC/035/3827
	30 DAY POST-ELECTION		727		1,218	19OCT76 -22NOV76	7	76FEC/042/2889
	REQUEST FOR ADDITIONAL INFORMATION					19OCT76 -22NOV76	2	77FEC/045/1269
	30 DAY POST-ELECTION - AMENDMENT					19OCT76 -22NOV76	4	77FEC/045/4284
	YEAR END REPORT		840		424	23NOV76 -31DEC76	7	77FEC/045/2312
	YEAR END REPORT - AMENDMENT					23NOV76 -31DEC76	3	77FEC/046/0739
	10P - AMENDMENT	8,654		9,038		1APR76 -24MAY76	9	78FEC/090/3388
	30G - AMENDMENT		727		1,218	19OCT76 -22NOV76	7	78FEC/090/3410
1978	REQUEST FOR ADDITIONAL INFORMATION						8	78FEC/086/3553
	TOTAL	26,063	4,833	23,473	5,146		138	TOTAL PAGES

Review

COMMITTEE CANDIDATE SUPPORTED OFFICE STATE DISTRICT CONTRIBUTIONS TO EXPENDITURES ON BEHALF OF ID#

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB
CONNECTED ORGANIZATION: RETAIL CLERKS INT'L ASSOCIATION

QUALIFIED

C00023895

MINETA, NORMAN Y.

HOUSE

CA 13

500

0

H6CA13116

TOTAL

500

0

8 1 0 4 0 3 0 2 3 2 5

FEDERAL ELECTION COMMISSION
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)DATE 21NOV78
PAGE 1

NON-PARTY RELATED

COMMITTEE	DOCUMENT	RECEIPTS		EXPENDITURES		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			
RETAIL TRADE EMPLOYEES UNION LOCAL 428	ACTIVE BALLOT CLUB							ID# 000023095
	CONNECTIONS COMMITTEE FOR RETAIL CLERKS INT'L ASSOCIATION							
	1970 DISCLOSURE AND TRANSACTIONS TO F.E.C.					1AUG78	4	78FEC/082/0070
	DISCLOSURE AND TRANSACTIONS TO F.E.C.					10AUG78	12	78FEC/082/2514
1977	APRIL 19 QUARTERLY	2,172		2,942		1JAN77 - 31MAR77	7	77FEC/051/2630
	JULY 19 QUARTERLY	13,577		11,939		1APR77 - 30JUN77	8	77FEC/056/1352
	OCTOBER 19 QUARTERLY	2,450		1,202		1JUL77 - 30SEP77	7	77FEC/059/3177
	1978 END REPORT	1,854		2,123		1OCT77 - 31DEC77	7	78FEC/065/5290
1978	APRIL 19 QUARTERLY	2,173		3,700		1JAN78 - 31MAR78	8	78FEC/073/1358
	JULY 19 QUARTERLY	12,178		9,558		1APR78 - 22MAY78	8	78FEC/075/3153
	24 MAY 1978 QUARTERLY	2,268		1,512		23MAY78 - 26JUN78	5	78FEC/079/2958
	JULY 19 QUARTERLY	764		764		27JUN78 - 30JUN78	4	78FEC/079/2863
	OCTOBER 19 QUARTERLY	2,837		7,008		1JUL78 - 30SEP78	7	78FEC/089/3071
	19 24 MAY PRE-GENERAL	3,465		4,256		1OCT78 - 23OCT78	8	78FEC/093/2390
	TOTAL	43,740	0	45,004	0		85	TOTAL PAGES

Reviewed

8 1 0 4 0 5 0 2 3 2 6

FEDERAL ELECTION COMMISSION

DATE 11/21/78

COMMITTEE INDEX OF CANDIDATES SUPPORTED - (D) (77)

PAGE 1

COMMITTEE	CANDIDATE SUPPORTED	OFFICE	STATE	DISTRICT	CONTRIBUTIONS TO	EXPENDITURES ON BEHALF OF	ID#
	WILSON, JUDITH G.	HOUSE	CA	28	250	0	H6CA28029
	EDWARDS, DON		CA	10	500	0	H6CA10013
	NEELY, ROBERT Y.		CA	13	600	0	H6CA13116
	BLANK, KIRSTEN		CA	12	250	0	H6CA12015
	PANETTA, LEON E.		CA	16	250	0	H6CA16036
	TOTAL				1,850	0	

81040302327

ATTACHMENT #2

DATE September 25, 1978

ANALYST Beverly Brown JJ

TO: THE COMMISSIONERS

TEAM CHIEF Steve Mims SM

THROUGH: STAFF DIRECTOR

COMPLIANCE REVIEW C. Bowen

FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS JH

MUR No. 543

DATE OF ORIGINAL REFERRAL 2-28-78

ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL ASSOCIATION

**PURPOSE: Results of RAD Action

Amended reports for the years 1975, 1976, 1977, and 1978 were received on 7/31/78. Through a cross-check method of review, it has been determined that the above committee has adequately responded to the Commission's request for additional information by reporting all transfers in from affiliated committees for the years 1975 through 1978.

Compliance in regard to the local affiliated committees of the Retail Clerks International Union is pending. During the review of the amended reports from Active Ballot Club, A Department of Retail Clerks International Union, it was determined that Retail Store Employees Union Local 428 Active Ballot Club failed to report several transfers out to their international affiliated PAC during 1975 and 1976. Gayle Jackson, bookkeeper for Local 428, called the Commission after their International PAC informed them of their failure to report these transfers. She asked how her committee may go about amending their reports to disclose the information they had omitted in their 1975 and 1976 reports. Ensuing conversations with Ms. Jackson lead to the discovery that 1) the committee had never explained a cash on hand discrepancy of \$9000 between the years 1975 and 1976, and 2) the committee has for years been using their treasury account as a "transmittal account" to separate single checks designated in part for dues owed to the union and voluntary contributions to the PAC. The second discovery lead to the question as to whether or not the committee had violated the ACT by commingling funds. Since this question was being addressed to the Commission in AO 1978-42, the Non-Party team decided to await the Commission's final decision regarding the legality of this practice. With the Commission's decision 9/14/78 to vote in favor of this procedure we are now ready to prepare RFAI's requesting the committee to prepare amendments to their 1975 and 1976 reports. They will be asked to disclose the transfers out to their international affiliated PAC and will also be asked to explain the cash on hand discrepancy between 1975 and 1976. In addition, the committee will receive a copy of AO 1978-42. If their present accounting procedures do not meet the requirements of AO 1978-42 they will be asked to revise their procedures.

*Commission unit which initiated original Referral (e.g. AUDIT/RAD/OGC).

**INFORMATION, or RESULTS OF RAD ACTION, as appropriate.

81040302328

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson - Office Manager
(committee contact)

DATE/TIME: 2:30 6/23/78

IN REFERENCE TO: Voluntary Compliance '76 reports

Phone Number: 408-998-0428

REMARKS:

Background: During the course of review, I noted that the ACTIVE BALLOT CLUB A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION had not reported transfers in from its local PACs. Transfers in had instead been included in their unitemized receipt totals. An RFAI was sent to the international PAC requesting them to amend their 1975, 1976, and 1977 reports to show all transfers in from local affiliated PACs.

Gayle Jackson, representing RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB, called to discuss several reporting errors that had been made in 1976. Apparently representatives of the international PAC had called the local 428 PAC to compare notes on transfers between their committees. In the course of the committees' review it was discovered that Local 428 PAC had not reported the following transfers out:

'76 April 10 Report -----	\$40
'76 10 DAY PRIMARY(May)-----	\$1244
'76 July 10 Report-----	\$680
'76 Year End Report-----	\$266

Ms. Jackson inquired as to how the committee should go about amending their report to show these transfers out. Before advising the committee as to the correct procedures, I asked a number of questions.

- 1) If said transfers were not reported as expenditures, yet left your account, how does this effect your cash on hand balances all the way through to your 1978 reports?

Ms. Jackson stated that cash on hand balances are correct to date and could only reason that perhaps voluntary contributions received had likewise not been reported. She further explained that during the first three months of 1976 several internal changes were being made ---- the accounting system was changed, the office manager was replaced as well as several other officers of the PAC.

At one time all voluntary contributions were deposited into their credit union (separate segregated account) checks for political support were drawn on this account. Today the committee receives, for example, a \$6 check from an individual.

81010302330

separate accounting is kept for a portion of the check which is union dues (example \$5) the remaining \$1 is transferred to the International union PAC. The international PAC reimburses 25% X50 of the locals transfer (example .50 out of the dollar transferred to the international union) The X50 reimbursement is held in the separate segregated account.

Regardless of this explanation, there is still no explanation as to where this money ,transferred out to the international PAC, came from. I told Ms. Jackson that I would review her 1975,1976 reports to see if there had been a mathematical error which might explain the situation.

I will be calling Ms. Jackson sometime next week.

8 1 0 4 0 3 0 2 3 3 1

MEMORANDUM _ continued

Date: 6/27/78

Of greater concern, outside the boundary of our conversation, was a discovery made during this review. As cash on hand at the close of 1975 the committee reports having \$208.37. Their cash on hand at the beginning of the reporting period for their April 10 1976 quarterly report was \$9787.64 -- a difference of \$9579.57. The committee, at that time, did receive an RFAI to which they responded that on 2/76 they had a change of staff. All previous discrepancies "we must put down to a misunderstanding of the reporting rules by those delegated to complete the forms." There is no cover sheet which gives any clue as to how the Commission responded to their letter signed by ~~XXXX~~ Gayle Johnson. Today, such a response would be deemed inadequate.

I spoke with Steve Mims, Non-party Team Leader. Steve suggested we request the committee to come up with a more substantial explanation as to why cash on hand balances are so far off.

81010302333

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson
(committee contact)

DATE/TIME: 4:30 6/29/78

IN REFERENCE TO: Discussion of compliance matters (re: 1975-1976 reports)

REMARKS:

Background: I spoke with Craig Crooks (special analyst to the reports analysis division) about the multiple compliance matters evolving out of Ms. Jackson's voluntary compliance information. In the end it was decided that the committee be responsible for submitting comprehensive amendments for the years 1975 and 1976. These amendments are to include mathematical and functional explanations for the various discrepancies noted in the committee's reports. In addition I will be sending RFAI's for public disclosure and legal documentation.

I later called Ms. Jackson to discuss my findings and the Commission's requirements regarding comprehensive amendments. While discussing my findings on the committee's unitemized expenditures discovered in their 1976 reports, Ms. Jackson pulled out her files and discovered that these unitemized expenditures were not transfers out to their international PAC. The unitemized expenditures were instead transfers out to state and local candidates and candidate committees. I explained that these too would have to be itemized in their comprehensive amendments. Then, turning our attentions back to the original compliance matter, an explanation as to where the transfers out to the international PAC might have been disclosed, we concluded that neither the transfers in nor transfers out to the international PAC were ever disclosed in the committee's reports. The committee would therefore be held responsible for finding out the source of funds transferred out to the international PAC as well as the dates and amounts of all transfers out to the international PAC. At the close of conversation we discussed the \$9000 cash on hand difference between the years 1975 and 1976. Ms Jackson agreed to provide a comprehensive amendment for the year 1975 in order to account for all discrepancies.

Minutes later Ms. Jackson called to discuss a possible explanation for the discrepancy in the committee's cash on hand differences between the years 1975 and 1976. She explained that before 1976 the committee held two accounts. 1) a hard money account or separate segregated account and 2) a soft money account or union treasury account. A combined check or a lump sum of cash for union dues and PAC money was deposited into the hard money account and later dues money was transferred to the soft money account. When Ms. Jackson took over the bookkeeping in 1976 she apparently reported the lump sums deposited into the committee's hard money account but never showed the transfer of dues money into the union treasury account.

8104030334

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION 428 ACTIVE BALLOT CLUB C00023895

(full name of committee)

(identification number)

Beverly Brown

(name of analyst)

Gayle Jackson

(committee contact)

DATE/TIME: 2:00 7/6/78

IN REFERENCE TO: Compliance 1975, 1976, 1977, 1988 Reports

REMARKS:

Ms. Jackson called to discuss efficient accounting methods and pending compliance regarding her 1975, 1976, 1977, and 1978 reports. I introduced the idea of setting up a transmittal account. By the end of conversation it appeared that Ms. Jackson was pleased with the suggestion and would discuss it with others involved ~~in~~ with the committee.

Later we discussed the necessity of sending in comprehensive amendments to clear up all discrepancies noted in hte committee's reporting. Ms. Jackson had done some research and discovered that the committee had been reporting the total cash on hand etc from both the separate segregated account and PAC account beginning 1976 when she took over the bookkeeping for the political action committee. I informed Ms. Jackson that in light of our conversations I would be sending requests for additional information. I suggested that she begin to prepare comprehensive amendments. She agreed that comprehensive amendments were the only possible means the committee had of clearing up all discrepancies. She will begin with 1975 and prepare comprehensive amendments through the year 1977. In addition she will amend all reports for 1978. The next reports due (10-day and 30-day reports) will be incorrect. She will, however, amend them at the same time that she amends her other reports.

After our conversation I sent a packet of FEC Form 3's, FEC Form 1's and FEC Form 3a's so that the committee may begin preparing comprehensive amendments.

81040302336

TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION 428 ACTIVE BALLOT CLUB C00023895
(full name of committee) (identification number)

Beverly Brown
(name of analyst)

Gayle Jackson
(committee contact)

DATE/TIME: 3:00 7/7/78

IN REFERENCE TO: _____

REMARKS:

Ms. Jackson called to discuss questions pertaining to setting up a transmittal account. She explained that on the 25th of each month the committee receives a contributor printout from their data processing unit. Upon receipt of their computerprintout, the committee sends all designated PAC money to their international PAC. Later, the international PAC transfers to the local PAC a \$50 rebate of all local PAC money received. The \$50 rebate is immediately deposited into the Local PAC account. For some reason Ms. Jackson felt that the transmittal account added to their data processing system would make it impossible for the committee to pay all their operating expenditures. I suggested to Ms. Jackson at that point that she describe in writing the committee's data processing system and flow of money through their various accounts. I recalled that during the course of other conversations she had all but stated that the committee had been comingling funds.

Ms. Jackson said that she would follow my advice to report in writing their committee's accounting procedures. At the same time she began to expound on the committee's activity over the phone. The following explanation of comingling was revealed:

The committee apparently has two accounts. 1) a union treasury which functions as a transmittal account for dividing contributor checks which are designated for union dues and PAC contributions. and 2) a separate segregated account for rebate money received from the international PAC. Money leaving this account is transferred to state, local, and federal candidates and candidate committees.

I explained to Ms. Jackson that it appeared to me that the committee was comingling funds. She asked what other methods the commission might suggest to avoid this situation. Before suggesting anything, I told her that I would speak with my supervisors and get back to her.

Later I spoke with Steve Mims and Joanne McSorely of the Audit Division. We came up with the following to suggest to the local PAC:

Union Members & Contributors

Local Transmittal Account

Data Processing Records Kept

Local Union Treasury Account

Local State PAC Account

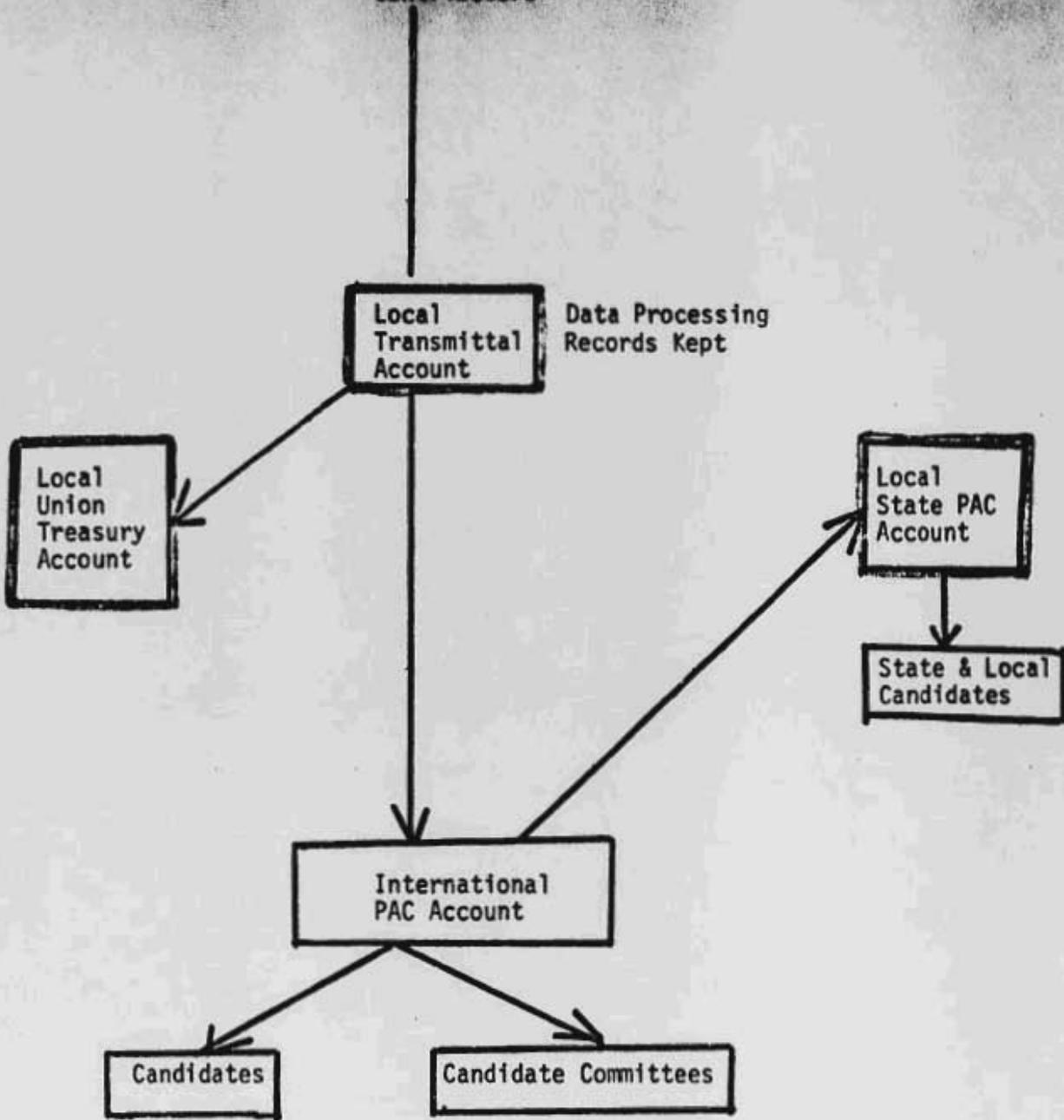
State & Local Candidates

International PAC Account

Candidates

Candidate Committees

81040302339



Union Members & Contributors

Local Transmittal Account

Local Union Treasury Account

Dues

Local Federal PAC Account

PAC Contributions

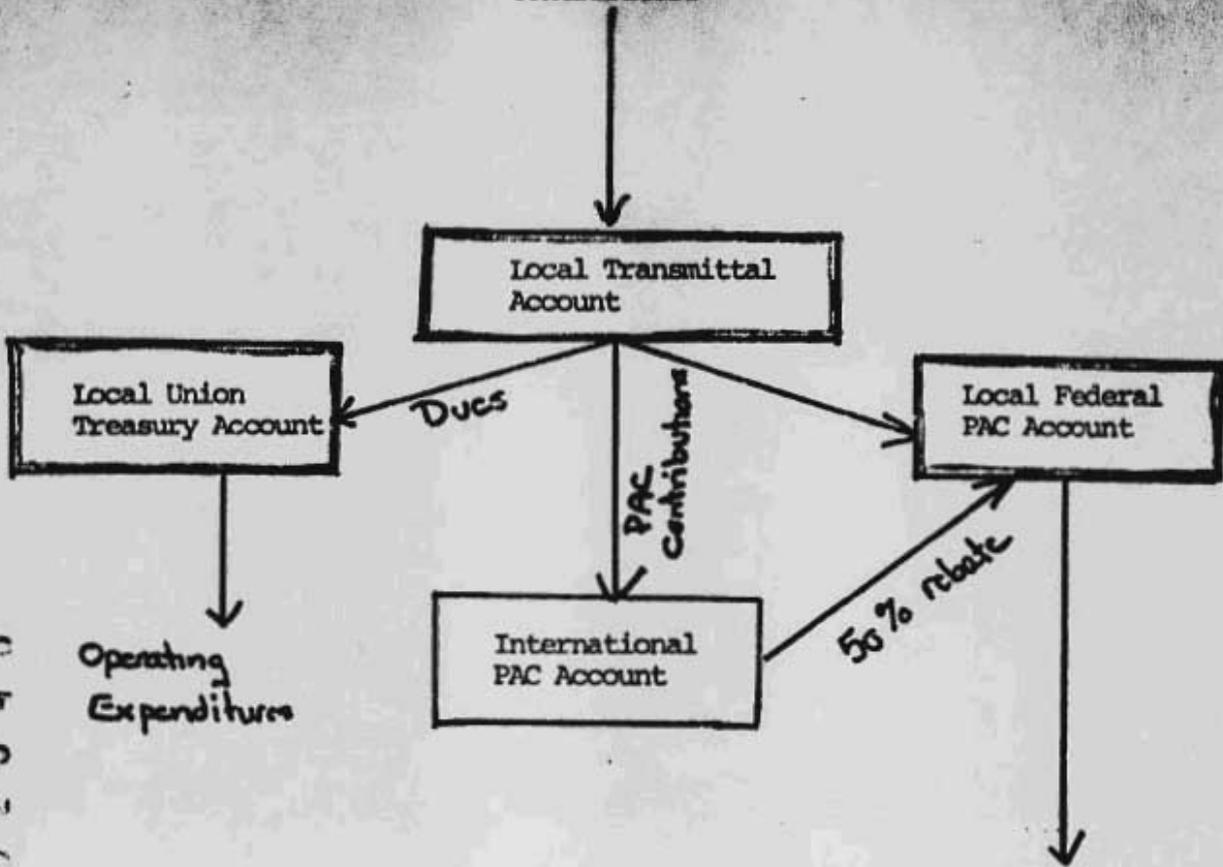
International PAC Account

50% rebate

Operating Expenditures

Candidates & Candidate Committees

81040302340



TELECON FOR THE FILE

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB C00023895

(full name of committee)

(identification number)

Beverly Brown

(name of analyst)

Gayle Jackson

(committee contact)

DATE/TIME: 4:30 & 7-21-78

IN REFERENCE TO:

REMARKS:

81010302341 I called Ms. Jackson to inform her that the Commission is still looking into her situation and to ask her to send in a letter explaining the committee's operating procedures, accounts established etc. I also wanted to find out what progress she had made in amending her 1975, 1976, 1977 and 1978 reports, if any. Ms. Jackson informed me that she had not begun to work on the amending of her reports, however, she had discussed our conversations with the committee's treasurer, Mr. McLaughlin. I told Ms. Jackson to set aside the amending of her reports until the Commission has had time to analyze her Committee's operating procedures. I asked instead that she send in a letter as soon as possible which would thoroughly explain her committee's operating procedures. I added that she should include in her letter any problems the committee may have in complying with the Act. At that time she explained that the State's requirements seemed to conflict with the Commission's requirements. With the establishment of two accounts the committee had had difficulty keeping their records and reports straight. Conversation led to a discussion of the comingling of funds. Ms. Jackson confirmed my speculation that the committee has been comingling funds unintentionally. Their Union treasury is in fact set up as a transmittal account. Once contributors checks are divided the committee transfers all PAC contributions to their international PAC. The international PAC in turn transfers a \$50 rebate to the Local Committee. The Local committee immediately transfers the rebate money into their separate segregated account. I told Ms. Jackson to explain this to the commission in her letter. Upon receipt of her letter the commission will analyze her committee's situation in order to advise her as to the proper way to set up her committee's accounts. I also informed her that at some point it appears most likely that the Commission will require her to send in comprehensive amendments in order to explain the discrepancies noted in her reports.

MEMORANDUM

To: The File

From : Beverly Brown

Date/ Time : July 20, 1978

Concerning : Retail Store Employees Union Local 428 Active Ballot Club

The following actions will be taken to resolve pending compliance.

- 21010310
- 1) The above committee will be asked to submit a detailed outline or letter explaining the way in which their accounts are set up, the functions of their Data processing unit, how and to whom transfers are made, from which account operating expenditures are paid etc..
 - 2) Upon receipt of the committee's outline or letter the commission will review the committee's functions, set up etc. The Commission will then prescribe or suggest proper operating procedures. In addition, the commission will send RFAI's requesting the committee to submit comprehensive amendments for the years 1975-1978 to explain all discrepancies noted in their reporting.
 - 3) The Reports Analysis Division will prepare an OGC referral upon receipt of the committee's comprehensive amendments in order to determine what action should be taken against the committee for having commingled funds in the past.

The above procedures were recommended to me by Steve Mims, Non-Party Team chief. Jointly we have agreed that these procedures would most adequately resolve the various compliance matters evolving out of my conversations with Ms. Gayle Jackson.

MEMORANDUM

TO: THE FILE
FROM: BEVERLY BROWN
DATE: 9/13/78

CONCERNING: RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB
Findings after the review of amended statements by the
Active Ballot Club, A Department of Retail Clerks International
Union. (RE: Transfers In formerly undisclosed)

A review of amended statements by the Active Ballot Club, A Department of
Retail Clerks International Union Discloses the Failure of Local 428 to
report the following transfers out:

Amount transferred out to ABC, A Department to Retail Clerks International Union	Date transfer was received by ABC, A Deptmt of Retail Clerks International Union
\$190.....	1/21/75
\$140.....	3/17/75
\$40.....	4/28/76
\$1244.....	6/30/76
\$680.....	7/30/76
\$460.....	9/30/76
\$408.....	11/23/76
\$266.....	1/31/77

Review of 1975 & 1976 reports discloses the committee's failure to explain
a cash on hand difference of \$9579.57 between these two years. Cash on hand
at the close of 1975 was \$208.37. Cash on hand at the beginning of 1976 was
\$9787.64.

A review of 1975 & 1976 reports further reveals the committee's failure to
itemize transfers out to local candidates. These transfers were incorrectly
reported on Line 22 of the old forms. Line 22 applied to a 20% exemption-
presidential campaigns receiving federal funds. (unitemized expenditures).

Unitemized Expenditures reported on Line 22
of the old FEC Form 3

10P '76.....	\$860
Q2 '76.....	\$270
Q3 '76.....	\$675
30G '76.....	\$100

Through a recent telephone conversation with Gayle Jackson, it was revealed that
these unitemized expenditures were actually transfers out to state and local
candidates. (Gayle Jackson is presently the bookkeeper for local 428 Active Ballot
Club.)

81040302343

81040302344

ATTACHMENT #3

RETAIL STORE EMPLOYEES UNION
LOCAL 428, AFL-CIO

FEDERAL ELECTION
COMMISSION

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-0428

10 AUG 10 AM 9:01

August 7, 1978

Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

805206

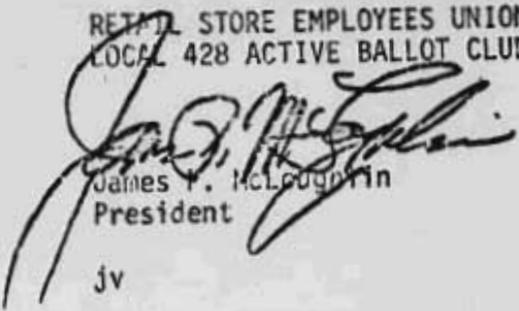
Attention: Beverly Brown

Dear Ms. Brown:

Enclosed is another copy of our letter of July 28, 1978 along with the material returned to us because it was separated from our letter.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB


James F. McLoughlin
President

ju

Enclosures

7 8 0 3 0 3 2 2 3 4 5



● RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

FEDERAL ELECTION COMMISSION

of Santa Clara County & Menlo Park

240 South Market Street • San Jose, California 95113 • (408) 998-9428

July 28, 1978

Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Attention: Beverly Brown

Dear Ms. Brown:

This letter is in response to your request on the telephone last week to our Office Manager, Gayle Jackson. We understand you wanted an explanation of how we get our ABC money, how our bookkeeping is done as it relates to our Active Ballot Club; our explanation is as follows:

1. Checks and cash payments for union dues, initiation/reinstatement fees, fines, assessment and voluntary ABC contributions come into the union offices by mail or over the counter. All members make their own payments; we do not have a payroll deduction arrangement with our Employers.

We use a data processing center and pre-bill our members on a quarterly basis, the results are as follows:

- (a) Statements of members' accounts and cash when received is batched and balanced. The recorded amounts go to our data processing service center by a daily pickup - the money in each batch is deposited daily in the Union's commercial checking account.
- (b) The statement of each members' accounts (with a breakdown of Union dues, initiation/reinstatement fees, fines, assessments and the Active Ballot Club contribution) are keypunched by the data processing service center. On the 25th of each month, the data processing center updates each members' master file. They give us a recap of said receipts by name, social security number, receipt number, total paid and credited to dues, types of fees, fines, assessments, ABC contributions, etc. This process takes approximately a week to ten days depending on the workload in the data processing center.
- (c) When our bookkeeper receives the data processing printout of the various accounts at the end of the month, he disburses a check for the ABC contributions as indicated in the recap and it is sent to the Retail Clerks Active Ballot Club of the Retail Clerks International Union, our "affiliated committee".

878 COPY 17

(d) A name and address label is run for each voluntary ABC contribution in the recap so we can mail the member his ABC membership card and prepare a listing for our permanent records. At the same time, a name and address label is affixed to each ABC membership card stub. These stubs are mailed to the International ABC office in Washington, D. C. for their records so they in turn can reconcile the cards with our remittance.

2. In about ten days, the International ABC office sends us fifty percent of the contributions, or one dollar of each two dollar contribution we send them.

(a) This fifty percent "rebate" is deposited in the Retail Store Employees Union, Local 428 "Active Ballot Club" account in the Retail Employees Local 428 Credit Union. It is from this credit union account that disbursements are made to candidates, etc. The only other monies going into credit union account are the quarterly dividend earned by the account itself.

Prior to July 1, 1978 we maintained two ABC savings accounts, one for "hard money", Account No. 51602, and another for "soft money", Account No. 51603. (This account had a small balance of \$633.91 and it was transferred to the former "hard money" account leaving us with only one ABC account.)

The Retail Store Employees Union, Local 428 Active Ballot Club records are maintained in the Union office and the reports also go out from here. The separate account of ABC contributions and expenditures is audited by our CPA on a monthly basis the same time he audits the Union accounts. Our payroll checks, accounts payable and all other checks for the Union are drawn against our regular commercial account throughout the month. The ABC transmittal check sent to the International ABC is one of the several month end transactions which have been established for years in the routine of closing the books of the Union as of the 25th of each month.

The above is our current bookkeeping procedure.

Prior to 1976 ABC membership cards were sold to our members if they were in the office and by our representatives in the field on an individual basis and put in our "hard money" account.

In addition, we also contributed from the Union treasury one dollar for each member and sent this into the International ABC and they returned fifty percent or fifty cents to us for each member. This money was put in a "soft money" account in the credit union from which disbursements were made to City, County and State candidates and various ballot measures. It was requested by the State of California Auditors not to report the one hundred percent collections on their forms; they only wanted the fifty percent "rebate" we received from the International ABC office on their reports.

78030822518
81040302347

July 20, 1974

Due to the confusion that exists between the State and Federal reporting requirements, the logical thing to do was to report all the activity on both the "hard money" and "soft money" accounts to both the Federal and State and perhaps we could avoid any violations of the rules. However, we had two personnel changes, bookkeeping procedure changes and a difference in ABC card sales methods, all of which created some of the confusion.

As a result, it has become practical to report only the "hard money" account activity along with the transmittals to our International ADC. This will involve correcting our reports back to 1975. However, we will continue to report as we have in the past until we hear further from you.

Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB

James P. McLoughlin
President

9jv

cc: Gayle Jackson

P.S. Enclosed for your further information is a copy of some of our forms:

1. A copy of the letter and leaflet we use to solicit our ABC contributions.
2. A copy of our data processing billing statement.
3. A copy of our ABC card.
4. A recent copy of our credit union accounts, No. 51602 and No. 51603.



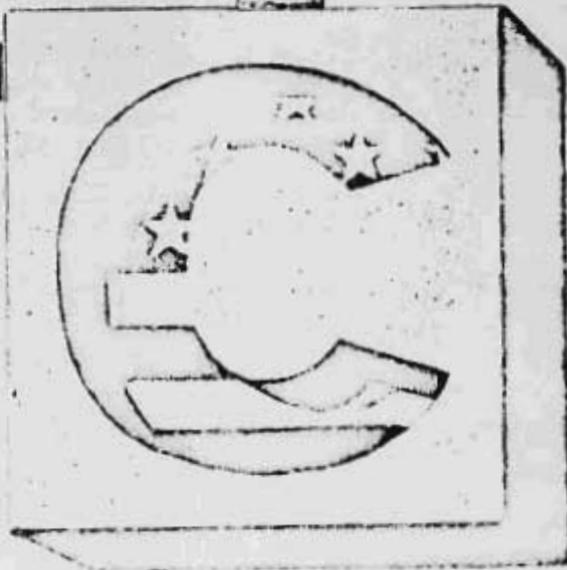
: the building blocks of the future



Do you want to make America
a better place to live in?



Let us be certain Congress will
enact laws for full employment,
tax justice, fighting inflation,
national health security, and
abolition of lie detector tests.



Do your part: join the Active
Ballot Club today!

Give your \$2 or more

7
8
0
3
0
8
2
2
5
2
1
8
1
0
4
0
3
0
2
3
4
9

**ACTIVE
BALLOT
CLUB**

DEPARTMENT
OF THE
UNITED STATES
LABOR UNION



Action Needed **NOW!**

● It's as easy
as ABC

This is it: packed into this Congressional year is a massive bundle of vital questions that bear on the living standards and jobs of every working man and woman, on the quality of their lives and on the future of their children.

How do you answer these questions? How can Local 428 members have a say in how they are answered?

● **THE ANSWER** is as easy as ABC. Active Ballot Club.

Your annual voluntary membership contribution is \$2. You should want to do your share and pick up your part of the load. You'll be billed for the \$2 membership contribution as part of your dues billing for the second quarter (April, May, June).

The idea behind the Retail Clerks Active Ballot Club is to enlist every member in a united effort to improve the quality of government and to insure a more understanding response by government to the needs and aspirations of working men and women and their families.

ABC works at this job in several ways:

One: It keeps RCIU members alerted to important bills in Congress and in the State Legislature, urging them, whenever possible, to tell their members of Congress and Legislator's how they feel as individuals about the pending legislation.

Two: It urges—and Local 428 works—to insure that every member and their eligible dependents are registered to vote.

Three: It keeps ABC members informed about the candidates and the issues.

And four: It works to encourage every registered voter to use his and her votes.

ABC will be faced, this year as in the past, with serious obstacles to a really widespread use of the right to vote. Less than 40 per

cent of those Americans eligible to vote will register to vote and cast a ballot.

In part this is due to obstacles which inhibit registration and voting. This we must remedy. In part it is due to apathy and alienation. This, too, we must combat.

Our union is dedicated to preserving a government of, by, and for the people.

We want a government which is aware of and responsive to its citizens' needs and interests.

The only way these interests can be known is that we, as union members and as citizens, express our will by participating fully in the democratic process.

This means that to be really politically effective every RCIU member should be registered and should vote.

It is equally important that RCIU members be informed voters who understand the different issues and know where the various candidates stand.

TO THESE ENDS the RCIU and its Active Ballot Club are committed.

JOHN WATSON STREET
SAN JOSE, CALIFORNIA 95113

SHARES AND LOANS
SHARES AND LOANS
SHARES AND LOANS

01/78
-5246
SECURITY NO

Boyle

E F LOC-428-ABC
240 SO MARKET ST
SAN JOSE CAL 95113

1603

DA 06/30/78
SSN 940-80-1738
SOCIAL SECURITY NO

SHARE AND LOAN BALANCES AT BEGINNING OF CURRENT QUARTER

SHARE BALANCE	LOAN NO	LOAN BALANCE						
1771.00								

7803082235
75837
59474
8104030235

SHARE BALANCE	LOAN NO	LOAN BALANCE						
4018	4018	D	3643	163391	163391	163391	163391	163391
4248	4248	C	20000-	163391	163391	163391	163391	163391
4248	4248	C	10000-	163391	163391	163391	163391	163391
4248	4248	C	10000-	143391	143391	143391	143391	143391
4248	4248	C	10000-	133391	133391	133391	133391	133391
4248	4248	C	20000-	113391	113391	113391	113391	113391
4248	4248	C	20000-	93391	93391	93391	93391	93391
4248	4248	C	20000-	73391	73391	73391	73391	73391
5198	5198	C	10000-	63391	63391	63391	63391	63391
6228	6228	C	63391-	00	00	00	00	00

*dividend
Simon
Williams
Calla
E R America
Walt
Lubers
Takei
Reynolds*

ENDING LOAN BALANCE REPRESENTS PRINCIPAL ONLY CU - 838

DIVIDEND RATE YIELDS 6% ANNUALLY. DEPOSITS BY 10TH EARN FROM THE 1ST. LOANS AT LOW INTEREST RATE INCLUDE LOAN PROTECTION. CALL US, LOAN APPLICATIONS MAILED, YOUR CREDIT UNION IS WHERE YOU AND YOUR FAMILY BELONG.

01/78 A 5.98% DIVIDEND OF \$6.68 WILL BE POSTED TO YOUR ACCT 07/01/78

SHARE AND LOAN BALANCES AT END OF CURRENT QUARTER

SHARE BALANCE	LOAN NO	LOAN BALANCE						
00								

01/78 01/78 06/30/78 01/01/78 06/30/78 01/01/78

MEMBER OF THE FEDERAL RESERVE SYSTEM
SHARES AND LOANS
SHARES AND LOANS
SHARES AND LOANS

07/78
0713
CURITY NO

LOC-42E-ADC
240 SO MARKET ST
SAN JOSE CAL 95113

ACCOUNT NO 51602 DA 06/30/78
SS# 940-00-1738
SOCIAL SECURITY NO.

SHARE AND LOAN BALANCES AT BEGINNING OF CURRENT QUARTER

SHARE BALANCE	LOAN NO	LOAN BALANCE						
1077E46								

IF THIS STATEMENT IS IN ERROR NOTIFY THE SUPERVISORY COMMITTEE AND FURNISH INFORMATION NECESSARY TO CORRECT.

7 8 0 3 0 8 2 2 5 2 4
8 1 0 4 0 3 0 2 3 3 2

SHARE NO	SHARE TYPE	SHARE BALANCE	LOAN NO	LOAN TYPE	LOAN BALANCE	LOAN NO	LOAN TYPE	LOAN BALANCE
401B	D	15719	1093567					
407B	S	17500	1111067					
421B	S	39800	1150067					
424B	C	25000-	1125167					
424B	C	25000-	1100367					
515B	S	360400	1481267					
515B	C	25000-	1406267					
622B	S	70000	1531067					
622B	B	63391	1595256					

*Pamella
Alyon
clean*

DIVIDEND RATE YIELDS 6% ANNUALLY. DEPOSITS BY IOFH EARN FROM THE 1ST. LOANS AT LOW INTEREST RATE INCLUDE LOAN PROTECTION. CALL US, LOAN APPLICATIONS MAILED, YOUR CREDIT UNION IS WHERE YOU AND YOUR MONEY BELONG.

07/78 A 5.56% DIVIDEND OF \$179.19 WILL BE POSTED TO YOUR ACCT 07/01/78

SHARE AND LOAN BALANCES AT END OF CURRENT QUARTER

SHARE BALANCE	LOAN NO	LOAN BALANCE						
1595256								

5316 01/01/78 06/30/78 01/01/78 06/30/78 26750

- 1. SHARE BALANCE
- 2. SHARE TYPE
- 3. SHARE BALANCE
- 4. SHARE TYPE
- 5. SHARE BALANCE
- 6. SHARE TYPE
- 7. SHARE BALANCE
- 8. SHARE TYPE
- 9. SHARE BALANCE
- 10. SHARE TYPE
- 11. SHARE BALANCE
- 12. SHARE TYPE
- 13. SHARE BALANCE
- 14. SHARE TYPE
- 15. SHARE BALANCE
- 16. SHARE TYPE
- 17. SHARE BALANCE
- 18. SHARE TYPE
- 19. SHARE BALANCE
- 20. SHARE TYPE

8 1 0 4 0 3 0 2 3 5 3



RETAIL STORE EMPLOYEE'S UNION

LOCAL 428 AFL-CIO
240 SOUTH MARKET STREET
SAN JOSE, CALIF. 95113 (408) 998-0428



RETAIL STORE EMPLOYEE'S UNION

LOCAL 428 AFL-CIO
240 SOUTH MARKET STREET
SAN JOSE, CALIF. 95113 (408) 998-0428

CURRENT DUES	PREV. BAL.	MTG. ASM.	ABC	MISC.	DATE
SOC. SEC. NO.	CURRENTLY PAID THRU	HOURS	BKT	DATE	DATE

CURRENT DUES	PREV. BAL.	MTG. ASM.	ABC	MISC.	DATE
SOC. SEC. NO.	CURRENTLY PAID THRU	HOURS	BKT	DATE	DATE

ION FOR YOUR RECORDS.

PRINCIPLES, POLICIES AND OBJECTIVES

* * * * *

The purpose of the Active Ballot Club, shall be to enroll citizens to work for good government and democratic processes; to assist in any other matter pertaining to the welfare, advancement, and attainment of the highest order of citizenship; to safeguard the rights of organized labor; to insure employees the right of representation through labor unions; and to combat restrictive unfair labor legislation designed to weaken labor unions.

It shall encourage its members and friends to register and vote, to exercise their full rights and responsibilities of citizenship. It shall work to assure high ethical conduct in government and in human relations and the eradication of corrupt practices wherever found.

It shall be non-partisan. However, it is empowered to assist and cooperate with organizations having like purposes and objectives.

8 1 0 4 0 3 0 2 3 5 5



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

Mr. James P. McLoughlin, Treasurer
RETAIL STORE EMPLOYEES UNION LOCAL 428
ACTIVE BALLOT CLUB
240 South Market Street
San Jose, CA 95113

2 OCT 1978

Dear

This letter is prompted by our interest in assisting committees who wish to comply with the Federal Election Campaign Act.

During review of the 1975 & 1976 Report of Receipts and Expenditures, we noted that you omitted certain information or made apparent mathematical errors in certain entries. Attached is an itemization of the information requested.

While we recognize the difficulties you may have experienced in filling out the reporting forms, we must ask that you supply the Commission with the missing information within fifteen (15) days from the date of this letter. If you have any questions, please do not hesitate to contact Beverly Brown in our Reports Analysis Division on the toll free number (800) 424-9530. Our local number is (202) 523-4048.

Sincerely,

Orlando B. Potter

Orlando B. Potter
Staff Director

Attachment
FEC Form 12

3
5
5
3
3
8
8
9
9
8
7
8



REQUEST FOR ADDITIONAL INFORMATION FOR THE 1975 & 1976 REPORT OF RECEIPTS AND EXPENDITURES COVERING THE PERIOD _____ THROUGH _____ PURSUANT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED.

A review of the report indicates that additional information is needed in order to be considered complete. Please return a copy of this form with your amended submission(s).

Please provide the required data, as indicated (x):

- Coverage Dates ___ omitted or ___ incorrect
- Signature ___ omitted or ___ incorrect
- Summary Page Line(s) ___ Column(s) ___ Totals ___ omitted or ___ incorrect
- Detailed Summary (Page 2) Line(s) ___ Column(s) ___ Totals ___ omitted or ___ incorrect
- Schedule Totals ___ disagree with Detailed Summary (Page 2) or ___ omitted
- 1-7 Date(s) ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 1-5 Full Name(s) Omitted for Schedule(s) ___ Line(s) ___
- 3-3 Mailing Address(es) ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 2-2 Occupational Descriptions ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 2-1 Principal Place(s) of Business ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 3-1 Aggregate Year-to-date Totals ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 3-2 Nature or Purpose of Expenditure ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 3-3 Nature or Purpose of Receipt ___ omitted or ___ inadequate for Schedule(s) ___ Line(s) ___
- 3-4 Inadequate Description of ___ proceeds ___ dates ___ events ___ location of Schedule ___
- 8 Other: Please see the attached pages.

Your initial submission(s), together with this request for additional information, has been made available for public inspection. The Commission urges you to file the additional submission(s) promptly to the above address. If you have any questions regarding this request, please call the Disclosure Division toll free at (800) 424-9530. The local Washington, D.C. telephone number is (202) 523-4048.

Senate filers should file their submission(s) with the Secretary of the Senate, Office of Public Records, 119 D St., N.E., Washington, D.C. 20510. House filers should file their submission(s) with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515.

RETAIL STORE EMPLOYEES UNION LOCAL 428 ACTIVE BALLOT CLUB

In your 1975 Year End report of receipts and expenditures you disclose \$208.37 as the cash on hand at the close of the period. In your 1976 April 10 Quarterly report you disclose \$9787.64 as the cash on hand at the beginning of the reporting period or 1/1/76. Please explain the discrepancy noted here.

Throughout 1976 your committee reports unitemized expenditures on line 22 of the detailed summary page (FEC Form 3 - revised 1976). Line 22 applied to a 20% exemption for presidential campaigns receiving federal funds. In a discussion with Gayle Jackson on 6/29/78 it was revealed that these unitemized expenditures were actually transfers out to state and local candidates and candidate committees. Please be advised that Section 104.2(b)(4) of the Commission's regulations requires the identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period. Please amend the following reports to adequately disclose the unitemized expenditures reported on Line 22 of the Detailed Summary Page (FEC Form 3 -revised 1976):

<u>REPORT TYPE</u>	<u>UNITEMIZED EXPENDITURES</u>
10 Day Primary '76.....	\$860
July 10 Quarterly '76	\$270
October 10 Quarterly '76.....	\$675
30 Day General '76.....	\$100

The following are receipts reported by the ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION as transfers in from your committee. Your committee does not disclose these expenditures as "Transfers Out". Please explain the discrepancies noted here.

<u>TO</u>	<u>DATE RECEIVED</u>	<u>AMOUNT</u>
ACTIVE BALLOT CLUB, A DEPARTMENT OF RETAIL CLERKS INTERNATIONAL UNION	1/21/75	\$190
	3/17/75	\$140
	4/28/76	\$40
	6/30/76	\$1244
	7/30/76	\$680
	9/30/76	\$460
	11/23/76	\$408
	1/31/77	\$266

8 1708 093 003 25 5 5 5 5 5

2 Mr. John M. Power, Esq.
3 Foley, Hickey, Gilbert and Power
4 70 Pine Street
5 New York, New York 10005

6 Dear Mr. Power:

7 This responds to your letter of June 29, 1978, in which
8 you request an advisory opinion on behalf of the Empire Dental
9 Political Action Committee ("EDPAC") concerning application of
10 the Federal Election Campaign Act of 1971, as amended ("the Act").

11 Specifically, you asked two questions:

- 12 1. May the Dental Society of the State of New York
13 and its district dental societies solicit
14 voluntary contributions to the Empire Dental
15 Political Action Committee by the inclusion
16 of a suggested political contribution on the
17 membership dues statements of the societies?
- 18 2. May The Dental Society of the State of New York
19 and its district dental societies deposit into
20 their corporate bank accounts checks from their
21 members in payment of the dues statements;
22 portions of these checks may represent con-
23 tributions to EDPAC, and such portion would
24 then be transferred to EDPAC by separate check?

25 Regarding your first question, the solicitation of contribu-
26 tions to EDPAC by The Dental Society of the State of New York, a nonprofit
27 corporation, and its district dental societies is permitted by 2 U.S.C.
28 §441b(b)(4)(C). The solicitation may be conducted in conjunction
29 with the mailing of dues statements to members of the Dental Soci
30 See 11 CFR 114.7(f).

31 As to your second question, 2 U.S.C. §441b(a) prohibits any
32 corporation from contributing to a candidate for Federal office
33 or to a political committee established for the purpose of making contribu-
34 tions to candidates for Federal office. However, a separate segregated fund may be
35 established under §441b(b)(2) and may accept voluntary contributions from

Individual members of the Society
turn, may make contributions to candidates for federal office and political
committees subject, of course, to the contribution limits and
other requirements of the Act and Commission regulations. EDPAC
is regarded as the separate segregated fund of the Dental Society
whose members may be solicited and make contributions to
EDPAC. Such contributions may be included with the annual members'
dues of the member and transmitted by a single check payable
to the district dental society.^{1/} This check may be deposited in
bank account of the State or district dental society. The dental
societies may then remit the political contribution portion to
EDPAC by separate check drawn on that same society bank
account.

In concluding that the described procedure may be used, the
Commission makes several assumptions on which it conditions its
approval. First, the checks representing a combined dues and
political contribution from a Society member are regarded as
contributions received by the treasurer of EDPAC or his/her agent
at the time the checks are received by any employee or representa-
tive of the State Society, or the district society in cases where
it mails dues statements and receives combined dues and contribu-
tion checks directly. Thus, the political contribution portion of
each member's check must be remitted into a checking account of a
duly designated bank depository of EDPAC within 10 days after - 6

^{1/}The Commission understands, and assumes for purposes of this opinion, that
combined dues and political contributions will be made by Society members
as individuals on individual checks drawn on personal bank accounts, not
corporate accounts including professional corporation accounts. Combined
dues and political contributions drawn on a corporate account which is a
non-repayable drawing account of an individual Society member are not
considered prohibited corporate contributions. (See the Commission's
recent Notice on this subject, copy enclosed.)

81040303361

2 §103.3(a) of the Commission's regulation, which implement 2 U.S.C.
3 §437b(a).

4 Secondly, all records of society bank accounts in which combi
5 dues and contributions are deposited must be made available upon Commission
6 request pursuant to its audit authority and other general powers.
7 U.S.C. §5437d, 438(a)(8). Finally, the State and district societ
8 must maintain and make available on Commission request usual and
9 customary accounting records of members' dues payments and other
10 appropriate records indicating those members who make political
11 contributions in combination with dues payments. These records
12 must be maintained for at least 3 years from the end of the year
13 in which EDPAC reported a contribution from a member to whom
14 the records relate. See 11 CFR 104.12(b).

15 This response constitutes an advisory opinion concerning
16 the application of a general rule of law stated in the Act, or
17 prescribed as a Commission regulation, to the specific factual
18 situation set forth in your request. See 2 U.S.C. §437f.

19 Sincerely yours,

20 Joan D. Aikens
21 Chairman for the
22 Federal Election Commission

23 Enclosure - 82
24
25



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park
240 South Market Street • San Jose, California 95113 (408) 998-0428 : 00

October 17, 1978

807056

Mr. Orlando B. Potter
Staff Director
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Re: C00023895

Dear Sir:

In reply to your letter of October 2, 1978 - requesting additional information in answer to your inquiry:

Item 1. (first paragraph Page 2.) as we wrote you previously, one individual made out the 1975 reports and another the 1976. In 1975 the "hard" money account was reported and in 1976 both the "hard" money and "soft" money accounts were reported. At that time there was a great deal of confusion over the requirements of the report and any violation was unintentional.

Item 2. (second paragraph Page 2.) at some point in 1976 when we had requested help from your office, we were told we should report only Federal contributions - we were later told we had to report everything we made our books balance, and from that time on we did. Attached are the amended reports you requested.

Item 3. (third and fourth paragraph Page 2.) regarding the "transfers out" to our affiliated committee, the oversight was due to a misunderstanding arising from the State and Federal requirements for reporting. The State requested we only report the "net" amount from our affiliated committee - we send them 100% of contributions collected and they remit 50% which is then used for distributions to candidates and ballot measures. We later corrected this procedure.

We are now revising our procedures, to comply with your requirements - we will let you know as soon as it's worked out.

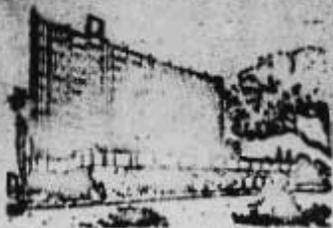
Very truly yours,

RETAIL STORE EMPLOYEES UNION
LOCAL 428 ACTIVE BALLOT CLUB

James P. McLoughlin
James P. McLoughlin
Treasurer

81040302364

Attachment #4



RETAIL STORE EMPLOYEES UNION LOCAL 428, AFL-CIO

of Santa Clara County & Menlo Park
240 South Market Street • San Jose, California 95113 • (408) 998-0428

March 1, 1978

ABC TIME -- 1978

Dear Member:

Your next (2nd quarter) dues billing will reflect your annual \$2.00 voluntary dues for membership in Local 428's Active Ballot Club. Everyone will benefit. Your voluntary contribution, along with similar contributions by fellow members, can be most helpful in promoting better legislation for our great nation.

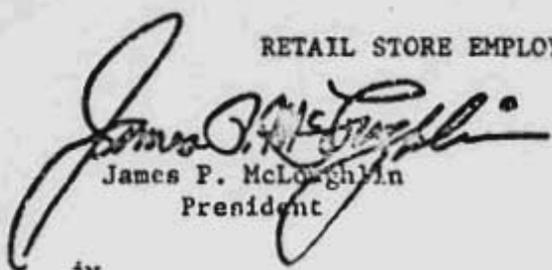
You are, no doubt, familiar with the goals of the Active Ballot Club, basically these are also the aims of the AFL-CIO; such as Labor Law Reform, get America back to work, provide for full employment with decent wages, protect consumer rights, improve social and economic justice, provide fair tax laws, fight for the Equal Rights Amendment (ERA) and a variety of similar purposes.

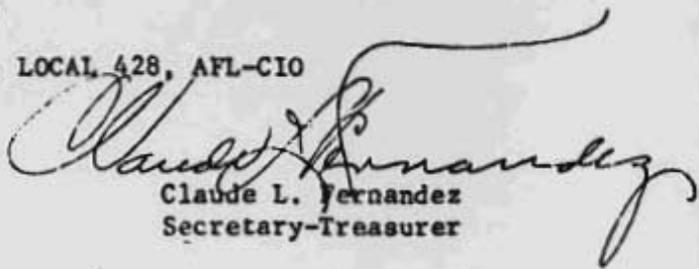
Your 1978 ABC membership card will be mailed to you along with your second quarter dues receipt after your payment. Of course, if you have already purchased your 1978 membership in the ABC, just draw a line through the \$2.00 and pay the balance due on your statement.

Enclosed please find a pamphlet which will further explain the ABC.

In unity,

RETAIL STORE EMPLOYEES UNION, LOCAL 428, AFL-CIO


James P. McLoughlin
President


Claude L. Fernandez
Secretary-Treasurer

jv

Enclosure

878030822520
81040102355



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 903

Date Filmed 11/30/81 Camera No. --- 2

Cameraman SPC

81040302366